

AFTER RECORDING RETURN TO:



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DECLARATION OF CONDOMINIUM REGIME FOR LUMA CONDOMINIUMS

(A Residential Condominium Project located in Bexar County, Texas)

Declarant: PSW-LUMA, LLC, a Texas limited liability company

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**DECLARATION OF CONDOMINIUM REGIME
FOR
LUMA CONDOMINIUMS**

PSW-LUMA, LLC, a Texas limited liability company ("**Declarant**"), is the owner of the tract of land in Bexar County, Texas, as more particularly described on Exhibit "A" attached hereto and incorporated herein, together with all Improvements thereon and all easements, rights, and appurtenances thereto (collectively, the "**Land**"). The Land is hereby submitted to the terms and provisions of the Texas Condominium Act, Chapter 82 of the Texas Property Code, for the purpose of creating Luma Condominiums.

NOW, THEREFORE, it is hereby declared that: the Land will be held sold, conveyed, leased, occupied, used, insured, and encumbered with this Declaration, including the representations and reservations of Declarant, set forth on Appendix "A", attached hereto, which will run with the Land and be binding upon all parties having right, title, or interest in or to such property, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE 1
DEFINITIONS**

Unless otherwise defined in this Declaration, terms defined in Section 82.003 of the Act have the same meaning when used in this Declaration. The following words and phrases, whether or not capitalized, have specified meanings when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1 "**Act**" means Chapter 82 of the Texas Property Code, the Texas Uniform Condominium Act, as it may be amended from time to time.

1.2 "**Applicable Law**" means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision. Statutes and ordinances specifically referenced in the Documents are "**Applicable Law**" on the date of the Document, and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

1.3 "**Architectural Reviewer**" means Declarant during the Development Period. After expiration of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Board.

1.4 "**Assessment**" means any charge levied against a Unit or Owner by the Association, pursuant to the Documents, the Act, or Applicable Law, including but not limited to Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments as defined in *Article 6* of this Declaration.

1.5 “**Association**” means Luma Condominium Community, Inc., a Texas non-profit corporation, the Members of which shall be the Owners of Units within the Regime. The term “Association” shall have the same meaning as the term “property owners association” in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Certificate, the Bylaws, the Act, and Applicable Law.

1.6 “**Board**” means the Board of Directors of the Association.

1.7 “**Building**” means the building(s) described on the Plat and Plans, now existing or hereafter placed on the Property.

1.8 “**Bylaws**” mean the bylaws of the Association, as they may be amended from time to time.

1.9 “**Certificate**” means the Certificate of Formation of the Association filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

1.10 “**Common Element**” means all portions of the Property save and except the Units. All Common Elements are “**General Common Elements**” except if such Common Elements have been allocated as “**Limited Common Elements**” by this Declaration for the exclusive use of one or more but less than all of the Units.

1.11 “**Common Expenses**” means the expenses incurred or anticipated to be incurred by the Association for the Regime, including but not limited to those expenses incurred for the maintenance, repair, replacement and operation of the Common Elements.

1.12 “**Community Manual**” means the community manual, if any, which may be initially adopted and Recorded by the Declarant as part of the initial project documentation for the Regime. The Community Manual may include the Bylaws and Rules and policies governing the Association as the Board determines to be in the best interest of the Association, in its sole and absolute discretion. The Community Manual may be amended, from time to time, by the Declarant during the Development Period, or a Majority of the Board; provided, however, that during the Development Period, any amendment to the Community Manual must be approved in advance and in writing by the Declarant.

1.13 “**Declarant**” means **PSW-LUMA, LLC**, a Texas limited liability company. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively or non-exclusively, any of its privileges, exemptions, rights and duties under this Declaration to any Person. Declarant may also, by Recorded written instrument, permit any other Person to participate in whole, in part, exclusively or non-exclusively, in any of Declarant’s privileges, exemptions, rights and duties under this Declaration.

1.14 **“Declarant Control Period”** means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix “A” of this Declaration. The duration of Declarant Control Period is the earlier to occur of (i) from the date this Declaration is Recorded for a period not to exceed one hundred and twenty (120) days after title to seventy-five percent (75%) of the maximum Units that may be created hereunder have been conveyed to Owners other than Declarant; or (ii) five (5) year period beginning on the date this Declaration is Recorded.

1.15 **“Declaration”** means this document, as it may be amended from time to time.

1.16 **“Development Period”** means the seven (7) year period beginning on the date this Declaration is Recorded, during which Declarant has certain rights as more particularly described on Appendix “A”, attached hereto, including rights related to development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own any portion of the Property. Declarant may terminate the Development Period by Recording a notice of termination.

During the Development Period, Appendix “A” has priority over the terms and provisions of this Declaration.

1.17 **“Documents”** mean, singly or collectively as the case may be, this Declaration, the Plat and Plans, attached hereto as Attachment 1, the Certificate, Bylaws, the Community Manual, and the Rules of the Association, as each may be amended from time to time. An appendix, attachment, exhibit, schedule, or certification accompanying a Document is a part of that Document.

The Documents are subject to amendment or modification from time to time. By acquiring a Unit in Luma Condominiums, you agree to comply with the terms and provisions of the Documents, as amended or modified.

1.18 **“Fence Maintenance Services”** means the repair and maintenance of the perimeter and privacy fencing installed by Declarant on each Unit which includes the following: (a) replacement of rotted wood; (b) repair or replacement of damaged gates; (c) repair or replacement of damaged posts; (d) staining repaired or replaced components of the fence; and (e) re-staining fencing at least once every four (4) to six (6) years. The Board shall determine, in its sole discretion, whether to repair versus replace components of a fence or trellis. Notwithstanding the forgoing, the Board will have the right to modify the Fence Maintenance Service provided hereunder from time to time.

1.19 **“General Common Elements”** mean Common Elements which are not Limited Common Elements. General Common Elements refer to those portions of the Property that are designated as “GCE”, “General Common Element”, “General Common Area”, “Common Area”, or by the notation “General Common Elements”, “GCE”, “General Common Area”, “Common Area”, or “Common Areas” on Attachment 1, attached hereto.

1.20 **“Improvement”** means every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, within the Property.

1.21 **“Irrigation Maintenance Services”** means the repair and maintenance of irrigation systems within the Yard Area which will include the following: (a) repair or replacement of broken, damaged or clogged sprinkler heads; (b) repair or replacement of cut surface mounted drip tubes or broken pipes below ground; (c) repair or replacement of master and zone level control valves; (d) repair or replacement of system controllers; and (e) repair or replacement of cut/damaged control wires. Irrigation Maintenance Services shall not include: (i) alterations, additions or modifications to the individual unit irrigation system (based on reconfigured landscaping or otherwise) or (ii) the costs of the electricity and water required to operate the irrigation and water retention system(s). Notwithstanding the forgoing, the Board will have the right to modify the Irrigation Maintenance Services provided hereunder from time to time.

1.22 **“Landscape Services”** mean the following services to be provided to the Yard Area: (a) mowing and edging all turf areas at least once per week during the months of May through September of each year and on an as-needed basis during the months of October through April; (b) removing all organic debris (leaves, small downed branches, dead plants) from all turf areas and flower beds at least once per week primarily during the months of October through April and as-needed May through September; (c) removing small (under 4 inches in diameter) dead branches and trimming bushes up to a maximum height of six (6) feet (those not requiring a ladder for access or a chain saw for cutting); (d) applying fertilizer and pre-emergent weed killer to the turf area at least once per year (normally in the spring); (e) manually and mechanically/chemically controlling weeds as required to maintain a reasonably manicured appearance; and (f) controlling fire ants in the turf areas with applications of chemical control agents as necessary. Landscape Services shall not include: (a) soil preparation of flower or garden beds or the planting of seasonal flowers or maintenance of Yard Area flower beds beyond limited weeding and removal of dead plants as indicated above; (b) the purchase, installation or replacement of new shrubs, trees or plants; (c) trimming of bushes above a height of six (6) feet or removal of large limbs (over 4 inches in diameter or higher than six (6) feet from base of tree) or dead or damaged bushes or trees (over six (6) feet in height); or (d) any aspects of the maintenance or installation of any vegetable garden, if such is allowed by the Board, including but not limited to soil preparation, weeding, plant installation or removal, fertilization, or the replacement of an area previously converted to a vegetable garden with turf or flower beds, etc. Notwithstanding the foregoing, the Board will have the right to modify the Landscape Services provided hereunder from time to time

1.23 **“Limited Common Elements”**, if any, mean those portions of the Property reserved for the exclusive use of one or more Owners to the exclusion of other Owners. Limited Common Elements are designated as “LCE”, “Limited Common Elements”, or “Limited Common Areas” on Attachment 1, attached hereto and/or as provided in *Section 5.6* and *Section 5.7* of this Declaration.

1.24 **“Majority”** means more than half.

1.25 **“Member”** means a member of the Association, each Member being an Owner of a Unit, unless the context indicates that member means a member of the Board or a member of a committee of the Association.

1.26 **“Mortgagee”** means a holder, insurer, or guarantor of a purchase money mortgage secured by a Recorded senior or first deed of trust lien against a Unit.

1.27 **“Occupant”** means any Person, including any Owner, tenant or otherwise having a right to occupy or use all or any portion of a Unit for any period of time.

1.28 **“Owner”** means a holder of Recorded fee simple title to a Unit. Declarant is the initial Owner of all Units. Mortgagees who acquire title to a Unit through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.

1.29 **“Person”** means any individual or entity having the legal right to hold title to real property.

1.30 **“Plat and Plans”** means the plat and plans attached hereto as Attachment 1, as changed, modified, or amended in accordance with this Declaration.

1.31 **“Property”** means the tract of land in Bexar County, Texas, as more particularly described on Exhibit “A” attached hereto, together with all Improvements thereon and all easements, rights, and appurtenances thereto, and includes every Unit and Common Element thereon.

1.32 **“Record, Recordation, Recorded and Recording”** means filing the referenced instrument or document in the Official Public Records of Bexar County, Texas.

1.33 **“Regime”** means the Property, Units, General Common Elements, and Limited Common Elements that comprise the condominium regime established by this Declaration.

1.34 **“Rules”** means rules and regulations of the Association adopted in accordance with the Documents or the Act. The initial Rules may be adopted by Declarant (as part of the Community Manual, or otherwise) for the benefit of the Association.

1.35 “**Underwriting Lender**” means a national institutional mortgage lender, insurer, underwriter, guarantor, or purchaser on the secondary market, such as Federal Home Administration (FHA) Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), the Veterans Administration, or Government National Mortgage Association (Ginnie Mae), singularly or collectively. Use of the term “Underwriting Lender” in this Declaration, and the specific instructions listed in this definition, may not be construed as a limitation on an Owner’s financing options or as a representation that the Property is approved by any specific institution.

1.36 “**Unit**” means a physical portion of the Property designated by this Declaration for separate ownership, the boundaries of which are shown on the Plat and Plans attached hereto as Attachment 1, as further described in *Section 5.2* of this Declaration.

1.37 “**Yard Area**” means any yard space within a Unit or any yard space designated as LCE and allocated or assigned to one (1) Unit exclusively.

ARTICLE 2
PROPERTY SUBJECT TO DOCUMENTS

2.1. **Subject To Documents.** The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant’s representations and reservations as set forth on Appendix “A”, attached hereto, which run with the Property, bind all Persons having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

2.2. **Adjacent Land Use.** Declarant makes no representation of any kind as to current or future uses, actual or permitted, of any land that is adjacent to or near the Property.

2.3. **Additional Property.** Additional real property may be annexed into the Regime and subjected to the Declaration and the jurisdiction of the Association with the approval of Owners holding at least sixty-seven percent (67%) of the total votes in the Association, or, during the Development Period, unilaterally by Declarant as permitted in Appendix “A”. Annexation of additional property is accomplished by the Recording of a declaration of annexation, which will include a description of the additional real property. The declaration of annexation may include a description of the Units added to the Regime. Upon the annexation of such real property into the Regime such land will be considered part of the Property for the purposes of this Declaration.

2.4. **Recorded Easements and Licenses.** In addition to the easements and restrictions contained in this Declaration, the Property is subject to all easements, licenses, leases, and encumbrances of record, including those described in the attached Attachment 2, and as shown on a Recorded plat, each of which is incorporated herein by reference. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of

conveyance, covenants and agrees to be bound by prior-recorded easements, licenses, leases, and encumbrances. Each Owner further agrees to maintain any easement that crosses the Owner's Unit and for which the Association does not have express responsibility.

ARTICLE 3
PROPERTY EASEMENTS, RIGHTS AND RESTRICTIONS

3.1. **General.** In addition to other easements, rights and restrictions established by the Documents, the Property is subject to the easements, rights and restrictions contained in this Article.

3.2. **Owner's Easement of Enjoyment.** Every Owner is granted a right and easement of enjoyment over the General Common Elements and use of Improvements therein, subject to other limitations, rights and easements contained in the Documents. An Owner who does not occupy a Unit delegates this right of enjoyment to the Occupants of the Owner's Unit, and is not entitled to use the General Common Elements. In addition, every Owner is granted an easement over the General Common Elements, to the extent necessary, to provide access to an Owner's Unit and for utilities serving the Owner's Unit. The right of access for necessary ingress and egress to an Owner's Unit cannot be suspended by the Board for violations of the Documents or nonpayment of Assessments.

3.3. **Owner's Maintenance Easement.** Each Owner is hereby granted an easement over and across any adjoining Unit and Common Elements to the extent reasonably necessary to maintain or reconstruct such Owner's Unit, subject to the consent of the Board and the consent of the Owner of the adjoining Unit, or the consent of the Board in the case of Common Elements, and provided that the Owner's use of the easement granted hereunder does not damage or materially interfere with the use of the adjoining Unit or Common Element. Requests for entry into an adjoining Unit must be made to the Board and the Owner of such Unit in advance. The consent of the adjoining Unit Owner will not be unreasonably withheld; however, the adjoining Unit Owner may require that access to its Unit be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. Access to the Common Elements for the purpose of maintaining or reconstructing any Unit must be approved in advance and in writing by the Board. The Board may require that access to the Common Elements be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. The Board may require that the Owner abide by additional reasonable rules with respect to use and protection of Units and the Common Elements during any such maintenance or reconstruction. If an Owner damages an adjoining Unit or Common Element in exercising the easement granted hereunder, the Owner will be required to restore the Unit or Common Element to the condition which existed prior to any such damage, at such Owner's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Owner is notified in writing of the damage by the Board or the Owner of the damaged Unit.

Prior to commencing any work upon a Unit which requires access to, over or through the Common Elements or other Units, the Person performing such work must deliver to the Board, in form satisfactory to the Board:

- (i) releases of the Board and the Association for all claims that such Person may assert in connection with such work;
- (ii) indemnities of the Board and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Elements or other Units;
- (iii) certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board; and
- (iv) all other information and assurances which the Board may reasonably require.

3.4. **Owner's Ingress/Egress Easement.** Each Owner is hereby granted a perpetual easement over the Property, as may be reasonably required, for vehicular and pedestrian ingress to and egress from the Owner's Unit or the Limited Common Elements assigned thereto.

3.5. **Owner's Encroachment Easement.** Every Owner is granted an easement for the existence and continuance of any encroachment by the Owner's Unit on any adjoining Unit or Common Element now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a Building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the Improvement stands. The easement granted herein is not intended to permit the continuance of any Improvement installed by an Owner not otherwise approved in advance by the Architectural Reviewer.

3.6. **Easement Of Cooperative Support.** Each Owner is granted an easement of cooperative support over each adjoining Unit and Limited Common Element assigned thereto (if any) as needed for the common benefit of the Property, or for the benefit of Units in a Building, or Units that share any aspect of the Property that requires cooperation. By accepting an interest in or title to a Unit, each Owner: (i) acknowledges the necessity for cooperation in a condominium; (ii) agrees to try to be responsive and civil in communications pertaining to the Property and to the Association; (iii) agrees to provide access to the Owner's Unit and Limited Common Elements when needed by the Association to fulfill its duties; and (iv) agrees to refrain from actions that interfere with the Association's maintenance and operation of the Property.

3.7. **Association's Access Easement.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Elements and the Owner's Unit and all Improvements thereon for the following purposes:

- (i) To perform inspections and/or maintenance that is permitted or required of the Association by the Documents or by Applicable Law.
- (ii) To perform maintenance that is permitted or required of the Owner by the Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance.
- (iii) To enforce the Documents.
- (iv) To exercise self-help remedies permitted by the Documents or by Applicable Law.
- (v) To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- (vi) To respond to emergencies.
- (vii) To perform any and all functions or duties of the Association as permitted or required by the Documents or by Applicable Law.
- (viii) To perform Landscape Services and Irrigation Maintenance Services.

3.8. **Utility Easement.** Declarant, during the Development Period, and the Association thereafter, may grant permits, licenses, and easements over the Common Elements for utilities, and other purposes reasonably necessary for the proper operation of the Regime. Declarant, during the Development Period, and the Association thereafter, may grant easements over and across the Units and Common Elements to the extent necessary or required to provide utilities to Units; provided, however, that such easements will not unreasonably interfere with the use of any Unit for residential purposes. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised without prior notice to the Board and may not unreasonably interfere with the use of a Unit for residential purposes. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security. Furthermore, Declarant hereby reserves a utility easement for utility lines, including electrical lines and AC condenser lines, the

installation, repair, and replacement thereof, over and across each Unit's LCE area to benefit the other Units in the regime.

NOTICE

PLEASE READ CAREFULLY THE FOLLOWING PROVISIONS ENTITLED "SECURITY" AND "INJURY TO PERSON OR PROPERTY". THE PROVISIONS LIMIT THE RESPONSIBILITY OF DECLARANT AND THE ASSOCIATION FOR CERTAIN CONDITIONS AND ACTIVITIES.

3.9. **Security.** The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Occupant acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Occupant acknowledges and accepts that it is the sole responsibility of the Owner or Occupant to provide security for their own person and property, and each Owner and Occupant assumes all risks for loss or damage to same. Each Owner and Occupant further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Occupant relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglary, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. **Each Owner and Occupant acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of any failure to provide adequate security or the ineffectiveness of security measures undertaken.**

3.10. **Injury to Person or Property.** Neither the Association nor Declarant, or their respective directors, officers, committees, agents, and employees have a duty or obligation to any Owner, Occupant or their guests: (a) to supervise minor children or any other Person; (b) to fence or otherwise enclose any Limited Common Element, General Common Element, or other Improvement; or (c) to provide security or protection to any Owner, Occupant, or their guests, employees, contractors, and invitees from harm or loss. By accepting title to a Unit, each Owner agrees that the limitations set forth in this Section are reasonable and constitute the exercise of ordinary care by the Association and Declarant. **Each Owner agrees to indemnify and hold harmless the Association and Declarant, and Declarant's agents from any claim of damages, to Person or property arising out of an accident or injury in or about the Regime to the extent and only to the extent caused by the acts or omissions of such Owner, his tenant, his guests, employees, contractors, or invitees to the extent such claim is not covered by insurance maintained by the Association at the time of such accident or injury.**

3.11. **Easement to Inspect and Right To Correct.** For a period of ten (10) years after the expiration of the Development Period, Declarant reserves for itself and for Declarant's

architect, engineer, other design professionals, builder, and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, Improvement, or condition that may exist on any portion of the Property, including the Units, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. The party exercising the easement reserved hereunder, will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a utility panel may be warranted by a change of circumstance, imprecise siting, or desire to comply more fully with Applicable Law. This Section may not be construed to create a duty for Declarant or the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant, and the Declarant's architect, engineer, other design professionals, builder, and general contractor an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Elements and each Unit for the purposes contained in this Section.

3.12. **Assignment of Parking.** Declarant reserves the right, to designate and assign portions of the Common Elements as parking spaces for the exclusive use of any Owner. Each assignment of parking space(s) to a Unit will be memorialized by a written instrument, executed by Declarant and Recorded, which shall identify the parking space(s) and the Unit assigned thereto. The assignment shall be made a part of the corporate records of the Association, will be considered an agreement between the Association and such Owner with regard to use of the parking spaces so assigned, and may not be terminated or modified without the consent of Declarant during the Development Period, the Association, and the Owner of the Unit to which the parking space(s) was assigned. Parking spaces not specifically assigned by Declarant for the exclusive use of an Owner of a Unit will be under the exclusive control and administration of the Association after expiration of the Development Period.

ARTICLE 4 **DISCLOSURES**

This Article discloses selective features of the Regime that may not be obvious to potential Owners and Occupants. Because features may change over time, no disclosure in this Article should be relied upon without independent confirmation.

4.1. **Service Contracts.** In connection with construction of the Unit, the Unit may have been wired or fitted for one or more services to be provided by vendors to the Owner on a contract basis, such as intrusion monitoring and cable television. In exchange for such installations, Declarant may have contracted on behalf of the Owner for a period of service to the Owner's Unit. In that event, whether or not an Owner chooses to use the service, the Owner may be required to pay the Unit's share of the contract for the contract period. The Association may serve as the conduit for the service fees and payments, which may be considered Regular Assessments or Individual Assessments. **However, the Association is not the service provider and has no responsibility or liability for the availability or quality of the service, or for the**

maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service.

4.2. **Fire Sprinklers.** One or more Buildings within the Regime may be constructed with a fire sprinkler system. This means that water lines and sprinkler heads may be in the ceilings above rooms in the Units. Damage to, or a malfunction of, a water line or sprinkler head may harm or destroy real and personal property. Notwithstanding any provision in this Declaration to the contrary, the fire sprinkler system, if any, will be maintained by the Association with the costs of maintenance, operation and repair levied through Regular Assessments. However, each Owner is solely responsible for: (i) preserving the integrity and functionality of the Building's fire sprinkler system located in the Owner's Unit; (ii) instructing the Occupants, invitees, and contractors and other Persons working in and on the Owner's Unit about the care and protection of the sprinkler system, including any applicable Rules; and (iii) any damage to the Owner's Unit, an adjoining Unit, a Common Element, or any personal property (such as furnishings and clothing) caused by the Owner, or the Owner's Occupants, invitees, and contractors and other Person's, abuse or negligent acts which cause a malfunction of any component of the sprinkler system. Additionally, each Owner is hereby advised that the local municipal or fire authorities may periodically access the Unit for the purpose of conducting inspections of the fire sprinkler system. Inspection may include drainage and recharge of the lines. Any such inspection will be coordinated through the Association, who will contact the Owners to ensure orderly access to the Units. Any expenses incurred in connection with the inspection will be a Common Expense of the Association.

4.3. **Adjacent Thoroughfares.** The Property is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

4.4. **Zoning.** No representations are made regarding the zoning of adjacent property. The zoning and use of adjacent property may change in the future.

4.5. **Outside Conditions.** Since in every neighborhood there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Property that an Owner or Occupant may find objectionable, and it shall be the sole responsibility of an Owner or Occupant to become acquainted with neighborhood conditions that could affect the Property and the Unit.

4.6. **Concrete.**

(i) **Cracks.** Minor cracks in poured concrete, including foundations, sidewalks, driveways and patios, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and movement of a Building.

(ii) Exposed Floors. This Section applies to Units with exposed concrete floors. This notice is given because some Owners are inexperienced with concrete flooring. In deciding whether, when, and how to fill cracks in exposed concrete floors, an Owner is hereby made aware that the color and texture of the fill material may not match the rest of the concrete floor. On some exposed concrete floors, fill materials make minor cracks more noticeable than if the cracks had been left in their natural state. In addition, an Owner is hereby made aware that any specification for polished concrete does not mean an Owner will be able to actually see his reflection in the floor.

4.7. Construction Activities. Declarant will be constructing portions of the Regime and engaging in other construction activities related to the construction of Units and Common Elements. Such construction activities may, from time to time, produce certain conditions on the Regime, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) noxious, toxic or corrosive fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) unusual fire or explosion hazards; (vii) temporary interruption of utilities; and/or (viii) other conditions that may threaten the security or safety of Persons on the Regime. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Regime resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.

4.8. Moisture. The Unit may trap humidity created by general use and occupancy. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and Occupants, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially, mildew and/or mold. **Mold and/or mildew can grow in any portion of the Property that is exposed to elevated levels of moisture.** (See Section 9.8 for certain duties of an Owner with respect to mold).

4.9. Encroachments. Improvements may have been constructed on adjoining lands that encroach onto the Property. Declarant gives no representations or warranties as to property rights, if any, created by any such encroachments.

4.10. Budgets. Any budget prepared by or on behalf of the Association is based on estimated expenses only without consideration for the effects of inflation. The estimated expenses reflected on a budget may increase or decrease significantly when the actual expenses become known.

4.11. **Light and Views.** The natural light available to and views from a Unit can change over time due to among other things, additional development and the removal or addition of landscaping. **NATURAL LIGHT AND VIEWS ARE NOT PROTECTED.**

4.12. **Schools.** No representations are being made regarding which schools may now or in the future serve the Unit.

4.13. **Sounds.** No representations are made that the Unit is or will be soundproof or that sound and/or vibrations may not be transmitted from one Unit to another or from the Common Elements (including, but not limited to, any amenity areas) to a Unit. Sound transmissions and/or vibrations between Units and Common Elements are inherent in attached condominium construction and are not construction defects. The Units are built in close proximity to one another, resulting in the sharing of common walls, floors and ceilings. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. The plumbing and concrete, tile, and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise from one Unit to another.

4.14. **Urban Environment.** The Property is located in an urban environment. Land adjacent or near the Property may contain or be developed to contain residential and commercial uses. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking loudly, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in an urban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living.

4.15. **Unit Plans and Dimensions.** Any advertising materials, brochures, renderings, drawings, and the like, furnished by Declarant to Owner which purport to depict the Unit to be constructed or any portion thereof, are merely approximations and do not necessarily reflect the actual as-built conditions of the same. Room dimensions, Unit size and elevations may vary due to the nature of the construction process and site conditions. If the Owner is concerned about any representations regarding room dimensions, Unit size and elevations, the Owner should conduct its own investigation of such matters prior to contracting for the purchase of a Unit.

4.16. **Water Runoff.** The Property may be subject to erosion and/or flooding during unusually intense or prolonged periods of rain. In addition, water may pond on various portions of the Property having impervious surfaces, such as the driveways and patios, as applicable.

4.17. **Unit Systems.** No representations are made that the systems in the Unit including, by way of example only, heating and air conditioning and electrical systems will operate or perform at a level or standard greater than the minimum specifications of the manufacturer. In addition, the performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Unit in relation to the sun.

4.18. **Upgrades.** The cost of upgrades may not necessarily result in a commensurate increase in the value of the Unit.

4.19. **Dryer Vents.** Certain Units in the Building may require long vents for the dryer. Each Owner is responsible for determining whether such a vent is required for any dryer to be located in the Owner's Unit. The failure to utilize the appropriate dryer vent may create a fire hazard for which the Owner shall be responsible.

4.20. **Location of Utilities.** Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

4.21. **Wood.** Natural wood has considerable variation due to its organic nature. There may be shades of white, red, black or even green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination. Wood floors may require more maintenance than some man-made materials. Owners of Units with wood floors should educate themselves about wood floor care.

4.22. **Stone.** Veins and colors of any marble, slate or other stone in the Unit, if any, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, granite, slate and other stone and it is the Owner's responsibility to properly maintain these materials. Marble, granite and other stone surfaces may scratch, chip or stain easily. Such substances, as part of their desirable noise attenuating properties, may flex or move slightly in order to absorb impacts. Such movement may in turn

cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

4.23. **Chemicals.** The Building and Units contain products that have water, powders, solids and industrial chemicals used in construction. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Declarant is not responsible for any illness or allergic reactions that a person may experience as a result of mold, mildew, fungus or spores. It is the responsibility of the Owner and/or Occupant to keep the Unit clean, dry, well ventilated and free of contamination.

4.24. **Paint.** Due to the large quantity of paint used in the Building and Units, Owner should be aware that slight variations in paint shade may exist. Due to the properties within today's paints, Owner should expect paint to yellow or fade with time. This is a normal occurrence and is neither a construction defect nor a warrantable item. Avoid washing or scrubbing painted walls. Lightly soiled areas may be cleaned using a sponge with water and lightly wiping over the soiled areas.

4.25. **Fixtures.** Certain materials used for fixtures in the Unit (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are subject to discoloration and/or corrosion over time. This is a normal occurrence and this is neither a construction defect nor a warrantable item.

4.26. **Marketing.** Declarant's use of a sales center and/or model Units or reference to other construction by Declarant is intended only to demonstrate the quality of possible finish details, the basic floor plans, and styles of Units available for purchase. The Unit may not conform to any model Unit in any respect, or contain some or all of the amenities featured, such as furnishings and appliances. Likewise, any model Unit is intended only to demonstrate the size and basic architectural features of the project. The project or an individual Unit, may not conform to the models displayed by Declarant. Declarant may have shown prospective purchasers model homes, floorplans, sketches, drawings, and scale models of Units or the project (collectively "**Promotional Aids**"). Owner understands and agrees that the Promotional Aids are conceptual, subject to change, for display purposes only, and may not be incorporated into the project or a Unit. Declarant retains the right to obtain and use photography of the Property (including any Unit) for publication and advertising purposes.

4.27. **Private Drives and Parking.** The private drive located within the Regime will be operated and maintained by the Association. By acquiring a Unit in the Regime, each Owner acknowledges and agrees that use of the private drive will be subject to all applicable Rules. The Association, acting through the Board, has the express authority to adopt, amend, repeal, and enforce Rules for use of the private drive, including but not limited to:

- (i) Identification of vehicles used by Owners and Occupants and their guests.
- (ii) Designation of no-parking areas and loading/unloading zones.
- (iii) Limitations or prohibitions on driveway parking.
- (iv) Removal or prohibition of vehicles that violate applicable Rules.
- (v) Fines for violations of applicable Rules.

ARTICLE 5

UNITS, LIMITED COMMON ELEMENTS & ALLOCATIONS

5.1. **Initial Submitted Units and Maximum Number of Units.** The Regime initially includes fifteen (15) Units, and forty-three (43) is the maximum number of Units that may be created.

5.2. **Unit Boundaries.** The boundaries and identifying number of each Unit are shown on the Plat and Plans attached as Attachment 1. The boundaries are further described as follows:

5.2.1. **Horizontal (Upper and Lower) Boundaries.** The upper horizontal boundary of each Unit is the horizontal plane formed by the bottom or inside surface of the roof sheathing in the Unit. The lower horizontal boundary of each Unit is the horizontal plane formed by the uppermost surface of the unfinished concrete on the ground floor of the Unit. The actual concrete slab foundation is a General Common Element. Anything on or affixed to the top of unfinished concrete is part of the Unit.

5.2.2. **Vertical (Perimeter) Boundaries.** The vertical or perimeter boundaries of each Unit are as follows:

(i) For portions of the Unit which adjoin an exterior wall of the Building, the lateral boundaries are the planes which extend from the lower horizontal boundary of the Unit to the upper horizontal boundary of the Unit defined by the inside-facing surfaces of the brick veneer, siding, stucco, or other material comprising the outermost component of the exterior wall and by the outside-facing surfaces of the outermost component of doors and windows. All doors and windows servicing a single Unit are part of that Unit.

(ii) For portions of the Unit which adjoin a wall separating the Unit from another Unit, the vertical plane created by the centerline of such wall, extending from the lower horizontal boundary of the Unit to the upper horizontal boundary of the Unit.

5.3. **No Relation to Living Areas.** The space contained within the Unit's vertical and horizontal boundaries is not related to the size of the Unit's living areas. Similarly, the Units are initially marketed on the basis of representational floorplans, each of which is marked with an estimated size taken from architectural drawings. Those marketing sizes may vary from the size of the actual space contained within the Unit's vertical and horizontal boundaries.

5.4. **Units Generally.** If the foregoing description of Unit boundaries is inconsistent with the Plat and Plans, then *Section 5.2* hereof will control. It is the express intent of the Declarant that the property described as being part of a Unit shall for all purposes herein be treated as and constitutes a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Unit that has not been adequately described shall be severed from the property deemed a part of the Unit (if the remainder of the Unit, excluding the severed portion thereof, constitutes a properly described "Unit" under the Act) and shall thereafter be deemed a Limited Common Element reserved to the exclusive use of said Unit, subject to the rights and obligations of other Owners with respect to said property.

5.5. **What the Unit Includes.** Each Unit includes the spaces and Improvements within the above-described vertical and horizontal boundaries, including without limitation, any windows, window screens and frames, exterior doors, door hardware, or garage doors (if applicable). Each Unit also includes Improvements, fixtures, and equipment serving the Unit exclusively, whether located inside or outside the Unit, whether or not attached to or contiguous with the Unit, including but not limited to, the following (if any): water heaters, solar systems, air conditioners, utility meters, fuse boxes, electrical switches, wiring, pipes, ducts, conduits, smoke detectors, security systems, television antennas, lighting fixtures, telephone and electrical receptacles, and skylights. Except as specifically included above, each Unit excludes the spaces and improvements lying outside of the vertical and horizontal boundaries. Each Unit also excludes any chute, pipe, flue, duct, wire, or conduit running through a Unit for the purpose of furnishing utility and similar services to other Units and/or Common Elements.

5.6. **Initial Designations Of Limited Common Elements.** Portions of the Common Elements may be allocated as Limited Common Elements on the Plat and Plans, attached hereto as Attachment 1, by use of "LCE" and the identifying number of the Unit to which the Limited Common Element is appurtenant, or by use of a comparable method of designation.

5.7. **Subsequent Allocation Of Limited Common Elements.** A Common Element not allocated by this Declaration as a Limited Common Element may be so allocated only in accordance with the Act or the provisions of this Declaration. Declarant has reserved the right as set forth in Appendix "A" of this Declaration, to create and assign Limited Common Elements within the Property.

5.8. **Common Interest Allocation.** The percentage of interest in the Common Elements (the “**Common Interest Allocation**”) allocated to each Unit is set forth on Attachment 3, and is assigned to each Unit in accordance with a ratio one (1) to the total number of Units established by this Declaration. The same formula will be used in the event the Common Interest Allocation is reallocated as a result of any increase or decrease in the number of Units subject to the Declaration. In the event an amendment or notice of annexation to this Declaration is filed which reallocates the Common Interest Allocation as a result of any increase or decrease in the number of Units, the reallocation will be effective on the date such amendment or notice of annexation is Recorded.

5.9. **Common Expense Liabilities.** The percentage of liability for Common Expenses allocated to each Unit (the “**Common Expense Liability**”) and levied pursuant to *Article 6* is equivalent to the Common Interest Allocation assigned to the Unit in accordance with *Section 5.8*.

5.10. **Votes.** One (1) vote is allocated to each Unit. The one vote appurtenant to each Unit is weighted equally for all votes, regardless of the other allocations appurtenant to the Unit. In other words, the one vote appurtenant to each Unit is uniform and equal to the vote appurtenant to every other Unit.

ARTICLE 6

COVENANT FOR ASSESSMENTS

6.1. **Purpose of Assessments.** The Association will use Assessments for the general purposes of preserving and enhancing the Regime, and for the benefit of Owners and Occupants, including but not limited to maintenance of the Regime, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board’s decision with respect to the use of Assessments is final.

6.2. **Personal Obligation.** An Owner is obligated to pay Assessments levied by the Board against the Owner or the Owner’s Unit. Payments are made to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which the Documents pertain. No Owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the Common Elements or by abandonment of his Unit. An Owner’s obligation for Assessments is not subject to offset by the Owner, nor is it contingent on the Association’s performance or lack thereof. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Unit.

6.3. **Types of Assessments.** There are five (5) types of Assessments: Regular, Special, Utility, Individual, and Deficiency Assessments.

6.4. Regular Assessments.

6.4.1. Purpose of Regular Assessments. Regular Assessments are used for Common Expenses related to the recurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

(i) Maintenance, repair, and replacement, as necessary, of the General Common Elements, Limited Common Elements serving more than one (1) Unit, and Improvements, equipment, signage, and property owned by the Association.

(ii) Maintenance examination and report, as described in *Section 9.4.*

(iii) Utilities billed to the Association.

(iv) Pest control and other services obtained by the Association.

(v) Taxes on property owned by the Association and the Association's income taxes.

(vi) Management, legal, accounting, auditing, and professional fees for services to the Association.

(vii) Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.

(viii) Insurance premiums and deductibles.

(ix) Contributions to the reserves.

(x) Any other expense which the Association is required by Applicable Law or the Documents to pay, or which, in the opinion of the Board, is necessary or proper for the operation and maintenance of the Regime or for enforcement of the Documents.

6.4.2. Annual Budget-Regular. The Board will prepare and approve an annual budget with the estimated expenses to be incurred by the Association for each fiscal year. The budget will take into account the estimated income and Common Expenses of the Association for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or a summary of the budget available to each Owner, although failure to receive a budget or budget summary will not affect an Owner's liability for Assessments. The Board will provide copies of the budget to Owners who make written request and pay a reasonable copy charge.

6.4.3. Basis of Regular Assessments. Regular Assessments will be based on the annual budget, minus estimated income from sources other than Regular Assessments. Each Unit will be liable for the Unit's share of the annual budget based on the Common Expense Liability allocated to such Unit. If the Board does not approve an annual budget or fails to determine new Regular Assessments for any year, or delays in doing so, Owners will continue to pay the Regular Assessment as last determined by the Board.

6.5. Supplemental Increases. If, during the course of a year, the Board determines that Regular Assessments are insufficient to cover the estimated Common Expenses of the Association for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Supplemental increases will be apportioned among the Units in the same manner as Regular Assessments.

6.6. Special Assessments. The Board may levy one or more Special Assessments against all Units for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget or reserve funds. Special Assessments may be used for the same purposes as Regular Assessments. Special Assessments do not require the approval of the Owners, except that Special Assessments for the acquisition of real property must be approved by Owners representing at least a Majority of the votes in the Association. Special Assessments will be apportioned among the Units in the same manner as Regular Assessments.

6.7. Utility Assessments. This Section applies to utilities serving the Units and consumed by the Owner and/or Occupants that are billed to the Association by the utility provider, and which may or may not be sub-metered by or through the Association. The Board may levy a Utility Assessment against each Unit. The Board may allocate the Association's utility charges among the Units by any conventional and reasonable method. The levy of a Utility Assessment may include a share of the utilities for the Common Elements, as well as administrative and processing fees, and an allocation of any other charges that are typically incurred in connection with utility or sub-metering services. The Board may, from time to time, change the method of utility allocation, provided the method of allocation is reasonable.

6.8. Individual Assessments. The Board may levy an Individual Assessment against an Owner and the Owner's Unit. Individual Assessments may include, but are not limited to: (i) interest, late charges, and collection costs on delinquent Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner's Unit into compliance with the Documents; (iii) fines for violations of the Documents; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and copies of the Documents; (vi) insurance deductibles; (vii) reimbursement for damage or waste caused by willful or negligent acts of the Owner, Occupant, or their agents; (viii) Common Expenses that benefit fewer than all of the Units, which may be assessed according to benefit received as reasonably determined by the Board; (ix) fees or charges levied against the Association on a per-Unit basis; and (x) "pass through"

expenses for services to Units provided through the Association and to be paid by each Unit according to benefit received as reasonably determined by the Board.

6.9. **Deficiency Assessments.** The Board may levy a Deficiency Assessment against the Units for the purpose of defraying, in whole or in part, the cost of maintenance, repair, and replacement, as necessary, performed by the Association or its permittees if insurance proceeds or condemnation awards prove insufficient. Deficiency Assessments will be apportioned among the Units in the same manner as Regular Assessments.

6.10. **Reserve Fund Contribution.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner, and transfers from one Owner of a Unit to a subsequent Owner of the Unit), a reserve fund contribution in an amount equal to three (3) months of Regular Assessments will be paid from the transferee of the Unit to the Association for the Association's replacement reserve funds. Each reserve fund contribution will be collected from the transferee of a Unit upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers of a Unit will not be subject to the reserve fund contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent; (iv) any grantee who is the domestic partner or former spouse of the grantor; (v) any grantee that is a wholly-owned entity of the grantor; and (vi) any grantee to whom a Unit is conveyed by a will or through the law of intestacy. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Declarant may not use the reserve fund contribution collected hereunder to pay the operational expenses of the Association until the Declarant Control Period terminates. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any reserve fund contribution attributable to a Unit (or all Units) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

6.11. **Due Date.** Regular Assessments are due annually, with monthly installments of the total annual Regular Assessments to be paid on the first calendar day of each month or on such other date or frequency as the Board may designate in its sole and absolute discretion, and are delinquent if not received on or before such date. Utility, Special, Individual, and Deficiency Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within ten (10) days after notice of the Utility, Special, Individual, or Deficiency Assessment is given.

6.12. **Reserve Funds.** The Association may maintain reserves for operations at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including deductibles on insurance policies maintained by the Association. The Association will maintain replacement and repair reserves at a level that

anticipates the scheduled replacement or major repair of components of the General Common Elements.

6.13. **Declarant's Right to Inspect and Correct Accounts.** For a period of ten (10) years after termination or expiration of the Development Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association financial records and accounts established during the Development Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. By way of illustration but not limitation, Declarant may find it necessary to re-characterize an expense or payment to conform to Declarant's obligations under the Documents or Applicable Law. This Section may not be construed to create a duty for Declarant or a right for the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant a right of access to the Association's books and records that is independent of Declarant's rights during the Declarant Control Period and Development Period.

6.14. **Association's Right to Borrow Money.** The Association is granted the right to borrow money, subject to the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, or pledge any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.

6.15. **Limitations of Interest.** The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to Applicable Law. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with the Association's collection of Assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by Applicable Law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by Applicable Law, the excess amount will be applied to the reduction of applicable Assessments, or reimbursed to the Owner if those Assessments are paid in full.

6.16. **Audited Financial Statements.** The Association shall have an audited financial statement for the preceding full fiscal year of the Association prepared and made available within one hundred and twenty (120) days after the Association's fiscal year-end.

ARTICLE 7
ASSESSMENT LIEN

7.1. **Assessment Lien.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments to the Association. Each Assessment is a charge on the Unit and is secured by a continuing lien on the Unit. Each Owner, and each prospective Owner, is placed on notice that title to such Owner's Unit may be subject to the continuing lien for Assessments attributable to a period prior to the date the Owner purchased its Unit. An express lien on each Unit is hereby granted and conveyed by Declarant to the Association to secure the payment of Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments.

7.2. **Superiority of Assessment Lien.** The Assessment lien is superior to all other liens and encumbrances on a Unit, except only for: (i) real property taxes and assessments levied by governmental and taxing authorities; (ii) a Recorded deed of trust lien securing a loan for the initial construction of any Building and the Units therein; (iii) a deed of trust or vendor's lien Recorded before this Declaration; or (iv) a first or senior purchase money vendor's lien or deed of trust lien Recorded before the date on which the delinquent Assessment became due. The Assessment lien is superior to any Recorded assignment of the rights to insurance proceeds on the Unit unless the assignment is part of a superior deed of trust lien.

7.3. **Effect of Mortgage's Foreclosure.** Foreclosure of a superior lien extinguishes the Association's claim against the Unit for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for Assessments coming due from and after the date of the sale.

7.4. **Notice and Release of Notice.** The lien established hereby for Assessments is created by Recordation of this Declaration, which constitutes record notice and perfection of the lien. No other Recordation of a lien or notice of lien is required. However, in the exercise of its lien rights, the Association may, at its option, cause a notice of the lien to be Recorded. Each lien filed by the Association must be prepared and filed by an attorney licensed to practice law in the State of Texas. If the debt is cured after a notice has been Recorded, the Association will Record a release of the notice at the expense of the curing Owner. The Association may require reimbursement of its costs of preparing and Recording the notice before granting the release.

7.5. **Power of Sale.** By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of sale in connection with its Assessment lien. The Board may appoint, from time to time, any Person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the

power of sale. Any such appointment must be in writing and may be in the form of a resolution duly adopted by the Board.

7.6. **Foreclosure of Lien.** The Assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by Applicable Law. In any foreclosure, the Owner will be required to pay all costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at a foreclosure sale initiated by it and to acquire, hold, lease, mortgage, and convey same.

ARTICLE 8
EFFECT OF NONPAYMENT OF ASSESSMENTS

8.1. **Generally.** An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Association, acting through the Board, is responsible for taking action to collect all delinquent Assessments. From time to time, the Association may delegate some or all of its collection procedures and remedies, as it in its sole discretion deems appropriate, to a manager, attorney or a debt collector. Neither the Association nor the Board, however, is liable to an Owner or other Person for its failure or inability to collect or attempt to collect an Assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association may have pursuant to the Documents or Applicable Law.

8.2. **Interest.** Delinquent Assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of eighteen percent (18%) per annum or the maximum permitted by law. If the Board fails to establish a rate, the rate is ten percent (10%) per annum.

8.3. **Late Fees.** Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time.

8.4. **Collection Expenses.** The Owner of a Unit against which Assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, including attorneys' fees and processing fees charged by the manager.

8.5. **Suspension of Vote.** Subject to the below-described limitations, if an Owner's account has been delinquent for at least thirty (30) days, the Association may suspend the right to vote appurtenant to the Unit during the period of delinquency. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay Assessments. When the Association suspends an Owner's right to vote, the suspended Owner may nevertheless participate as a Member of the Association for the following activities: (i) be counted towards a quorum; (ii) attend meetings of the Association; (iii) participate in discussions at Association

meetings; (iv) be counted as a petitioner for a special meeting of the Association; and (v) vote to remove a Director and for the replacement of the removed Director. If the number of suspended Members exceeds twenty percent (20%) of the total Members (Co-Owners of a Unit constituting one Member), all Members are eligible to vote. These limitations are imposed to prevent a Board from disenfranchising a large segment of the membership and to preserve the membership's right to remove and replace Directors.

8.6. **Assignment of Rents.** Every Owner hereby grants to the Association a continuing assignment of rents to secure the payment of Assessments to the Association. If a Unit's account become delinquent during a period in which the Unit is leased, the Association may direct the tenant to deliver rent to the Association for application to the delinquent account, provided the Association gives the Owner notice of the delinquency, a reasonable opportunity to cure the debt, and notice of the Owner's right to a hearing before the Board. The Association must account for all monies received from a tenant and must remit to the Owner any rents received in excess of the past-due amount. A tenant's delivery of rent to the Association under the authority hereby granted is not a breach of the tenant's lease with the Owner and does not subject the tenant to penalties from the Owner.

8.7. **Acceleration.** If an Owner defaults in paying any Assessment that is payable in installments, the Association may accelerate the remaining installments on ten (10) days' written notice to the defaulting Owner. The entire unpaid balance of the Assessment becomes due on the date stated in the notice.

8.8. **Money Judgment.** The Association may file suit seeking a money judgment against an Owner delinquent in the payment of Assessments, without foreclosing or waiving the Association lien for Assessments.

8.9. **Notice to Mortgagee.** The Association may notify and communicate with any holder of a lien against a Unit regarding the Owner's default in the payment of Assessments.

8.10. **Application of Payments.** The Association may adopt and amend policies regarding the application of payments. After the Association notifies the Owner of a delinquency, any payment received by the Association may be applied in the following order: Individual Assessments, Deficiency Assessments, Special Assessments, Utility Assessments, and (lastly) Regular Assessments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the Owner attaches conditions or directions contrary to the Association's policy for applying payments. The policies of the Association may provide that endorsement and deposit of a payment does not constitute acceptance, and that acceptance occurs when payment is posted to the Owner's account.

ARTICLE 9
MAINTENANCE AND REPAIR OBLIGATIONS

9.1. **Overview.** Generally, the Association maintains the Common Elements, and the Owner maintains the Owner's Unit. If any Owner fails to maintain its Unit, the Association may perform the work at the Owner's expense. The respective maintenance obligations of the Association and each Owner are set forth in this *Article 9* and are summarized on Attachment 4; however, to the extent of any conflict between the provisions of this *Article 9* and the summary set forth on Attachment 4, the provisions of this *Article 9* will control.

9.2. **Association Maintains.** Unless otherwise provided in this Declaration, the Association maintains, repairs and replaces, as a Common Expense, the portions of the Property listed below, regardless of whether the portions are on Units or Common Elements:

(i) the General Common Elements and Limited Common Elements serving more than one Unit;

(ii) glass in all windows and doors within a Building, including those which are part of a Unit; provided, however, that expenses associated with maintenance, repair and replacement of glass surfaces of windows or doors which are part of a Unit are the responsibility of the Unit's Owner, which shall be due and payable as an Individual Assessment to the Association upon demand;

(iii) except for routine cleaning, which is the Owner's responsibility pursuant to *Section 9.5*, the Association is responsible for the maintenance, repair, and replacement of patios which are designated as Limited Common Element for a Unit;

(iv) any real and personal property owned by the Association but which is not a Common Element; and

(v) any area, item, easement or service the maintenance of which is assigned to the Association by the Documents.

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that: (i) such maintenance responsibility is assigned to an Owner under this Declaration; (ii) such maintenance responsibility is assumed by an Owner and such assumption is approved by the Board; or (iii) such property is dedicated to any local, state or federal government or quasi-governmental entity; provided, however, that in connection with any such assumption as provided in (ii) or (iii), the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair. If the Association assigns any portion of its maintenance responsibilities to an Owner as permitted by the Documents, the Association will perform any such assigned obligations if not timely performed by the Owner.

The Association shall not be liable for injury or damage to 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 any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Occupant of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner or Occupant 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 any Unit. The Association shall not be liable to any Owner or Occupant, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under the Documents or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association or from any action taken by the Association to comply with any Applicable Law.

9.3. **Irrigation Maintenance Services and Landscape Services.**

9.3.1. **Generally.** The Association will cause the Irrigation Maintenance Services and the Landscape Services to be provided to each Yard Area. Accordingly, the Association is hereby granted an easement over and across each Yard Area to the extent reasonably necessary or convenient for the Association or its designated landscaping contractor to perform the Irrigation Maintenance Services and the Landscape Services. Access to each Yard Area is limited to Monday through Friday, between the hours of 7 a.m. until 6 p.m., and then only in conjunction with actual performance of Irrigation Maintenance Services and Landscape Services. If the Association damages any Improvements located within a Yard Area in exercising the easement granted hereunder, the Association will be required to restore such Improvements to the condition which existed prior to any such damage, at the Association's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged Improvements.

9.3.2. Dates. The Association or its designated landscape company may, from time to time, provide each Owner with a schedule of dates on which the Irrigation Maintenance Services and Landscape Services will be performed.

9.3.3. Irrigation. Irrigation is provided by a master irrigation controller, and the Association may schedule irrigation of the yard turf areas. Each Unit Owner will be required to pay the costs charged by the utility service provider for all water consumed by the water meter associated with the irrigation of such Owner's Yard Area.

9.3.4. Cost. The cost of all Irrigation Maintenance Services and Landscape Services will be a Common Expense. Notwithstanding the forgoing, in the event that Irrigation Maintenance Services or Landscape Services are due to negligence or willful misconduct of an Owner, an Owner's tenant, or an Owner's pet, as determined by the Board in its sole discretion, the cost of such maintenance or repair may be levied as an Individual Assessment. In no circumstance will the costs of the electricity and water required to operate the irrigation system(s) within an Owner's Unit or Limited Common Element yard space be a Common Expense including any costs incurred from water loss as a result of a system malfunction, leak or delay in repairing an irrigation system. Each Owner of a Unit will be responsible for shutting down the irrigation system serving such Owner or Occupant's Unit or Limited Common Element yard space in the event of a malfunction or leak.

9.3.5. Alterations. Any alterations in the landscaping of any portion of a Yard Area must be approved in writing by Declarant pursuant to the Declaration and/or the Architectural Reviewer prior to the alterations being made. In the event the Association performs alterations, additions or modifications to the irrigation system (based on reconfigured landscaping or otherwise) serving an Owner's Unit, the cost of the alterations, additions or modifications will be levied as an Individual Assessment unless otherwise approved as a Common Expense by the Board.

9.3.6. Owner or Occupant Repair. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant, and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

9.3.7. THE ASSOCIATION SHALL NOT BE LIABLE FOR INJURY OR DAMAGE TO PERSON OR PROPERTY CAUSED BY THE ELEMENTS OR BY THE OWNER OR OCCUPANT OR ANY OTHER PERSON OR RESULTING FROM ANY UTILITY, WATER, RAIN, SNOW OR ICE WHICH MAY LEAK OR FLOW FROM ANY PIPE, DRAIN, CONDUIT, APPLIANCE OR EQUIPMENT WHICH THE ASSOCIATION IS RESPONSIBLE FOR MAINTAINING HEREUNDER. THE

ASSOCIATION SHALL NOT BE LIABLE TO ANY OWNER OR OCCUPANT FOR LOSS OR DAMAGE, BY THEFT OR OTHERWISE, OF ANY PROPERTY, WHICH MAY BE STORED IN OR UPON THE YARD AREA OF ANY UNIT. THE ASSOCIATION SHALL NOT BE LIABLE TO ANY OWNER OR OCCUPANT, FOR ANY DAMAGE OR INJURY CAUSED IN WHOLE OR IN PART BY THE ASSOCIATION'S FAILURE TO DISCHARGE ITS RESPONSIBILITIES UNDER THIS SECTION 9.3. NO DIMINUTION OR ABATEMENT OF ASSESSMENTS SHALL BE CLAIMED OR ALLOWED BY REASON OF ANY ALLEGED FAILURE OF THE ASSOCIATION TO TAKE SOME ACTION OR PERFORM SOME FUNCTION REQUIRED TO BE TAKEN OR PERFORMED BY THE ASSOCIATION UNDER THIS DECLARATION OR FOR INCONVENIENCE OR DISCOMFORT ARISING FROM THE MAKING OF REPAIRS OR IMPROVEMENTS WHICH ARE THE RESPONSIBILITY OF THE ASSOCIATION OR FROM ANY ACTION TAKEN BY THE ASSOCIATION TO COMPLY WITH APPLICABLE LAW.

9.4. **Perimeter and Privacy Fencing.**

9.4.1. **Maintenance of Perimeter Fencing.** The Association will repair, replace and/or maintain the Perimeter and Privacy Fencing. Repair shall include sealing and/or re-staining the portions of the fence reasonable accessible and visible from the Property if stained or sealed as part of the original construction by Declarant. Accordingly, the Association is hereby granted an easement over and across each Unit to the extent reasonably necessary or convenient for the Association or its designated contractor to perform the maintenance and repair services necessary to seal, stain, repair, replace and/or maintain the Perimeter and Privacy Fencing located within or adjacent to a Unit. Access to each Unit is limited to Monday through Friday, between the hours of 7 a.m. until 6 p.m., and then only in conjunction with actual performance of maintenance and repair services on the Perimeter and Privacy Fencing. If the Association damages any Improvements located within a Unit in exercising the easement granted hereunder, the Association will be required to restore such Improvements to the condition which existed prior to any such damage, at the Association's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged Improvements. If original construction included sealing and/or staining of the fence then the Association will on a regular cycle of every four to six (4-6) years, at the sole discretion of the Board, cause the Perimeter and Privacy Fencing to be sealed and/or stained. The cost of all maintenance and repair services, including the cost of sealing and staining the Perimeter and Privacy Fencing, will be a Common Expense.

9.5. **Inspection Obligations.**

9.5.1. **Contract for Services.** In addition to the Association's maintenance obligations set forth in this Declaration, the Association may contract with or otherwise

retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Regime.

9.5.2. Schedule of Inspections. Inspections will take place in accordance with prudent business practices. A Guide to Association's Examination of Common Elements is attached to this Declaration as Attachment 5. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board shall report the contents of such written reports to the Members of the Association at the next meeting of the Members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of the Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

9.5.3. Notice to Declarant. During the Development Period, the Association shall, if requested by Declarant, deliver to the Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

9.5.4. Limitation. The provisions of this Section shall not apply during the Declarant Control Period unless otherwise directed by the Declarant.

9.6. Owner Responsibility. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:

(i) To maintain, repair, and replace the Owner's Unit and any and all Limited Common Elements exclusively serving the Owner's Unit, except for components expressly assigned to the Association by this Declaration.

(ii) The routine cleaning of any patio of the Owner's Unit, if any, keeping same in a neat, clean, odorless, orderly, and attractive condition.

(iii) To maintain, repair, and replace all portions of the Property for which the Owner is responsible under this Declaration or by agreement with the Association.

(iv) To not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and

safety of the Property, reduce the value thereof, or impair any easement or real property right thereto.

(v) To be responsible for such Owner's own willful or negligent acts and those of the Owner or Occupant's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of Common Elements, the property of another Owner, or any component of the Property for which the Association has maintenance or insurance responsibility.

9.7. **Disputes.** If a dispute arises regarding the allocation of maintenance responsibilities by the Documents, the dispute will be resolved by the Board. Unit maintenance responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this Article that all components and areas not expressly delegated to the Association are the responsibility of the individual Owners unless otherwise approved by the Board.

9.8. **Sheetrock.** Notwithstanding anything to the contrary in the Documents, the Association is not responsible for the repair and replacement of sheetrock in any Unit, or for any surface treatments on the sheetrock, regardless of the source of damage and the availability of insurance. This provision is provided for the benefit of the Association and is warranted by the difficulty of scheduling interior sheetrock work and the possibility that the Owner may not be satisfied with the quality or appearance of spot repairs. If the Association receives insurance proceeds for sheetrock damage to a Unit and chooses to not perform the repairs, the Owner of the damaged Unit is entitled to the proceeds in exchange for written confirmation of the damage and a release from future claims for such damage.

9.9. **Mold.** In the era in which this Declaration is written, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. This Section addresses that environment. For more information about mold and mold prevention, an Owner should consult a reliable source, such as the U.S. Environmental Protection Agency.

9.9.1. **Owner's Duties.** To reduce the risks associated with concentrations of mold, Owners should be proactive in preventing circumstances conducive to mold, identifying mold, and eliminating mold. Towards that end, each Owner is responsible for:

- (i) regularly inspecting the entire Unit for evidence of water leaks or penetrations or other conditions which may lead to mold growth;
- (ii) repairing promptly any water leaks, breaks, or malfunctions of any kind in the Unit that may cause damage to another Unit or Common Element;

(iii) regularly inspecting the entire Unit for visible surface mold and promptly removing same using appropriate procedures; and

(iv) reporting promptly to the Association any water leak, penetration, break, or malfunction in any portion of the Unit or any adjacent Common Elements for which the Association may have maintenance responsibility.

9.9.2. **Insurance.** Many insurance policies do not cover damages related to mold. The Association is not required to maintain insurance coverage applicable to mold damage with respect to any Unit, and may not have obtained such coverage. Accordingly, an Owner who wants insurance coverage with respect to mold and mold-related damages is advised to separately purchase such insurance coverage.

9.10. **Patios.** Except for routine cleaning, which is the Owner's responsibility pursuant to *Section 9.6*, the Association is responsible for the maintenance, repair, and replacement of patios (if any) designated as Limited Common Element for a Unit. If the outside components of the Unit are most easily accessed through the Unit, the Owner will cooperate in providing access to the outside components for the Association's agents and contractors. If requested by the Association, the Owner will remove all personal property from the outside components of the Unit to facilitate the required maintenance, repair, or replacement. The Owner is liable to the Association for any additional expense incurred by the Association due to an Owner's failure or refusal to cooperate with reasonable requests for access or removal. This Section may not be construed to prevent an Owner at the Owner's sole expense, without right of reimbursement from the Association, from maintaining, repairing, and replacing components of the Unit's patio, subject to compliance with *Article 10* below.

9.11. **Warranty Claims.** If the Owner is the beneficiary of a warranty against defects of the Common Elements, the Owner irrevocably appoints the Association, acting through the Board, as his attorney-in-fact to file, negotiate, receive, administer, and distribute the proceeds of any claim against the warranty that pertains to Common Elements.

9.12. **Owner's Default In Maintenance.** If the Board determines that an Owner has failed to properly discharge such Owner's obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at the Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at the Owner's expense, which will be considered an Individual Assessment against the Owner and the Owner's Unit. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of such action being the Owner's expense.

ARTICLE 10
ARCHITECTURAL COVENANTS AND CONTROL

10.1. **Purpose.** Because the Units are part of a single, unified community, the Architectural Reviewer has the right to regulate the appearance of all Improvements in order to preserve and enhance the Property's value and architectural harmony. The Architectural Reviewer has the right to regulate every aspect of proposed or existing Improvements on the Property, including replacements or modifications of original construction or installation. During the Development Period, the primary purpose of this Article is to reserve and preserve Declarant's right of architectural control. Notwithstanding anything to the contrary stated herein, Improvements constructed on the Property and all architectural modifications made thereto that are made by the Declarant or its designee shall not be subject to approval pursuant to this Article.

10.2. **Architectural Reviewer.** Until expiration or termination of the Development Period, the Architectural Reviewer shall mean Declarant or its designee. Upon expiration of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Board or a committee appointed by the Board.

10.3. **Architectural Control by Declarant.**

10.3.1. **Declarant as Architectural Reviewer.** During the Development Period, the Architectural Reviewer shall mean Declarant or its designee, and neither the Association or the Board, nor a committee appointed by the Association or the Board (no matter how the committee is named) may involve itself with the review and approval of any Improvements. Declarant may designate one or more Persons from time to time to act on its behalf as Architectural Reviewer in reviewing and responding to applications pursuant to this Article.

10.3.2. **Declarant's Rights Reserved.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the Improvements within the Property do not impair Declarant's ability to market Units in the Regime. Accordingly, each Owner agrees that during the Development Period, no Improvements will be started or progressed without the prior written approval of the Architectural Reviewer, which approval may be granted or withheld at the Architectural Reviewer's sole discretion. In reviewing and acting on an application for approval, the Architectural Reviewer may act solely in its self-interest and owes no duty to any other Person or any organization.

10.3.3. **Delegation by Declarant.** During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its rights as Architectural Reviewer to the Board or a committee appointed by the Board comprised

of Persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral right of Declarant to: (a) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (b) veto any decision which Declarant, in its sole discretion, determines to be inappropriate or inadvisable for any reason.

10.4. **Architectural Control by Association.** Upon Declarant's delegation, in writing, of all or a portion of its reserved rights as Architectural Reviewer to the Board, or upon the expiration or termination of the Development Period, the Association will assume jurisdiction over architectural control and will have the powers of the Architectural Reviewer hereunder and the Board, or a committee appointed by the Board, is the Architectural Reviewer and shall exercise all architectural control over the Property.

10.5. **Limits on Liability.** Neither the Declarant, nor the Board, or their directors, officers, committee members, employees or agents will have any liability for decisions made as Architectural Reviewer in good faith, and which are not arbitrary or capricious. Neither the Declarant, nor the Board, or their directors, officers, committee members, employees or agents are responsible for: (i) errors in or omissions from the plans and specifications submitted to the Board; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws. Approval of a modification or Improvement may not be deemed to constitute a waiver of the right to withhold approval of similar proposals, plans or specifications that are subsequently submitted.

10.6. **Prohibition of Construction, Alteration and Improvement.** Without the Architectural Reviewer's prior written approval, no Person may commence or continue any construction, alteration, addition, Improvement, installation, modification, redecoration, or reconstruction of or to the Property, or do anything that affects the appearance, use, or structural integrity of the Property.

**YOU CANNOT CHANGE THE EXTERIOR OF ANY IMPROVEMENTS WITHIN YOUR
UNIT UNLESS YOU HAVE THE SIGNED CONSENT OF THE ARCHITECTURAL
REVIEWER.**

10.7. **No Deemed or Verbal Approval.** Approval by the Architectural Reviewer may not be deemed, construed, or implied from an action, a lack of action, or a verbal statement by the Declarant, Declarant's representative or designee or the Association, an Association director or officer, a member or chair of the Declarant or Board-appointed architectural control committee, the Association's manager, or any other representative of the Association. To be valid, approval of the Architectural Reviewer must be: (i) in writing; (ii) on a form or letterhead issued by the Architectural Reviewer; (iii) signed and dated by a duly authorized representative of the Architectural Reviewer, designated for that purpose; (iv) specific to a Unit; and

(v) accompanied by detailed plans and specifications showing the proposed change. If the Architectural Reviewer fails to respond in writing – negatively, affirmatively, or requesting information – within sixty (60) days after the Architectural Reviewer’s actual receipt of the Owner’s application, **the application is deemed denied. Under no circumstance may approval of the Architectural Reviewer be deemed, implied or presumed.** If the Architectural Reviewer approves a change, the Owner or the Architectural Reviewer may require that the architectural approval be Recorded, with the cost of Recordation borne by the Owner. Architectural Reviewer approval of an architectural change automatically terminates if work on the approved Improvement has not started by the commencement date stated in the Architectural Reviewer’s approval and thereafter diligently prosecuted to completion, or, if no commencement date is stated, within ninety (90) days after the date of Architectural Reviewer approval.

10.8. **Application.** To request Architectural Reviewer approval, an Owner must make written application and submit two (2) identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. If the application is for work that requires a building permit from a municipality or other regulatory authority, the Owner must obtain such permit and provide a copy to the Architectural Reviewer in conjunction with the application. The Architectural Reviewer may return one set of plans and specifications to the applicant marked with the Architectural Reviewer’s response, such as “Approved,” “Denied,” or “Submit Additional Information.” The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Association’s files. The Architectural Reviewer has the right, but not the duty, to evaluate every aspect of construction and property use that may alter or adversely affect the general value of appearance of the Property.

10.9. **Owner’s Duties.** If the Architectural Reviewer approves an Owner’s application, the Owner may proceed with the Improvement, provided:

- (i) The Owner complies with *Section 3.3*.
- (ii) The Owner must adhere strictly to the plans and specifications which accompanied the application.
- (iii) The Owner must initiate, diligently prosecute, and complete the Improvement in a timely manner.
- (iv) If the approved application is for work that requires a building permit from a municipality or other regulatory authority, the Owner must obtain the appropriate permit. The Architectural Reviewer’s approval of plans and specifications does not mean that such plans and specifications comply with a municipality or other regulatory authority’s requirements. Alternatively,

approval by a municipality or other regulatory authority does not ensure Architectural Reviewer approval.

ARTICLE 11
USE RESTRICTIONS

11.1. **Variance.** The use of the Regime is subject to the restrictions contained in this Article, and subject to the Rules. The Declarant may grant a variance or waiver of a restriction or Rule during the Development Period. The Board, with the Declarant's written consent during the Development Period, may grant a variance or waiver of a restriction or Rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing and executed by the Declarant and/or a Majority of the Board, as applicable. The grant of a variance shall not constitute a waiver or estoppel of the right to deny a variance in other circumstances.

11.2. **Declarant Privileges.** In connection with the development and marketing of Units, Declarant has reserved a number of rights and privileges to use the Regime in ways that are not available to other Owners or Occupants. Declarant's exercise of a right that appears to violate the Documents does not constitute waiver or abandonment of applicable provision of the Documents.

11.3. **Association's Right to Promulgate Rules and Amend Community Manual.** The Association, acting through the Board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. The Association, acting through a Majority of the Board, is further granted the right to amend, repeal, and enforce the Community Manual, setting forth therein such policies governing the Association as the Board determines to be in the best interest of the Association, in its sole and absolute discretion; provided, however, that during the Development Period, any modification, amendment or repeal to the Community Manual or the Rules, and each new policy or Rule, must be approved in advance and in writing by the Declarant.

**EVERY OCCUPANT IS EXPECTED TO COMPLY WITH
RULES ADOPTED BY THE BOARD OF DIRECTORS.**

11.4. **Rules and Regulations.** In addition to the restrictions contained in this Article, each Unit is owned and occupied subject to the right of the Board to establish Rules, and penalties for infractions thereof, governing:

- (i) Use of Common Elements.
- (ii) Hazardous, illegal, or annoying materials or activities on the Property.

- (iii) The use of Property-wide services provided through the Association.
- (iv) The consumption of utilities billed to the Association.
- (v) The use, maintenance, and appearance of anything visible from the street, Common Elements, or other Units.
- (vi) The occupancy and leasing of Units.
- (vii) Animals.
- (viii) Vehicles.
- (ix) Disposition of trash and control of vermin, termites, and pests.
- (x) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Occupants.

11.5. **Animals - Household Pets.** No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for anywhere on the Property (as used in this paragraph, the term “domestic household pet” shall not mean or include non-traditional pets such pot-bellied pigs, miniature horses, exotic snakes or lizards, ferrets, monkeys or other exotic animals). Customary domesticated household pets may be kept subject to the Rules. The Board may adopt, amend, and repeal Rules regulating the types, sizes, numbers, locations, and behavior of animals on the Property. If the Rules fail to establish animal occupancy quotas, an Owner or Occupant shall be allowed no more than two cats, or two dogs, or one cat and one dog. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board. The Board may require or effect the removal of any animal determined to be in violation of the Rules.

11.6. **Annoyance.** No Unit or Limited Common Element may be used in any way that: (i) may reasonably be considered annoying to neighbors; (ii) may be calculated to reduce the desirability of the Property; (iii) may endanger the health or safety of Occupants; (iv) may result in the cancellation of insurance on any portion of the Property; (v) violates any Applicable Law; or (vi) creates noise or odor pollution. The Board has the sole authority to determine what constitutes an annoyance.

11.7. **Appearance.** Both the exterior and the interior of the Units must be maintained in a manner so as not be unsightly when viewed from the street, Common Elements, or neighboring Units. The Board will be the arbitrator of acceptable appearance standards.

11.8. **Declarant Privileges.** In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Occupants, as provided in Appendix A of this Declaration. Declarant's exercise of a Development Period right that appears to violate a Rule or a provision of this Article does not constitute waiver or abandonment of the restriction by the Association.

11.9. **Drainage.** No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

11.10. **Garages.** Garages may not be enclosed or used for any purpose that would prohibit the parking of operable vehicles therein. Trucks, sports utility vehicles, vans, minivans, large sedans, or any other vehicles other than compact passenger vehicles may not fit into the garages. Declarant makes no representations or warranties that any trucks, sports utility vehicles, vans, minivans, large sedans, or any other vehicles other than compact passenger vehicles will actually fit into any garage parking spaces.

11.11. **Driveways.** Sidewalks, driveways, and other passageways may not be used for any purpose that interferes with their ongoing use as routes of vehicular or pedestrian access.

11.12. **Fire Safety.** No person may use, misuse, cover, disconnect, tamper with, or modify the fire and safety equipment of the Property, including the sprinkler heads and water lines in and above the ceilings of the Unit, or interfere with the maintenance and/or testing of same by persons authorized by the Association or by public officials.

11.13. **Landscaping.** No person may perform landscaping, planting, or gardening anywhere upon the Property without the Board's prior written authorization.

11.14. **Noise And Odor.** An Occupant must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy Occupants of neighboring Units. The Rules may limit, discourage, or prohibit noise-producing activities and items in the Units and on the Common Element.

11.15. **Residential Use.** The use of a Unit is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit an Occupant from using the Unit for personal business or professional pursuits provided that: (i) the uses are incidental to the use of the Unit as a residential dwelling; (ii) the uses conform to Applicable Law; (iii) there is no external evidence of the use; (iv) the use does not entail visits to the Unit by employees or the public; and (v) the uses do not interfere with the use and enjoyment of other Units. Other than the air conditioned part of a Unit, no thing or structure on the Property may be occupied as residence at any time by any Person.

11.16. **Signs.** No sign of any kind, including signs advertising Units for sale, for rent or for lease, may be erected, placed, or permitted to remain on the Property or to be visible from

windows in the Units unless approved in advance by the Architectural Reviewer. As used in this Section, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message. The Architectural Reviewer may, but is not required to, authorize a sign, and such authorization may specify the location, nature, dimensions, number, and time period of a sign. This prohibition against signs also applies to any object visible from a street or driveway which the Architectural Reviewer or Board deems to be unsightly or inappropriate. The Association may cause the immediate removal of any sign or object that violates this Section or which the Architectural Reviewer or Board deems inconsistent with Property standards without liability for trespass or any other liability connected with the removal. As provided in Appendix A, Declarant has reserved the right to maintain signs and other items on the Property for the purpose of promoting, identifying and marketing the Property and off-site developments of Declarant or its assigns.

Notwithstanding the foregoing, a religious item on the entry door or door frame of a Unit (which may not extend beyond the outer edge of the door frame) is permitted, provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five (25) square inches.

11.17. **Energy Efficient Roofing.** The roof components of each Building located in the Regime are Common Elements and the Owner of a Unit is not authorized to cause to be constructed or replaced any Improvements (including roofing) on Common Elements without the advance written consent of the Architectural Reviewer.

11.18. **Rainwater Harvesting Systems.** No rain barrel may be installed on any portion of the Common Elements without the advance written approval of the Architectural Reviewer.

11.19. **Flag Display and Flagpole Installation.** No flag or flagpole may be installed on any portion of the Common Elements without the advance written approval of the Architectural Reviewer.

11.20. **Structural Integrity.** No person may directly or indirectly impair the structural soundness or integrity of a Building or other Unit, nor do any work or modification that will impair an easement or real property right.

11.21. **Antenna.** Except as expressly provided below, no exterior radio, television or communications antenna or aerial or satellite dish or disc, nor any solar energy system (collectively, an "**Antenna/Dish**"), shall be erected, maintained, or placed on a Unit without the prior written approval of the Board.

11.21.1. **Dishes Over One Meter Prohibited.** Unless otherwise approved by the Board, an Antenna/Dish which is over one meter in diameter is prohibited within the Regime.

11.21.2. Notification. An Owner or Occupant who wishes to install an Antenna/Dish one meter or less in diameter (a “**Permitted Antenna**”) must submit a written notice to the Board or its designee, which notice must include the Owner or Occupant’s installation plans for the satellite dish.

11.21.3. One Dish Limitation. Unless otherwise approved by the Board, only one Permitted Antenna per Unit is permitted. In the event an acceptable quality signal for video programming or wireless communications cannot be received from one satellite dish, the Owner must provide written notification to the Board or its designee. Upon notification, the Owner will be permitted to install an additional Permitted Antenna if a single Permitted Antenna is not sufficient for the reception of an acceptable quality signal and the use of an additional Permitted Antenna results in the reception of an acceptable quality signal.

11.21.4. Permitted Installation Locations. An Owner or Occupant may erect a Permitted Antenna (after written notification has been provided to the Board or its designee) if the Owner or Occupant has an exclusive use area in which to install the antenna. An “exclusive use area” of a Unit is an area in which only the Owner or Occupant may enter and use to the exclusion of all other Owners and Occupants. Unless otherwise approved by the Board or its designee, the Permitted Antenna must be entirely within the exclusive use area of the Owner’s Unit. For example, if a Permitted Antenna is erected on a patio, the Permitted Antenna may not protrude or extend outside of a patio. **UNLESS EXPRESSLY APPROVED IN ADVANCE AND IN WRITING BY THE BOARD, NO OWNER MAY INSTALL OR ERECT A SATELLITE DISH ON THE EXTERIOR WALL OF ANY UNIT OR THE BUILDING.**

A Permitted Antenna or the use of a Permitted Antenna may not interfere with satellite or broadcast reception to other Units or the Common Elements, or otherwise be a nuisance to Occupants of other Units or to the Association. A Permitted Antenna exists at the sole risk of the Owner and/or occupant of the Unit. The Association does not insure the Permitted Antenna and is not liable to the Owner or any other person for any loss or damage to the Permitted Antenna from any cause. The Owner will defend and indemnify the Association, its directors, officers, and Members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from the Owner’s Permitted Antenna. The Board of Directors may determine what constitutes a nuisance to the Association. The Board may, from time to time, modify, amend, or supplement the rules regarding installation and placement of a Permitted Antenna.

11.21.5. Cable. The Property is designed with a conduit for use with cable television lines. Each Owner may use the conduit for its intended purpose and no other purpose. The draping of cable wires on the exteriors of buildings or the installation of additional conduits are prohibited without the Board’s prior written consent.

11.21.6. Prohibited Act. Any other installation pertaining to an Antenna/Dish is prohibited without the prior written consent of the Board.

11.22. Vehicles. All vehicles on the Property are subject to this Section and any Rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may prohibit any vehicle which the Board deems to be a nuisance, unsightly, or inappropriate. The Board may prohibit sales, storage, washing, repairs, or restorations of vehicles on the Property. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the Property. The Association may cause the removal of any vehicle in violation of this Section or the Rules without liability to the owner or operator of the vehicle.

11.23. No On-Street Parking. Unless otherwise approved by the Declarant or the Board, no vehicle may be parked on any road or street within the Property unless in the event of an emergency. "Emergency" for purposes of the foregoing sentence shall mean an event which jeopardizes life or property. "Parked" as used herein shall be defined as a vehicle left unattended by a licensed operator for more than thirty (30) consecutive minutes.

11.24. Window Treatments. The color and condition of all window panes, window screens, and window treatments must conform to the Building standard as established from time to time by the Board. All window treatments within the Unit that are visible from the street or another Unit must be maintained in good condition and must not detract from the appearance of the Property. The Board may require an Owner to change or remove a window treatment, window film, window screen, or window decoration that the Board determines to be inappropriate, unattractive, or inconsistent with the Property's uniform window standard. The Board may prohibit the use of certain colors or materials for window treatments.

11.25. Door Locks. Owners must allow representatives of the Association and other emergency personnel access to their Units in case of emergencies. In the case of any emergency originating in, or threatening, any Unit, regardless of whether the Owner is present at the time of such emergency, the Board, the manager or any other person authorized by the Board or Manager shall have the right to enter into such Unit for the purpose of remedying or abating the cause of such emergency and such right of entry shall be immediate.

11.26. No Piercing of Walls. In addition to and without limiting the provisions set forth in *Article 10* of this Declaration, an Owner or other Person authorized by such Owner shall not pierce any of the Unit walls with any type of nail, screw, drill bit or other similar item in excess of 3/4 inch in length without first obtaining the consent of the Architectural Reviewer as set forth in *Article 10*.

11.27. Patios. No linens, cloths, clothing, towels, bathing suits or swimwear, curtains, rugs, mops or laundry of any kind, bicycles or other articles, shall be stored, shaken or hung

from or on any of the windows, doors, decks or patios, or other portions of the Regime. Certain types of furniture, lamps, and container gardens are allowed on patios if approved in advance by the Board, such approval to be made in the Board's sole and absolute discretion. The Board will have the authority to require an Owner or Occupant to remove any article from a window, door, or patio, if in the sole and exclusive discretion of the Board, the article is unsightly, offensive, or constitutes an annoyance.

11.28. **Wireless Internet Systems.** A wireless Internet communication network ("WiFi System") may be installed or otherwise used in a Unit provided precautions are taken to insure against interfering with, disturbing, or intercepting computer, communications, or other permitted electronic signals, networks, or systems installed in other portions of the Regime. The Association may establish reasonable requirements relating to the installation of WiFi Systems that must be complied with, including, without limitation, requiring assurance from the installation of the system that proper precautions are being taken. Notwithstanding the foregoing, compliance with requirements relating to the installation of WiFi Systems is not a guarantee that any WiFi System installed or otherwise used in a Unit will not interfere with, disturb, or intercept other signals, networks, or systems within the Regime. The Association may require that any WiFi System found to cause such problems be terminated. **The Association, Declarant, and their respective current and former partners, members, directors, officers agents employees, affiliates, and committee members, shall not in any way be considered insurers or guarantors of the proper operation or use of any WiFi Systems in the Regime, nor shall the Association, Declarant, and their respective current and former partners, members, directors, officers agents employees, affiliates, and committee members be held liable for any loss or damage relating to the use or operation of WiFi Systems within the Regime.**

11.29. **Heating and Cooling of Units.** In order to prevent breakage of water pipes during colder months of the year and growth of mold and mildew during warmer months of the year resulting in damage to any portion of the Regime, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, when the thermostats are in heating mode the Units shall be maintained at a setting of no less than fifty-five (55) degrees Fahrenheit, and when the thermostats are in the cooling mode, the Units shall be maintained at a setting of no less than sixty-five (65) degrees Fahrenheit and no more than seventy-eight (78) degrees Fahrenheit (except during power failures or periods when air conditioning equipment is broken). Owners and Occupants shall take all steps possible on a timely basis to keep heating and cooling equipment, including, but not limited to, the thermostat, in good working order and repair.

ARTICLE 12
UNIT LEASING

12.1. **Lease Conditions.** The leasing of Units is subject to the following conditions:
(i) no Unit may be rented for transient or hotel purposes or for a period less than one hundred

and eighty (180) days; (ii) unless otherwise permitted by the Rules, not less than an entire Unit may be leased; (iii) all leases must be in writing and must be made subject to the Documents; (iv) an Owner is responsible for providing the Owner's tenant with copies of the Documents and notifying the tenant of changes thereto; and (v) each tenant is subject to and must comply with all provisions of the Documents and Applicable Law. The Board may adopt additional requirements and restrictions which further limit the leasing of Units, and shall have the express power and authority to adopt a leasing permit system which limits the number of Units which may be leased at any one time, provided, that the leasing rules and leasing permit system is not otherwise prohibited by the requirements and/or guidelines promulgated by an Underwriting Lender. Notwithstanding the foregoing provision, any additional leasing restrictions and any leasing permit system must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

12.2. **Provisions Incorporated By Reference into Lease.** Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

12.2.1. **Compliance with Documents.** The tenant shall comply with all provisions of the Documents and shall control the conduct of all other Occupants and guests of the leased Unit, as applicable, in order to ensure such compliance. The Owner shall cause all Occupants of the Owner's Unit to comply with the Documents and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any such violation. If the tenant or Occupant violates the Documents or a Rule for which a fine is imposed, notice of the violation shall be given to the Owner and the tenant, and such fine may be assessed against the Owner or the tenant. Unpaid fines shall constitute a lien against the Unit.

12.2.2. **Assignment of Rents.** If the Owner fails to pay any Assessment or any other charge against the Unit for a period of more than thirty (30) days after it is due and payable, then the Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency, and, upon request by the Board, tenant shall pay directly to the Association all unpaid Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by tenant. The tenant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by tenant shall reduce, by the same amount, tenant's obligation to make monthly rental payments to the Owner.

12.2.3. **Violation Constitutes Default.** Failure by the tenant or the tenant's guests to comply with the Documents or Applicable Law is deemed to be a default

under the lease. When the Association notifies an Owner of such violation, the Owner will promptly obtain compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or Applicable Law for the default, including eviction of the tenant.

12.2.4. Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Documents by the Association, each Owner appoints the Association as the Owner's attorney-in-fact, with full authority to act in the Owner's place in all respects, for the purpose of enforcing the Documents against the Owner's tenants, including but not limited to the authority to institute forcible detainer proceedings, provided the Association gives the Owner at least 10 days' notice, by certified mail, of its intent to so enforce the Documents.

12.2.5. Association Not Liable for Damages. The Owner of a leased Unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against the Owner's tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenant.

12.3. Department of Veterans Affairs Financing. To the extent that any provision set forth in this Declaration and the Documents regarding leasing and a restriction on sale is inconsistent with the requirement(s) of guaranteed or direct loan programs of the United States Department of Veterans Affairs, as set forth in Chapter 37 of Title 38, United States Code, or Part 36 of Title 38, Code of Federal Regulations ("**DVA Financing**"), such provision shall not apply to any Unit that is: (i) encumbered by DVA Financing or; (ii) owned by the Department of Veterans Affairs.

ARTICLE 13 **ASSOCIATION OPERATIONS**

13.1. Board. Unless the Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the "Association" may be construed to mean "the Association acting through a Majority of its Board of Directors."

13.2. The Association. The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a condominium association and a nonprofit corporation organized under Applicable Law, but expressly subject to any limitations on such powers set forth in the Documents. The Association comes into existence on issuance of its corporate charter. The Association will continue to exist at least as long as the

Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

13.3. **Name.** A name is not the defining feature of the Association. Although the initial name of the Association is Luma Condominium Community, Inc., the Association may operate under any name that is approved by the Board and: (i) filed with the Bexar County Clerk as an assumed name, or (ii) filed with the Secretary of State of Texas as the name of the filing entity. Another legal entity with the same name as the Association, or with a name based on the name of the Property, is not the Association, which derives its authority from this Declaration. The name "Luma Condominiums" is not a trade name.

13.4. **Duration.** The Association was formed on as of the date the Certificate was filed with the Secretary of State of Texas. The Association will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

13.5. **Governance.** The Association will be governed by a board of directors elected by the Members. Unless the Bylaws or Certificate provide otherwise, the Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the Documents and Applicable Law. Unless the Documents provide otherwise, any action requiring approval of the Members may be approved in writing by Owners representing at least a Majority of the total votes in the Association, or at a meeting by Owners' representing at least a Majority of the votes in the Association that are represented at the meeting.

13.6. **Merger.** Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by the Owners holding at least two-thirds (2/3) of the votes allocated to Units. On the merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

13.7. **Membership.** Each Owner is a Member of the Association, ownership of a Unit being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Unit. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Unit is owned by more than one person or entity, each co-owner is a Member of the Association and may exercise the membership rights appurtenant to the Unit.

13.8. **Manager.** The Board may delegate the performance of certain functions to one or more managers or managing agents of the Association. To assist the Board in determining whether to delegate a function, a Guide to Association's Major Management & Governance Functions is attached to this Declaration as Attachment 6. The Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Guide, however, may not be construed to create legal duties for the Association and its officers, directors, members, employees, and agents that are not justified by the needs of the Association. Rather, the Guide is intended as a tool or an initial checklist for the Board to use periodically when considering a delegation of its functions. As a list of functions that owners associations commonly delegate to a manager, the Guide should not be considered as a complete list of the Board's duties, responsibilities, or functions. Notwithstanding any delegation of its functions, the Board is ultimately responsible to the Members for governance of the Association.

13.9. **Books and Records.** The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to the requirements of Applicable Law. The Association, upon the request of a prospective purchaser of a Unit, will provide the prospective purchaser with a copy of the Documents and the most recent audited financial statements of the Association. The Association will be permitted to charge a reasonable fee for copies of such Documents and statements in accordance with *Section 13.12.3*.

13.10. **Indemnification.** The Association indemnifies every officer, director, and committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with any threatened or pending action, suit, or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a Common Expense, the Association may maintain general liability and directors' and officers' liability insurance to fund this obligation.

13.11. **Obligations of Owners.** Without limiting the obligations of Owners under the Documents, each Owner has the following obligations:

13.11.1. **Information.** Within thirty (30) days after acquiring an interest in a Unit, within thirty (30) days after the Owner has notice of a change in any information required by this Subsection, and on request by the Association from time to time, an Owner will provide the Association with the following information: (i) a copy of the Recorded deed by which Owner has acquired title to the Unit; (ii) the Owner's address, phone number, and driver's license number, if any; (iii) any Mortgagee's name, address, and loan number; (iv) the name and phone number of any Occupant other than the

Owner; and (v) the name, address, and phone number of Owner's managing agent, if any.

13.11.2. Pay Assessments. Each Owner will pay Assessments properly levied by the Association against the Owner or such Owner's Unit and will pay Regular Assessments without demand by the Association.

13.11.3. Compliance with Documents. Each Owner will comply with the Documents as amended from time to time.

13.11.4. Reimburse for Damages. Each Owner will pay for damage to the Property caused by the negligence or willful misconduct of the Owner, an Occupant of the Owner's Unit, or the Owner or Occupant's family, guests, employees, contractors, agents, or invitees.

13.11.5. Liability for Violations. Each Owner is liable to the Association for violations of the Documents by the Owner, an Occupant of the Owner's Unit, or the Owner or Occupant's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

13.12. **Unit Resales.** This Section applies to every sale or conveyance of a Unit or an interest in a Unit by an Owner other than Declarant:

13.12.1. Resale Certificate. An Owner intending to sell his Unit will notify the Association and will request a condominium resale certificate from the Association.

13.12.2. No Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling Owner to convey the Owner's Unit to the Association.

13.12.3. Other Transfer-Related Fees. A number of independent fees may be charged in relation to the transfer of title to a Unit, including but not limited to, fees for resale certificates, estoppel certificates, copies of Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against Regular or Special Assessments. Transfer-related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's assessment lien, and are not payable by the Association. This Section does not obligate the Board or the manager to levy transfer-related fees. This exclusion may be waived by a party to a conveyance who requests transfer-related services or documentation for which fees are charged.

13.12.4. Exclusions. The requirements of this Section do not apply to the following transfers: (i) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's Assessment lien; (ii) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (iii) transfer to, from, or by the Association; or (iv) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent; (v) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; (vi) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; or (vii) a disposition by a government or a governmental agency. The requirements of this Section do not apply to the initial conveyance of a Unit from the Declarant to a third-party.

ARTICLE 14 **ENFORCING THE DOCUMENTS**

14.1. Notice And Hearing. Before levying a fine for violation of the Documents (other than nonpayment of Assessments), or before levying an Individual Assessment for property damage, the Association will give the Owner written notice of the levy and an opportunity to be heard, to the extent required by Applicable Law. The Association's written notice must contain a description of the violation or property damage; the amount of the proposed fine or damage charge; a statement that not later than the thirtieth (30th) day after the date of the notice, the Owner may request a hearing before the Board to contest the fine or charge; and a stated date by which the Owner may cure the violation to avoid the fine – unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months. The Association may also give a copy of the notice to the Occupant. Pending the hearing, the Association may continue to exercise other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine or damage charge. The Owner may attend the hearing in person, or may be represented by another Person or by a written communication. The Board may adopt additional or alternative procedures and requirements for notices and hearings, provided they are consistent with the requirements of Applicable Law.

14.2. Remedies. The remedies provided in this Article for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by Applicable Law, the Association has the following rights to enforce the Documents:

14.2.1. Nuisance. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by Applicable Law against a nuisance, either public or private, is applicable against the violation.

14.2.2. Fine. The Association may levy reasonable charges, as an Individual Assessment, against an Owner and the Owner's Unit if the Owner or Occupant, or the Owner or Occupant's family, guests, employees, agents, or contractors violate a

provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the Owner's obligations under the Documents.

14.2.3. Suspension. The Association may suspend the right of Owners and Occupants to use General Common Elements (provided that the rights of ingress and egress and utility services are not impaired) for any period during which the Owner or Occupant, or the Owner or Occupant's family, guests, employees, agents, or contractors violate the Documents for a period not to exceed sixty (60) days, unless such rights are suspended for failure to pay Assessments, in which case such rights may be suspended until the Assessments are fully paid. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Documents.

14.2.4. Self-Help. The Association has the right to enter a Common Element or Unit to abate or remove, using force as may reasonably be necessary, any Improvement, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Unit and Owner as an Individual Assessment. Unless an emergency situation exists in the good faith opinion of the Board, the Board will give the violating Owner fifteen (15) days' notice of its intent to exercise self-help. Notwithstanding the foregoing, the Association may not alter or demolish an item of construction on a Unit without judicial proceedings.

14.2.5. Suit. Failure to comply with the Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.

14.3. Board Discretion. The Board may use its sole discretion in determining whether to pursue a violation of the Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances: (i) the Association's position is not sufficiently strong to justify taking any or further action; (ii) the provision being enforced is or may be construed as inconsistent with Applicable Law; (iii) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

14.4. No Waiver. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any Owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter.

14.5. **Recovery of Costs.** The costs of curing or abating a violation are the expense of the Owner or other Person responsible for the violation. If legal assistance is obtained to enforce any provision of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

14.6. **Release.** Subject to the Association's obligations under this Declaration, except as otherwise provided by the 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.

14.7. **Right of Action by Association.** The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Unit Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 20.1.1* below, relating to the design or construction of a Unit (whether one or more). The foregoing sentence is expressly intended to remove from the power of the Association the right, under Section 82.102 of the Act, to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings on behalf of two (2) or more Unit Owners on matters affecting the Regime. This *Section 14.7* may not be amended or modified without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument.

ARTICLE 15 **INSURANCE**

15.1. **General Provisions.** The broad purpose of this Article is to require that the Property be insured with the types and amounts of coverage that are customary for similar types of properties and that are acceptable to mortgage lenders, guarantors, or insurers that finance the purchase or improvement of Units. Because the insurance requirements of mortgage underwriters are subject to change, as are State-promulgated insurance regulations and policies, this Article tries to balance the need for certain minimum insurance requirements with the desire to adapt to a periodically changing insurance environment. The Board will make every reasonable effort to comply with the requirements of this Article.

15.1.1. Unavailability. The Association, and its directors, officers, and managers, will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if the failure is due to the unavailability of a particular coverage from reputable insurance companies, or if the coverage is available only at demonstrably unreasonable cost.

15.1.2. No Coverage. Even if the Association and the Owner have adequate amounts of recommended and required insurance coverage, the Property may experience a loss that is not covered by insurance. In such event, the Association is responsible for restoring the Common Elements as a Common Expense, and the Owner is responsible for restoring the Owner's Unit at such Owner's sole expense. This provision does not apply to the deductible portion of an insurance policy.

15.1.3. Requirements. The cost of insurance coverage and bonds maintained by the Association is a Common Expense. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. The Association's policies should contain the standard mortgage clause naming either the Mortgagee or its servicer followed by "its successors and assigns." The loss payee clause should show the Association as trustee for each Owner and Mortgagee. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner. The Association's insurance policies will not be prejudiced by the act or omission of any Owner or Occupant who is not under the Association's control.

15.1.4. Association as Trustee. Each Owner irrevocably appoints the Association, acting through its Board, as such Owner's trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

15.1.5. Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. The Board will give to Mortgagees at least ten (10) days prior notice of cancellation, termination, expiration, or material modification.

15.1.6. Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, and the amount thereof may not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the coverage limits required by this Declaration or an Underwriting Lender. In the event of an insured loss, the deductible is treated as a Common Expense of the Association in the

same manner as the insurance premium. However, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner or Occupant or their invitee, then the Board may levy an Individual Assessment against the Owner and the Owner's Unit for the amount of the deductible that is attributable to the act or omission, provided the Owner is given notice and an opportunity to be heard in accordance with *Section 14.1* of this Declaration.

15.2. **Property Insurance.** The Association will obtain property insurance in accordance with Section 82.111(a) of the Act. The insurance must be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard.

15.2.1. **Common Property Insured.** The Association will insure: (i) General Common Elements; (ii) Limited Common Elements assigned to more than one (1) Unit; and (iii) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

15.2.2. **Units Not Insured by Association.** In no event will the Association maintain property insurance on the Units. Accordingly, each Owner of a Unit will be obligated to maintain property insurance on such Owner's Unit and any Limited Common Elements assigned exclusively to such Owner's Unit, including any betterments and Improvements constructed within or exclusively serving such Unit, in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. In addition, the Association does not insure an Owner or Resident's personal property. THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH OWNER AND RESIDENT PURCHASE AND MAINTAIN INSURANCE ON SUCH OWNER'S OR RESIDENT'S PERSONAL BELONGINGS.

15.2.3. **Endorsements.** To the extent reasonably available, the Association will obtain endorsements to its property insurance policy if required by an Underwriting Lender.

15.3. **Liability Insurance.** The Association will maintain a commercial general liability insurance policy over the Common Elements – expressly excluding the liability of each Owner and Occupant within the Owner's Unit – for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Elements. The amount of coverage should be at least that required by an Underwriting Lender, to the extent reasonably available. The purpose of this requirement is, in part, to assure mortgage companies that the Association maintains at least minimum levels of insurance coverage. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

15.4. **Worker's Compensation.** The Association may maintain worker's compensation insurance if and to the extent necessary to meet the requirements of Applicable Law or if the Board so chooses.

15.5. **Fidelity Coverage.** The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of: (i) the estimated maximum funds, including reserve funds, in the Association's custody while the policy is in force; or (ii) an amount equal to 3 months of Regular Assessments on all Units. A management agent that handles Association funds should be covered by a separate fidelity insurance policy with the same coverages. If the Property has more than twenty (20) Units, the Association must maintain fidelity coverage to the extent reasonably available.

15.6. **Directors' and Officers' Liability.** The Association may maintain directors' and officers' liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

15.7. **Other Policies.** The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association.

15.8. **Owner's Responsibility for Insurance.**

15.8.1. **Insurance by Owners.** The Board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an Individual Assessment.

15.8.2. **HO-6 Policy.** Each Owner of a Unit will be required to procure insurance covering the interior of the Unit, including replacement of interior improvements and betterment coverage.

15.8.3. **Association Does Not Insure.** The Association does not insure an Owner or Occupant's Unit or personal property. **THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH OWNER AND OCCUPANT PURCHASE AND MAINTAIN INSURANCE ON PERSONAL BELONGINGS.**

ARTICLE 16
RECONSTRUCTION OR REPAIR AFTER LOSS

16.1. **Subject to Act.** The Association's response to damage or destruction of the Property will be governed by Section 82.111(i) of the Act. The following provisions apply to the extent the Act is silent.

16.2. **Restoration Funds.** For purposes of this Article, "**Restoration Funds**" include insurance proceeds, condemnation awards, Deficiency Assessments, Individual Assessments, and other funds received on account of or arising out of injury or damage to the Property. All funds paid to the Association for purposes of repair or restoration will be deposited in a financial institution in which accounts are insured by a federal agency. Withdrawal of Restoration Funds requires the signatures of at least two (2) Association directors or that of an agent duly authorized by the Board.

16.2.1. **Sufficient Proceeds.** If Restoration Funds obtained from insurance proceeds or condemnation awards are sufficient to repair or restore the damaged or destroyed Property, the Association, as trustee for the Owners, will promptly apply the funds to the repair or restoration.

16.2.2. **Insufficient Proceeds.** If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the Board, the Board may levy a Deficiency Assessment against the Owners to fund the difference.

16.2.3. **Surplus Funds.** If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows: If Deficiency Assessments were a source of Restoration Funds, the surplus will be paid to Owners in proportion to their contributions resulting from the Deficiency Assessment levied against them; provided that no Owner may receive a sum greater than that actually contributed by him, and further provided that any Delinquent Assessments owed by the Owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing paragraph will be common funds of the Association to be used as directed by the Board in the Board's sole and absolute discretion.

16.3. **Costs and Plans.**

16.3.1. **Cost Estimates.** Promptly after the loss, the Board will obtain estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the Board deems necessary, to assist in estimating and supervising the repair.

16.3.2. **Plans and Specifications.** Unless otherwise approved by the Board, Common Elements will be repaired and restored substantially as they existed

immediately prior to the damage or destruction. Unless otherwise approved by the Board, Units will be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and Improvements made by Owners, in which case the Units will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either Common Elements or Units must be approved by the Board and by certain Mortgagees if so required by the Mortgage Protection article of this Declaration.

16.4. **Owner's Duty to Repair.**

16.4.1. **Uninsured Loss.** Within sixty (60) days after the date of damage, the Owner will begin repair or reconstruction of the Owner's Units and the Improvements constructed within the Owner's Unit, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof.

16.4.2. **Failure to Repair.** If an Owner fails to repair or restore damage as required by this Section, the Association may effect the necessary repairs and levy an Individual Assessment against the Owner and Unit for the cost thereof, after giving an Owner of the Unit reasonable notice of the Association's intent to do so.

16.5. **Owner's Liability For Insurance Deductible.** If repair or restoration of Common Elements is required as a result of an insured loss, the Board may levy an Individual Assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

ARTICLE 17
TERMINATION AND CONDEMNATION

17.1. **Association As Trustee.** Each Owner hereby irrevocably appoints the Association, acting through the Board, as trustee to deal with the Property in the event of damage, destruction, obsolescence, condemnation, or termination of all or any part of the Property. As trustee, the Association will have full and complete authority, right, and power to do all things reasonable and necessary to effect the provisions of this Declaration and the Act, including, without limitation, the right to receive, administer, and distribute funds, awards, and insurance proceeds; to effect the sale of the Property as permitted by this Declaration or by the Act; and to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner.

17.2. **Termination.** Termination of the terms of this Declaration and the Regime will be governed by Section 82.068 of the Act and *Section 18.4* below.

17.3. **Condemnation.** The Association's response to condemnation of any part of the Property will be governed by Section 82.007 of the Act. On behalf of Owners, but without their

consent, the Board may execute and Record an amendment of this Declaration to reallocate allocated interests following condemnation and to describe the altered parameters of the Property. If the Association replaces or restores Common Elements taken by condemnation by obtaining other land or constructing additional Improvements, the Board may, to the extent permitted by Applicable Law, execute and Record an amendment without the prior consent of Owners to describe the altered parameters of the Property and any corresponding change of facilities or Improvements.

ARTICLE 18 MORTGAGEE PROTECTION

18.1. **Introduction.** This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. A provision of the Documents requiring the approval of a specified percentage of Mortgagees will be based on the number of Units subject to mortgages held by Mortgagees. For example, "51 percent of Mortgagees" means Mortgagees of fifty-one percent (51%) of the Units that are subject to mortgages held by Mortgagees.

18.2. **Notice of Mortgagee.** As provided in this *Article 18*, the Association is required to provide each Mortgagee with written notice upon the occurrence of certain actions as described in *Section 18.8*, or to obtain the approval of Mortgagees in the event of certain amendments to this Declaration as described in *Section 18.9* or the termination of this Declaration as described in *Section 18.4*. To enable the Association to provide the notices and obtain such approval, each Owner must provide to the Association the complete name and address of such Owner's Mortgagee, including the loan number and such additional information concerning the Owner's Mortgagee as the Association may reasonably require. In the event an Owner fails to provide the Association with the information required by this *Section 18.2* after the expiration of thirty (30) days after the Association's written request, the Owner's failure to provide such information will be considered a violation of the terms and provisions of this Declaration.

18.3. **Amendment.** This Article establishes certain standards for the benefit of Underwriting Lenders, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the Board, without approval of Owners or mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender.

18.4. **Termination.** Termination of the terms of this Declaration and the condominium status of the Regime will be governed by Section 82.068 of the Act, subject to the following provisions. In the event of condemnation of the entire Regime, an amendment to terminate may be executed by the Board without a vote of Owners or Mortgagees. Any election to terminate this Declaration and the condominium status of the Regime under circumstances

other than condemnation of the entire Regime shall require the consent of: (i) Owners representing at least eighty percent (80%) of the total votes in the Association; (ii) Declarant during the Development Period; and (iii) sixty-seven percent (67%) of Mortgagees.

18.5. **Implied Approval.** The approval of a Mortgagee is implied when the Mortgagee fails to respond within sixty (60) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

18.6. **Other Mortgagee Rights.**

18.6.1. **Inspection of Books.** The Association will maintain current copies of the Documents and the Association's books, records, and financial statements. Mortgagees may inspect the Documents and records, by appointment, during normal business hours.

18.6.2. **Financial Statements.** A Mortgagee may have an audited statement prepared at its own expense.

18.6.3. **Attendance at Meetings.** A representative of a Mortgagee may attend and address any meeting which an Owner may attend.

18.6.4. **Right of First Refusal.** The Association does not have a right of first refusal and may not compel a selling Owner to convey the Owner's Unit to the Association. Any right of first refusal imposed by the Association with respect to a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien..

18.6.5. **Management Contract.** If professional management of the Association is required by this Article, the contract for professional management may not require more than ninety (90) days' notice to terminate the contract, nor payment of a termination penalty.

18.6.6. **Audit.** A majority of Mortgagees shall be entitled to demand an audit of the Association's financial records

18.7. **Notice of Actions.** The Association will send timely written notice to Mortgagees of the following actions:

- (i) Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Unit and any eminent domain proceeding affecting the General Common Elements which would result in a loss of more than ten percent (10%) of the estimated operational and reserve expenses as reflected on the then-current annual budget of the Association.

(ii) Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of the mortgaged Unit.

(iii) A lapse, cancellation, or material modification of any insurance policy maintained by the Association.

(iv) Any proposed action that requires the consent of a specified percentage of Mortgagees.

(v) Any proposed amendment of a material nature, as provided in this Article.

(vi) Any proposed termination of the condominium status of the property or dissolution of the Association at least thirty (30) days prior to the proposed termination or dissolution, as applicable.

18.8. **Amendments of a Material Nature.** Except as provided herein, a Document amendment of a material nature must be approved by owners representing at least sixty-seven percent (67%) of the votes in the Association, and by at least fifty-one percent (51%) of Mortgagees. **THIS APPROVAL REQUIREMENT DOES NOT APPLY TO AMENDMENTS EFFECTED BY THE EXERCISE OF A DEVELOPMENT RIGHT RESERVED IN THIS DECLARATION OR AS PROVIDED IN APPENDIX "A" ATTACHED HERETO.** A change to any of the Documents governing the following would be considered material (hereafter a "Material Amendment"):

(i) Voting rights.

(ii) Any method of imposing or determining any charges to be levied against individual Unit Owners.

(iii) Assessment liens or the priority of Assessment liens.

(iv) Reductions in reserves for maintenance, repair, and replacement of Common Elements.

(v) Responsibility for maintenance and repairs.

(vi) Reallocation of interests in the General Common Elements or Limited Common Elements, or rights to their use; except that when Limited Common Elements are reallocated by Declarant pursuant to any rights reserved by Declarant pursuant to Appendix "A", by agreement between Owners (only those Owners and only the Mortgagees holding mortgages against those Units need approve the action).

- (vii) Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property.
- (viii) Reduction of insurance requirements.
- (ix) Imposition of any restrictions on the leasing of Units.
- (x) Imposition of any restrictions on Owners' right to sell or transfer their Units.
- (xi) Restoration or repair of the Property, in a manner other than that specified in the Declaration, after any damage or partial condemnation.
- (xii) Any provision that expressly benefits mortgage holders, insurers, or guarantors.
- (xiii) Imposition of a new scheme of regulation or enforcement of exterior maintenance standards, architectural design or exterior appearance of Units other than those specified in the Declaration.

The Association will send written notice for meetings to approve a Material Amendment or an Extraordinary Action at least twenty-five (25) days in advance to all Members. The notice must state the purpose of the meeting and contain a summary of any Material Amendments or extraordinary actions.

ARTICLE 19

AMENDMENTS

19.1. **Consents Required.** As permitted by the Act or by this Declaration, certain amendments to this Declaration may be executed by Declarant acting alone, or by certain Owners acting alone, or by the Board acting alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association. All amendments made to the Declaration, Bylaws or Certificate during the Development Period must be approved by the Secretary of Veterans Affairs or its authorized agent prior to recording such document in the Official Public Records of Bexar County, Texas if Veterans Affairs has guaranteed any loans secured by Units in the Regime. All Material Amendments made to the Declaration, Bylaws or Certificate and all Extraordinary Actions taken during the Declarant Control Period must be approved by the Secretary of Veterans Affairs or its authorized agent prior to recording such document in the Official Public Records of Bexar County, Texas if Veterans Affairs has guaranteed any loans secured by Units in the Regime. Further, if Veterans Affairs has guaranteed any loans secured by Units in the Regime the Secretary of Veterans Affairs or its authorized agent must consent to any termination of the Declaration, dissolution of the Association (except by consolidation or merger), and any conveyance of Common Elements. In addition, a change to any provision in the Declaration

governing the following items (each an “**Extraordinary Action**”) must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association:

- i. Merging or consolidating the Association (other than with another non-profit entity formed for purposes similar to the Association).
- ii. Determining not to require professional management if that management is required by the Declaration or the Association.
- iii. The addition of land to the Declaration if the addition would increase the overall land area then subject to the Declaration by more than ten percent (10%).
- iv. Abandoning, partitioning, encumbering, mortgaging, conveying selling or otherwise transferring or relocating the boundaries of Common Elements with the exception of: (i) granting easements over and across the Common Elements otherwise permitted by this Declaration or the Act; (ii) dedicating all or any portion of a Common Element to the extent required by any governing authority or regulatory authority; (iii) adjustments to the boundary line of Common Elements if made in accordance with the provisions of this Declaration; or (iv) transferring Common Elements pursuant to a merger or consolidation with another entity.
- v. Using insurance proceeds for purposes other than construction or repair of the insured improvements.
- vi. Any capital expenditure, other than for the maintenance, operation, repair or replacement of any existing Improvement, if the capital expenditure exceeds more than twenty percent (20%) of the annual operating budget during any period of twelve (12) consecutive months.

19.2. **Amendments Generally.** For amendments requiring the consent of Mortgagees, the Association will send each Mortgagee a detailed description, if not the exact wording, of any proposed amendment. Notwithstanding any provisions in this Declaration to the contrary, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) provision of this Declaration that benefits the Declarant, the Architectural Reviewer or the Association; (ii) rights, privileges, easements, protections, or defenses of the Declarant, the Architectural Reviewer or the Association; or (iii) rights of the Owners or the Association in relationship to the Declarant, the Architectural Reviewer or the Association without the written consent of the Declarant, the Architectural Reviewer or the Association, as applicable, attached to and Recorded with such amendment.

19.3. **Effective.** To be effective, an amendment must be in the form of a written instrument: (i) referencing the name of the Regime, the name of the Association, and the Recording data of this Declaration and any amendments hereto; (ii) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners and, if required, Mortgagees; provided, however, this subsection (ii) will not apply for amendments prosecuted by Declarant pursuant to any rights reserved by Declarant under this Declaration; and (iii) Recorded.

19.4. **Declarant Provisions.** Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in Appendix "A". An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument. Because Appendix "A" of this Declaration is destined to become obsolete, beginning ten (10) years after the date this Declaration is first Recorded, the Board may restate, rerecord, or publish this Declaration without Appendix "A". The automatic expiration and subsequent deletion of Appendix "A" does not constitute an amendment of this Declaration. This Section may not be amended without Declarant's written and acknowledged consent.

ARTICLE 20

DISPUTE RESOLUTION

20.1. **Introduction and Definitions.** The Association, the Owners, Declarant, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this *Article 20* (collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this *Article 20* applies to all Claims as hereafter defined. This *Article 20* may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding 100% of the votes in the Association. As used in this *Article 20* only, the following words, when capitalized, have the following specified meanings:

20.1.1. "**Claim**" means:

(i) Claims relating to the rights and/or duties of Declarant, the Association, or an Owner, under the Documents or the Act.

(ii) Claims relating to the acts or omissions of the Declarant or the Association during its control and administration of the Association, any claim asserted against the Architectural Reviewer, and any claims asserted against the

Board or a Person serving as a Board member or officer of the Association, or the Architectural Reviewer.

(iii) Claims relating to the design or construction of the Units, Common Elements or any Improvement located within the Regime.

20.1.2. **“Claimant”** means any Party having a Claim against any other Party.

20.1.3. **“Respondent”** means any Party against which a Claim has been asserted by a Claimant.

20.2. **Mandatory Procedures.** Claimant may not initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this *Article 20*. As provided in *Section 20.9* below, a Claim will be resolved by binding arbitration.

20.3. **Claim by the Association – Common Elements.** In accordance with *Section 14.7* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Unit Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 20.1.1* above, relating to the design or construction of a Unit (whether one or more). In the event the Association asserts a Claim related only to the Common Elements, as a precondition to providing the Notice defined in *Section 20.5*, initiating the mandatory dispute resolution procedures set forth in this *Article 20*, or taking any other action to prosecute a Claim, the Association must:

20.3.1. **Independent Report on the Condition of the Common Elements.** Obtain an independent third-party report (the **“Common Area Report”**) from a licensed professional engineer which: (i) identifies the Common Elements subject to the Claim including the present physical condition of the Common Elements; (ii) describes any modification, maintenance, or repairs to the Common Elements performed by the Association; and (iii) provides specific and detailed recommendations regarding remediation and/or repair of the Common Elements subject to the Claim. For the purposes of this Section, an independent third-party report is a report obtained directly by the Association and paid for by the Association and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Association in the Claim. The Association, as a precondition to providing the Notice described in *Section 20.5*, must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Common Area Report, the specific Common Elements to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Common Area Report shall be

provided to each party subject to a Claim. In addition, before providing the Notice described in *Section 20.5*, the Association shall have permitted each party subject to a Claim the right, for a period of at least ninety (90) days, to inspect and correct, any condition identified in the Common Area Report.

20.3.2. Owner Meeting and Approval. Obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to provide the Notice described in *Section 20.5*, initiate the mandatory dispute resolution procedures set forth in this *Article 20*, or take any other action to prosecute a Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Area Report; (iii) a copy of any proposed engagement letter between the Association and an attorney selected by the Association to assert or provide assistance with the Claim (the "**Engagement Letter**"); (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which the Association may be liable as a result of prosecuting the Claim; (v) a summary of the steps previously taken by the Association to resolve the Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Claim may affect the market value, marketability, or refinancing of a Unit while the Claim is prosecuted; and (vii) a description of the manner in which the Association proposes to fund the cost of prosecuting the Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the attorney who represents or will represent the Association in the Claim; (b) a member of the law firm of the attorney who represents or will represent the Association in the Claim; or (c) employed by or otherwise affiliated with the law firm of the attorney who represents or will represent the Association in the Claim. In the event Members approve providing the Notice described in *Section 20.5*, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

20.4. Claim by Owners – Units and Common Elements. In the event an Owner asserts a Claim related to the Units or Common Elements, as a precondition to providing the Notice defined in *Section 20.5*, initiating the mandatory dispute resolution procedures set forth in this *Article 20*, or taking any other action to prosecute a Claim, the Owner must obtain an independent third-party report (the "**Owner Common Area Report**") from a licensed professional engineer which: (i) identifies the specific Units or Common Elements subject to the Claim; (ii) describes the present physical condition of the Units or Common Elements subject to the Claim; (iii) describes any modification, maintenance, or repairs to the Units or Common Elements performed by the Unit Owner(s) and/or the Association; and (iv) provides specific and detailed recommendations regarding remediation and/or repair of the Units or Common

Elements subject to the Claim. The Owner Common Area Report must be prepared by a person unaffiliated with the attorney or law firm that represents or will represent the Owner in the Claim. The Owner, as a precondition to providing the Notice described in *Section 20.5*, must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Owner Common Area Report, the specific Units or Common Elements to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Owner Common Area Report shall be provided to each party subject to a Claim. In addition, before providing the Notice described in *Section 20.5*, the Owner shall have permitted each party subject to a Claim the right, for a period of at least ninety (90) days, to inspect and correct, any condition identified in the Owner Common Area Report.

20.5. **Notice.** Claimant must notify Respondent in writing of the Claim (the “**Notice**”), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this *Section 20.5*. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 20.6* below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 20.6*, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. *Section 20.6* does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty (120) day period for mediation set forth in *Section 20.7* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 20.7* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association, the Notice will also include: (i) a true and correct copy of the Common Area Report; (ii) a copy of the Engagement Letter; (iii) copies of all reports, studies, analyses, and recommendations obtained by the Association related to the Common Element which forms the basis of the Claim; (iv) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 20.3.2* above; and (v) and reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association, the Notice will also include a true and correct copy of the Owner Common Area Report.

20.6. **Negotiation.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after

Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the Property to take and complete corrective action.

20.7. **Mediation.** If the parties negotiate, but do not resolve the Claim through negotiation within one-hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Respondent will submit the Claim to mediation in accordance with this *Section 20.7*.

20.8. **Termination Of Mediation.** If the Parties do not settle the Claim within thirty (30) days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate arbitration proceedings on the Claim, as appropriate and permitted by this *Article 20*.

20.9. **Binding Arbitration-Claims.** All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (*e.g.*, a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 20.9*.

20.9.1. **Governing Rules.** If a Claim has not been resolved after Mediation as required by *Section 20.7*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 20.9* and the rules and procedures of the American Arbitration Association ("AAA") or, if the AAA is unable or unwilling to act as the arbitrator, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Bexar County, Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA's "Construction Industry Dispute Resolution Procedures" and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer-Related Disputes. If such Rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any Claim, if the AAA has, by the time of Claim, identified different rules that would specifically apply to the Claim, then

those rules will apply instead of the rules identified above. In the event of any inconsistency between any such applicable rules and this *Section 20.9*, this *Section 20.9* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

(1) one arbitrator shall be selected by Respondent, in its sole and absolute discretion;

(2) one arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and

(3) one arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

20.9.2. Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 20.9* will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

20.9.3. Statute of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 20.9*.

20.9.4. Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the applicable substantive law. The arbitrator may grant any remedy or relief that the arbitrator deem just and equitable and within the scope of this *Section 20.9* and subject to *Section 20.10* (attorney's fees and costs may not be awarded by the arbitrator); provided, however, that for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code, except that

in no event may attorney's fees or costs be awarded to a Party. In all arbitration proceedings the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of federal or state law; or (iv) a cause of action or remedy not expressly provided under existing state or federal law. In no event may an arbitrator award speculative, consequential, or punitive damages for any Claim.

20.9.5. **Other Matters.** To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration by notice from either party to the other. Arbitration proceedings hereunder shall be conducted in Bexar County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Each party agrees to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law or regulation. In no event shall any party discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

20.10. **Allocation Of Costs.** Notwithstanding any provision in this Declaration to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

20.11. **General Provisions.** A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

20.12. **Period of Limitation.**

20.12.1. **For Actions by an Owner or Occupant of a Unit.** The exclusive period of limitation for any of the Parties to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of a Unit or Common Elements, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim; or (ii) for Claims other than those alleging construction defect or defective design, four (4) years and one (1) day

from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim.

20.12.2. For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of the Common Elements, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Association or its agents discovered or reasonably should have discovered evidence of the Claim; or (ii) for Claims other than those alleging construction defect or defective design of the Common Elements, four (4) years and one (1) day from the date that the Association discovered or reasonably should have discovered evidence of the Claim.

20.13. Funding Arbitration and Litigation. The Association must levy a Special Assessment to fund the estimated costs of arbitration conducted pursuant to this *Article 20* or any judicial action initiated by the Association. The Association may not use its annual operating income or reserve funds or savings to fund arbitration or litigation, unless the Association's annual budget or a savings account was established and funded from its inception as an arbitration and litigation reserve fund.

ARTICLE 21

GENERAL PROVISIONS

21.1. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either by electronic mail, personally or by mail. Such notice shall be deemed delivered at the time of personal or electronic delivery, and if delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the Person at the address given by such Person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such Person to the Association.

21.2. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Regime and of promoting and effectuating the fundamental concepts of the Regime set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

21.3. Duration. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by Applicable Law.

21.4. **Captions.** In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer.

21.5. **Construction.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections, or articles hereof. Throughout this Declaration there appears text enclosed by a box. These boxed notices are used to aid in the reader's comprehension of certain provisions of this Declaration and are not to be construed as defining or modifying the text. In the event of a conflict between the text enclosed by a box and any provision of this Declaration, the provision of the Declaration will control.

21.6. **Appendix/ Attachments.** The following appendixes, attachments and exhibits are attached to this Declaration and are incorporated herein by reference:

Exhibit "A"	Property
Attachment 1	Plat and Plans
Attachment 2	Encumbrances
Attachment 3	Schedule of Allocated Interests
Attachment 4	Maintenance Responsibility Chart
Attachment 5	Guide to Association's Examination of Common Elements
Attachment 6	Guide to Association's Major Management and Governance Functions
Appendix "A"	Declarant Representations and Reservations

CONSENT OF MORTGAGEE

The undersigned, being the sole owner and holder of the lien and security interest created by the Deed of Trust recorded on October 29, 2018 as Document No. 20180213207 in the Official Public Records of Bexar County, Texas (the "Deed of Trust"), securing a Promissory Note of even date therewith, executes this Consent of Mortgagee solely for the purposes of (i) evidencing its consent to the Declarant's execution of the Declaration required pursuant to Section 82.051(b) of the Texas Property Code, and (ii) subordinating the lien and security interest granted by the Deed of Trust to the Declaration, both on the condition that the lien and security interest granted by the Deed of Trust is and shall remain superior to any Assessment lien granted or created by the Declaration in all events.

FROST BANK
a, Texas state bank

By: [Signature]
Printed Name: Charles Colley
Title: Senior Vice President

THE STATE OF TEXAS §
 §
COUNTY OF Travis §

This instrument was acknowledged before me on this 28th day of March, 2019, by Charles Colley, Senior Vice President of Frost Bank, a Texas state bank, on behalf of said entity.

[Signature]
Notary Public, State of Texas

(seal)

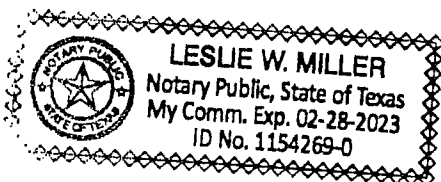


Exhibit A

THE PROPERTY

Lot 41, Block 8, New City Block 1070, Oakland Terrace, a subdivision of record according to the plat thereof recorded in Volume 20001, Page 286 of the Plat Records of Bexar County, Texas.

EXHIBIT "A"
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

ATTACHMENT 1

[CONDOMINIUM PLAT AND PLANS]

The plat and plans, attached hereto as Attachment 1 contains the information required by the Texas Uniform Condominium Act.

Printed Name: _____
RPLS or License No. _____

BOUNDARIES OF UNIT

The legal boundaries of each Unit are established by the Declarant and the Plat and Plans attached hereto. However, each Owner acknowledges that the Unit may be measured and depicted in a manner which differs from the legal boundaries of a Unit. For example, the Unit may be measured or depicted differently for tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under roof, or the air conditioned space, or the area within the Unit's legal boundaries. The Unit's partition wall cavities and/or its perimeter wall cavities may or may not be included.

SEE NEXT PAGE FOR ORIGINAL CERTIFICATION

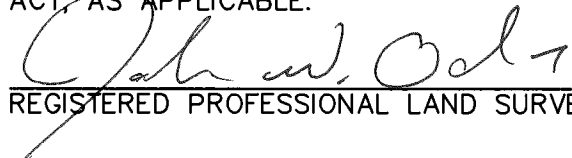
ATTACHMENT 1 – PLAT AND PLANS
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

LUMA CONDOMINIUM PLAT

A CONDOMINIUM REGIME IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, ESTABLISHED UPON LOT 41, BLOCK 8, NEW CITY BLOCK 1070, OAKLAND TERRACE, A SUBDIVISION OF RECORD ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20001, PAGE 286 OF THE PLAT RECORDS OF BEXAR COUNTY, TEXAS.

STATE OF TEXAS
COUNTY OF BEXAR

THE PLATS AND PLANS ATTACHED HERETO CONTAIN THE INFORMATION REQUIRED BY SECTION 82.059 OF THE TEXAS UNIFORM CONDOMINIUM ACT, AS APPLICABLE.


REGISTERED PROFESSIONAL LAND SURVEYOR

1-18-19
DATE



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PAGE 4:	COMMON AREAS
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PAGE 6:	UNIT DESCRIPTIONS
PAGE 7:	UNIT DESCRIPTIONS
PAGE 8:	UNIT DESCRIPTIONS
PAGE 9:	UNIT DESCRIPTIONS
PAGE 10:	BUILDING 1 ELEVATIONS
PAGE 11:	BUILDING 2 ELEVATIONS
PAGE 12:	BUILDING 10 ELEVATIONS

Maverick
Land Surveying Co.

1856 Lockhill Selma, Suite 105, San Antonio, Texas 78213
(210) 342-9455, Fax 342-9524
© 1990-2019, Maverick Land Surveying Co.
TBPLS FIRM No. 10132700

MLS JOB No.: 54382-06

LUMA CONDOMINIUM PLAT

A CONDOMINIUM REGIME IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, ESTABLISHED UPON LOT 41, BLOCK 8, NEW CITY BLOCK 1070, OAKLAND TERRACE, A SUBDIVISION OF RECORD ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20001, PAGE 286 OF THE PLAT RECORDS OF BEXAR COUNTY, TEXAS.

GENERAL NOTES:

- 1) ALL IMPROVEMENTS AND LAND REFLECTED ON THE PLAT ARE DESIGNATED AS GENERAL COMMON ELEMENTS, SAVE AND EXCEPT PORTIONS OF THE REGIME DESIGNATED AS LIMITED COMMON ELEMENTS OR UNITS: (i) IN THE DECLARATION OF CONDOMINIUM REGIME FOR LUMA CONDOMINIUMS (THE "DECLARATION") OR (ii) ON THE PLATS AND PLANS OF THE REGIME.
- 2) OWNERSHIP AND USE OF CONDOMINIUM UNITS IS SUBJECT TO THE RIGHTS AND RESTRICTIONS CONTAINED IN THE DECLARATION.
- 3) THE PROPERTY IS SUBJECT TO SPECIAL RIGHTS RESERVED BY THE DECLARANT IN THE DECLARATION. PURSUANT TO SUCH PROVISIONS, AMONG OTHER THINGS, DECLARANT HAS RESERVED THE RIGHT TO (I) COMPLETE OR MAKE IMPROVEMENTS INDICATED ON THE PLAT AND PLANS; (II) TO MEET THE REQUIREMENTS, STANDARDS, OR RECOMMENDED GUIDELINES OF AN UNDERWRITING LENDER TO ENABLE AN INSTITUTIONAL OR GOVERNMENTAL LENDER TO MAKE OR PURCHASE MORTGAGE LOANS ON THE UNITS; (III) TO CORRECT ANY DEFECTS IN THE EXECUTION OF THE DECLARATION OR THE OTHER DOCUMENTS; (IV) TO ADD REAL PROPERTY TO THE PROPERTY, IN THE EXERCISE OF STATUTORY DEVELOPMENT RIGHTS; (V) TO CREATE UNITS, GENERAL COMMON ELEMENTS, AND LIMITED COMMON ELEMENTS WITHIN THE PROPERTY, IN THE EXERCISE OF STATUTORY DEVELOPMENT RIGHTS; (VI) TO SUBDIVIDE, COMBINE, OR RECONFIGURE UNITS OR CONVERT UNITS INTO COMMON ELEMENTS, IN THE EXERCISE OF STATUTORY DEVELOPMENT RIGHTS (VII) TO WITHDRAW FROM THE PROPERTY ANY PORTION OF THE REAL PROPERTY MARKED OR NOTED ON THE PLAT AND PLANS AS "DEVELOPMENT RIGHTS RESERVED" OR "SUBJECT TO DEVELOPMENT RIGHTS" IN THE EXERCISE OF STATUTORY DEVELOPMENT RIGHTS; (VIII) TO RESOLVE CONFLICTS, CLARIFY AMBIGUITIES, AND TO CORRECT MISSTATEMENTS, ERRORS, OR OMISSIONS IN THE DOCUMENTS; AND (IX) TO CHANGE THE NAME OR ENTITY OF DECLARANT.
- 4) PREPARED JANUARY 2019 FROM SURVEY OF SUBJECT PROPERTY COMPLETED MAY 31, 2018 AND SITE PLANS PROVIDED BY DECLARANT ON JANUARY 8, 2019.
- 5) WHERE ACCESSIBLE, A ½" IRON ROD WITH ORANGE PLASTIC CAP OR MAG NAIL WITH WASHER, BOTH MARKED "MLS CO RPLS 4612" WERE SET AT ALL UNIT CORNERS.

Maverick
Land Surveying Co.

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TBPLS FIRM No. 10132700

GENERAL NOTES

MLS JOB No.: 54382-06

PAGE 2 OF 12

LUMA CONDOMINIUM PLAT

A CONDOMINIUM REGIME IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, ESTABLISHED UPON LOT 41, BLOCK 8, NEW CITY BLOCK 1070, OAKLAND TERRACE, A SUBDIVISION OF RECORD ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20001, PAGE 286 OF THE PLAT RECORDS OF BEXAR COUNTY, TEXAS.



E. MULBERRY AVE.
(VOL. 72, PG. 506, D.R.)

N 89°51'52" E ~ 248.63'

FND.1/2" I.R.

FND.1/2" I.R.

14' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

10'x20' WATER EASEMENT
(VOL. 20001, PG. 286, P.R.)

10' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

10'x20' WATER EASEMENT

TENDICK ST.
(VOL. 4305, PG. 227-228, D.P.R.)

N 00°08'08" W ~ 418.22'

2.390 ACRES
LOT 41, BLOCK 8
OAKLAND TERRACE
NEW CITY BLOCK 1070
VOL. 20001, PG. 288, P.R.
(VACANT)

S 00°13'14" E ~ 418.22'

FORT SAM HOUSTON, TEXAS MILITARY RESERVATION
(VOL. 980, PG. 39-64, D.P.R.) (VOL. 9541, PG. 104-155, D.P.R.)

BRACKENRIDGE AVE.
(VOL. 9652, PG. 52, D.P.R.)

14' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

SET 1/2" I.R.

S 89°51'52" W ~ 249.25'

SET 1/2" I.R.

FORT SAM HOUSTON, TEXAS MILITARY RESERVATION
(VOL. 980, PG. 39-64, D.P.R.) (VOL. 9541, PG. 104-155, D.P.R.)

EXISTING CONDITIONS

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TBPLS FIRM No. 10132700

MLS JOB No.: 54382-06

LUMA CONDOMINIUM PLAT

A CONDOMINIUM REGIME IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, ESTABLISHED UPON LOT 41, BLOCK 8, NEW CITY BLOCK 1070, OAKLAND TERRACE, A SUBDIVISION OF RECORD ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20001, PAGE 286 OF THE PLAT RECORDS OF BEXAR COUNTY, TEXAS.



14' GAS, ELECTRIC, TELEPHONE AND CABLE TELEVISION EASEMENT (VOL. 20001, PG. 286, P.R.)

E. MULBERRY AVE.
(VOL. 72, PG. 506, D.R.)

N 89°51'52" E ~ 248.63'

FND.1/2" I.R.

FND.1/2" I.R.

10'x20' WATER EASEMENT (VOL. 20001, PG. 286, P.R.)

LOT 41, BLOCK 8
NEW CITY BLOCK 1070

10'x20' WATER EASEMENT

TENDICK ST.
(VOL. 4305, PG. 227-228, D.P.R.)

N 00°08'08" W ~ 418.22'

10' GAS, ELECTRIC, TELEPHONE AND CABLE TELEVISION EASEMENT (VOL. 20001, PG. 286, P.R.)

BLDG 2

BLDG 1

SECOND FLOOR LIMITS

DRIVE

SECOND AND THIRD FLOOR LIMITS

BLDG 10

BRACKENRIDGE AVE.
(VOL. 9652, PG. 52, D.P.R.)

SET 1/2" I.R.

S 89°51'52" W ~ 249.25'

SET 1/2" I.R.

14' GAS, ELECTRIC, TELEPHONE AND CABLE TELEVISION EASEMENT (VOL. 20001, PG. 286, P.R.)

FORT SAM HOUSTON, TEXAS MILITARY RESERVATION (VOL. 980, PG. 39-64, D.P.R.) (VOL. 9541, PG. 104-155, D.P.R.)

S 00°13'14" E ~ 418.22'
FORT SAM HOUSTON, TEXAS MILITARY RESERVATION (VOL. 980, PG. 39-64, D.P.R.) (VOL. 9541, PG. 104-155, D.P.R.)

- = GENERAL COMMON ELEMENT SUBJECT TO DEVELOPMENT
- = GENERAL COMMON ELEMENT
- = LIMITED COMMON ELEMENT

COMMON AREAS

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MLS JOB No.: 54382-06

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14' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

E. MULBERRY AVE.
(VOL. 72, PG. 506, D.R.)

N 89°51'52" E ~ 248.63'

FND. 1/2" I.R.

FND. 1/2" I.R.

10'x20' WATER EASEMENT
(VOL. 20001, PG. 286, P.R.)

LOT 41, BLOCK 8
NEW CITY BLOCK 1070

TENDICK ST.
(VOL. 4305, PG. 227-228, D.P.R.)

N 00°08'08" W ~ 418.22'

10' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

BLDG 2

BLDG 1

GENERAL COMMON ELEMENT (GCE)

DRIVE

S 00°13'14" E ~ 418.22'

FORT SAM HOUSTON, TEXAS MILITARY RESERVATION
(VOL. 980, PG. 39-64, D.P.R.) (VOL. 9541, PG. 104-155, D.P.R.)

= NUMBERED PARKING SPOT
 = ELECTRIC TRANSFORMER

BRACKENRIDGE AVE.
(VOL. 9652, PG. 52, D.P.R.)

CONC. CURB

DRIVE

BLDG 10

SET 1/2" I.R.

S 89°51'52" W ~ 249.25'

SET 1/2" I.R.

14' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

FORT SAM HOUSTON, TEXAS MILITARY RESERVATION
(VOL. 980, PG. 39-64, D.P.R.) (VOL. 9541, PG. 104-155, D.P.R.)

SITE PLAN

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TENDICK ST.
(VOL. 4305, PG. 227-228, D.P.R.)

N 00°08'08" W

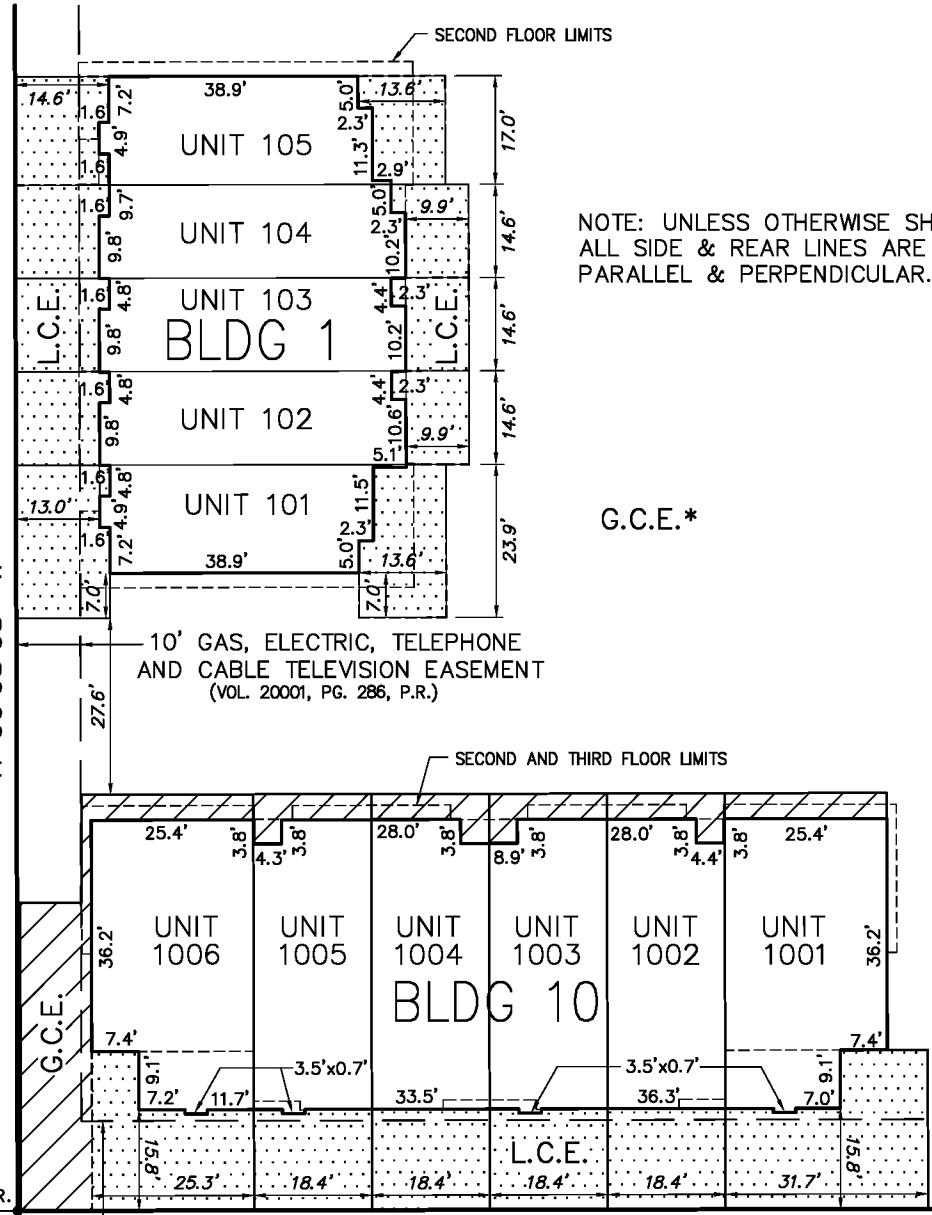
BRACKENRIDGE AVE.
(VOL. 9652, PG. 52, D.P.R.)

SET 1/2" I.R.

S 89°51'52" W

14' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)

10' GAS, ELECTRIC, TELEPHONE
AND CABLE TELEVISION EASEMENT
(VOL. 20001, PG. 286, P.R.)



NOTE: UNLESS OTHERWISE SHOWN,
ALL SIDE & REAR LINES ARE
PARALLEL & PERPENDICULAR.

G.C.E.*

UNIT DESCRIPTIONS

- =GENERAL COMMON ELEMENT
SUBJECT TO DEVELOPMENT (G.C.E.*)
- =GENERAL COMMON ELEMENT (G.C.E.)
- =LIMITED COMMON ELEMENT (L.C.E.)

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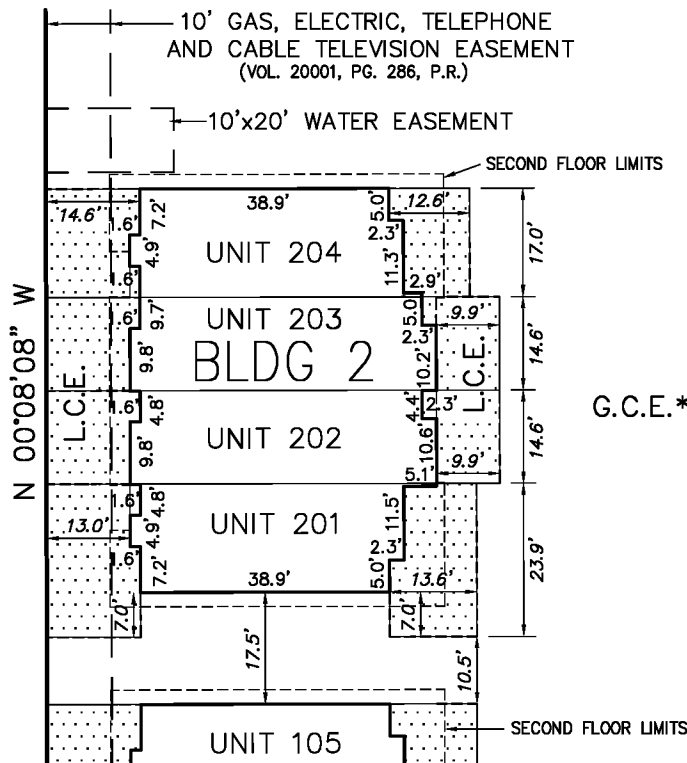
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TENDICK ST.
(VOL. 4305, PG. 227-228, D.P.R.)



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MLS JOB No.: 54382-06

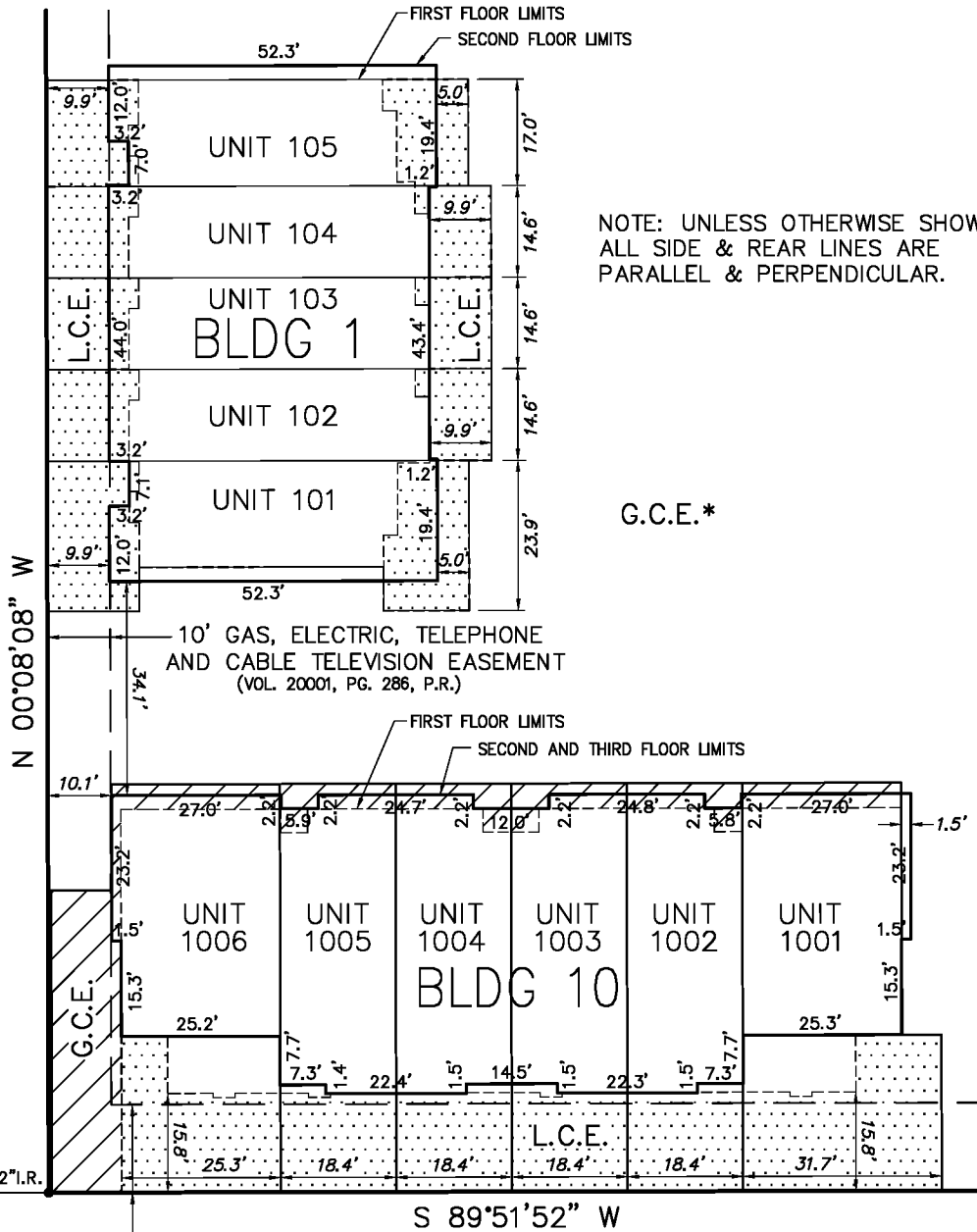
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TENDICK ST.
(VOL. 4305, PG. 227-228, D.P.R.)

BRACKENRIDGE AVE.
(VOL. 9652, PG. 52, D.P.R.)



NOTE: UNLESS OTHERWISE SHOWN, ALL SIDE & REAR LINES ARE PARALLEL & PERPENDICULAR.

G.C.E.*

UNIT DESCRIPTIONS

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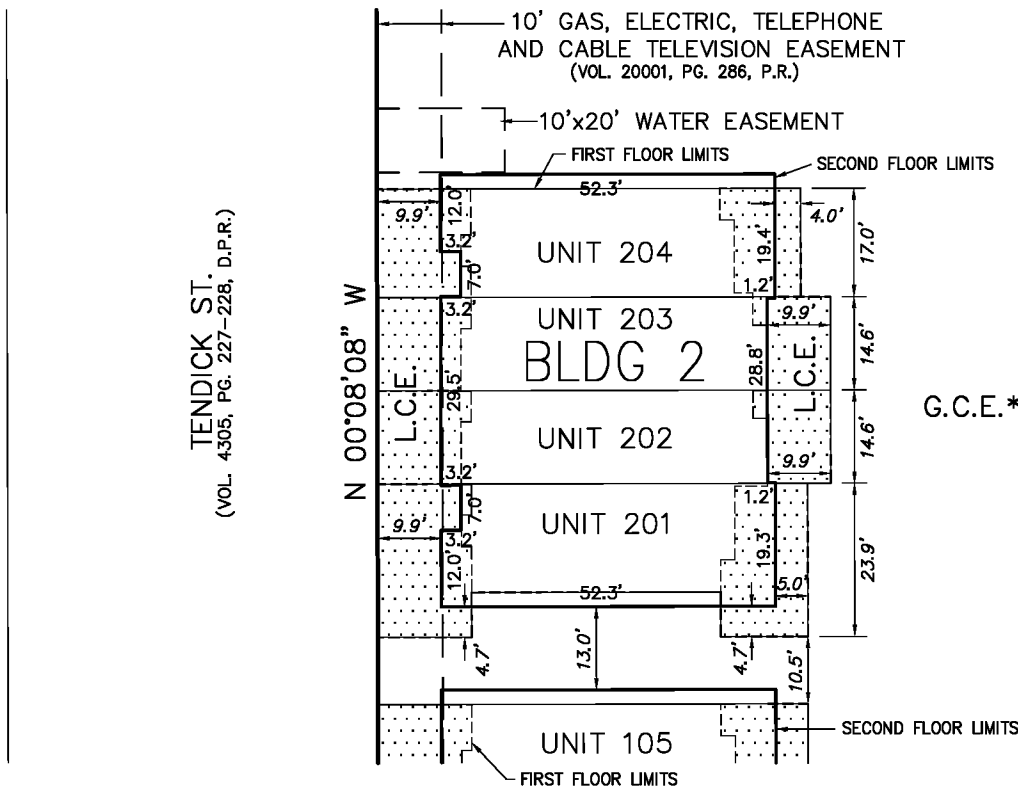
MLS JOB No.: 54382-06

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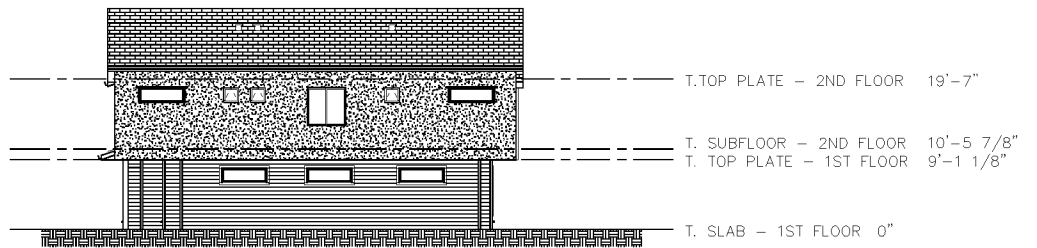
BUILDING 1
FRONT
ELEVATION



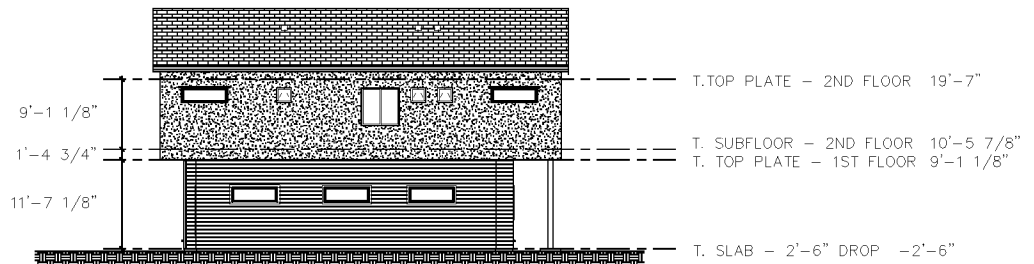
BUILDING 1
REAR
ELEVATION



BUILDING 1
LEFT
ELEVATION



BUILDING 1
RIGHT
ELEVATION



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TBPLS FIRM No. 10132700

BUILDING 1 ELEVATIONS

MLS JOB No.: 54382-06

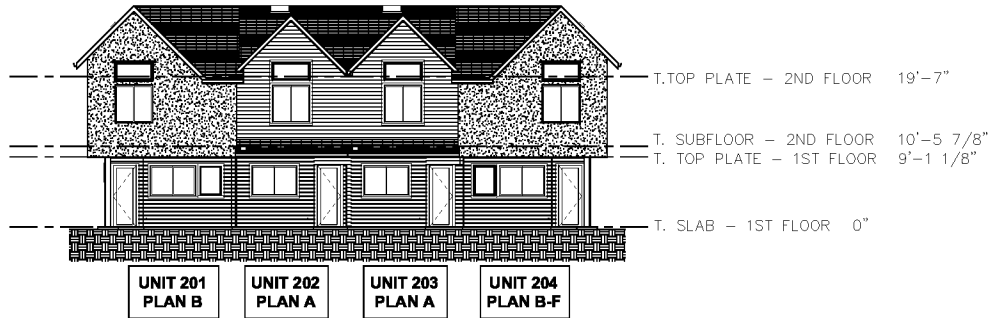
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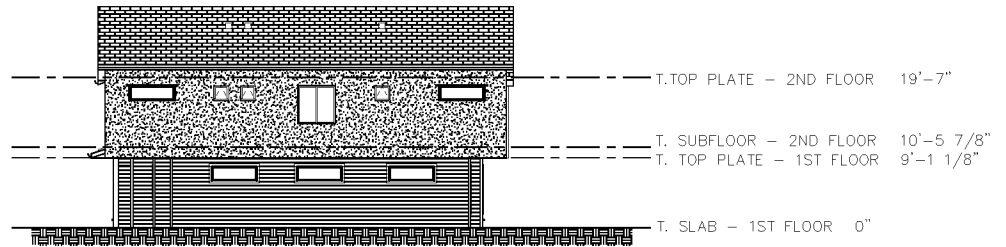
BUILDING 2
FRONT
ELEVATION



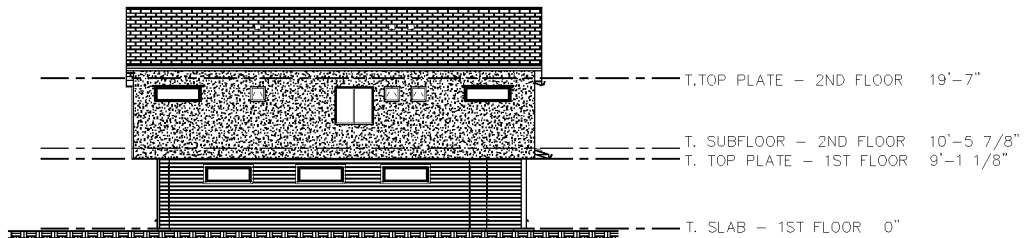
BUILDING 2
REAR
ELEVATION



BUILDING 2
LEFT
ELEVATION



BUILDING 2
RIGHT
ELEVATION



Maverick
Land Surveying Co.

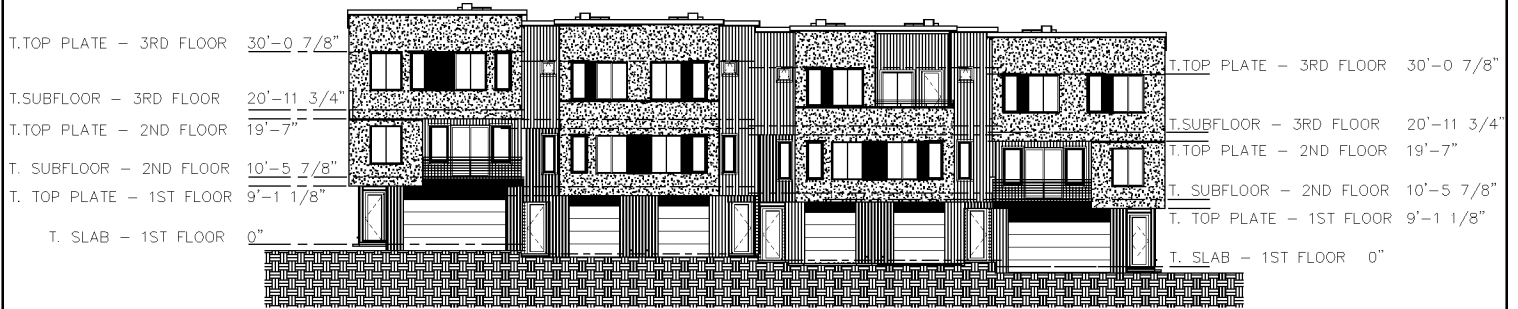
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 TBPLS FIRM No. 10132700

BUILDING 2 ELEVATIONS

MLS JOB No.: 54382-06

LUMA CONDOMINIUM PLAT

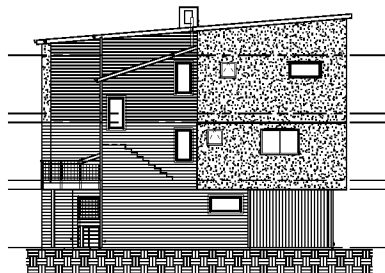
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BUILDING 10—FRONT ELEVATION



BUILDING 10—REAR ELEVATION



BUILDING 10—LEFT ELEVATION



BUILDING 10—RIGHT ELEVATION

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TBPLS FIRM No. 10132700

BUILDING 10 ELEVATIONS

MLS JOB No.: 54382-06

TAX CERTIFICATE



ALBERT URESTI, MPA, PCC
 BEXAR COUNTY TAX ASSESSOR-COLLECTOR
 P O BOX 839950
 SAN ANTONIO, TX 78283-3950

Issued To:

WINSTEAD PC
 401 CONGRESS AVENUE
 SUITE 2100
 AUSTIN, TX 78701-2201

Legal Description

NCB 1070 BLK 8 LOT 11 THRU 15

Fiduciary Number: 1689612

Parcel Address: 1318 E MULBERRY AVE

Legal Acres: .4677

Account Number: 01070-008-0113

Print Date: 04/03/2019

Certificate No: 10902199

Paid Date:

Certificate Fee: \$10.00

Issue Date: 04/03/2019

Operator ID: GALM

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 AND 11.43(i) OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2018. ALL TAXES ARE PAID IN FULL

Exemptions:

Certified Owner:

PSW-BRACKENRIDGE LLC
 2003 S 1ST ST
 AUSTIN, TX 78704-5141

Certified Tax Unit(s):

- 8 FLOOD FUND
- 9 ALAMO COMM COLLEGE
- 10 HOSPITAL DISTRICT
- 11 BEXAR COUNTY
- 19 S A RIVER AUTHORITY
- 21 CITY / SAN ANTONIO
- 57 SAN ANTONIO ISD

2018 Value:	438,550
2018 Levy:	\$12,578.54
2018 Levy Balance:	\$0.00
Prior Year Levy Balance:	\$0.00
Total Levy Due:	\$0.00
P&I + Attorney Fee:	\$0.00
Total Amount Due:	\$0.00

Albert Uresti

ALBERT URESTI, MPA, PCC
 BEXAR COUNTY TAX ASSESSOR-COLLECTOR

Reference (GF) No: N/A



TAX CERTIFICATE



ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR
P O BOX 839950
SAN ANTONIO, TX 78283-3950

Account Number: 01070-008-0113
Certificate No: 10902199

Account Number	Year(s)	Amount Due	Cause Number
01070-008-0110	No Years	0.00	



ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR
P O BOX 839950
SAN ANTONIO, TX 78283-3950

Issued To:

WINSTEAD PC
401 CONGRESS AVENUE
SUITE 2100
AUSTIN, TX 78701-2201

Legal Description

NCB 1070 BLK 8 LOT S 97.9 FT OF 16 THRU
20

Fiduciary Number: 1689612

Parcel Address: 108 TENDICK ST

Legal Acres: .2821

Account Number: 01070-008-0161

Print Date: 04/03/2019

Certificate No: 10902196

Paid Date:

Certificate Fee: \$10.00

Issue Date: 04/03/2019

Operator ID: GALM

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 AND 11.43(j) OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2018. ALL TAXES ARE PAID IN FULL

Exemptions:

Certified Owner:

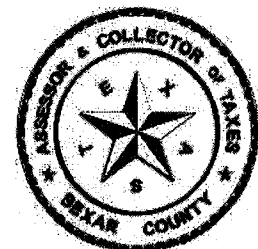
PSW-BRACKENRIDGE LLC
2003 S 1ST ST
AUSTIN, TX 78704-5141

Certified Tax Unit(s):

- 8 FLOOD FUND
- 9 ALAMO COMM COLLEGE
- 10 HOSPITAL DISTRICT
- 11 BEXAR COUNTY
- 19 S A RIVER AUTHORITY
- 21 CITY / SAN ANTONIO
- 57 SAN ANTONIO ISD

2018 Value:	273,100
2018 Levy:	\$7,836.87
2018 Levy Balance:	\$0.00
Prior Year Levy Balance:	\$0.00
Total Levy Due:	\$0.00
P&I + Attorney Fee:	\$0.00
Total Amount Due:	\$0.00

ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR



Reference (GF) No: N/A

TAX CERTIFICATE



ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR
P O BOX 839950
SAN ANTONIO, TX 78283-3950

Account Number: 01070-008-0161
Certificate No: 10902196

Account Number	Year(s)	Amount Due	Cause Number
01070-008-0110	No Years	0.00	
01070-008-0160	No Years	0.00	

TAX CERTIFICATE



ALBERT URESTI, MPA, PCC
 BEXAR COUNTY TAX ASSESSOR-COLLECTOR
 P O BOX 839950
 SAN ANTONIO, TX 78283-3950

Issued To:

WINSTEAD PC
 401 CONGRESS AVENUE
 SUITE 2100
 AUSTIN, TX 78701--2201

Legal Description

NCB 1070 BLK 8 LOT N 65.0 FT OF 16 THRU
 20

Fiduciary Number: 1689612

Parcel Address: 110 TENDICK ST

Legal Acres: .1876

Account Number: 01070-008-0162

Print Date: 04/03/2019

Certificate No: 10902198

Paid Date:

Certificate Fee: \$10.00

Issue Date: 04/03/2019

Operator ID: GALM

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 AND 11.43(i) OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2018. ALL TAXES ARE PAID IN FULL

Exemptions:

Certified Owner:

PSW-BRACKENRIDGE LLC
 2003 S 1ST ST
 AUSTIN, TX 78704-5141

Certified Tax Unit(s):

- 8 FLOOD FUND
- 9 ALAMO COMM COLLEGE
- 10 HOSPITAL DISTRICT
- 11 BEXAR COUNTY
- 19 S A RIVER AUTHORITY
- 21 CITY / SAN ANTONIO
- 57 SAN ANTONIO ISD

2018 Value:	251,300
2018 Levy:	\$7,212.08
2018 Levy Balance:	\$0.00
Prior Year Levy Balance:	\$0.00
Total Levy Due:	\$0.00
P&I + Attorney Fee:	\$0.00
Total Amount Due:	\$0.00

Albert Uresti

ALBERT URESTI, MPA, PCC
 BEXAR COUNTY TAX ASSESSOR-COLLECTOR

Reference (GF) No: N/A



AAA CERTIFICATE



ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR
P O BOX 839950
SAN ANTONIO, TX 78283-3950

Account Number: 01070-008-0162
Certificate No: 10902198

Account Number	Year(s)	Amount Due	Cause Number
01070-008-0110	No Years	0.00	
01070-008-0160	No Years	0.00	

TAX CERTIFICATE



ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR
P O BOX 839950
SAN ANTONIO, TX 78283-3950

Issued To:

WINSTEAD PC
401 CONGRESS AVENUE
SUITE 2100
AUSTIN, TX 78701-2201

Legal Description

NCB 1070 BLK 8 LOT 31 THRU 40

Fiduciary Number: 1689612

Parcel Address: 511 BRACKENRIDGE AVE

Legal Acres: .9349

Account Number: 01070-008-0311

Print Date: 04/03/2019

Certificate No: 10902195

Paid Date:

Certificate Fee: \$10.00

Issue Date: 04/03/2019

Operator ID: GALM

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 AND 11.43(f) OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2018. ALL TAXES ARE PAID IN FULL

Exemptions:

Certified Owner:

PSW-BRACKENRIDGE LLC
2003 S 1ST ST
AUSTIN, TX 78704-5141

2018 Value:	326,450
2018 Levy:	\$9,375.83
2018 Levy Balance:	\$0.00
Prior Year Levy Balance:	\$0.00
Total Levy Due:	\$0.00
P&I + Attorney Fee:	\$0.00
Total Amount Due:	\$0.00

Certified Tax Unit(s):

8 FLOOD FUND
9 ALAMO COMM COLLEGE
10 HOSPITAL DISTRICT
11 BEXAR COUNTY
19 S A RIVER AUTHORITY
21 CITY / SAN ANTONIO
57 SAN ANTONIO ISD

Melanie Uresti

ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR

Reference (GF) No: N/A



IAA CERTIFICATE



ALBERT URESTI, MPA, PCC
BEXAR COUNTY TAX ASSESSOR-COLLECTOR
P O BOX 839950
SAN ANTONIO, TX 78283-3950

Account Number: 01070-008-0311
Certificate No: 10902195

Account Number	Year(s)	Amount Due	Cause Number
01070-008-0110	No Years	0.00	

ATTACHMENT 2

ENCUMBRANCES

1. All leases, grants, exceptions or reservation of coal, lignite, oil, gas and other mineral, together with all rights, privileges, and immunities relating thereto appearing in the public records.
2. 14' gas, electric, telephone and cable television easement along the E. Mulberry Ave and south property lines as shown on plat recorded in Volume 20001, Page 286, Deed and Plat Records, Bexar County, Texas.
3. 10' gas, electric, telephone and cable television easement along the Tendick St. property line as shown on plat recorded in Volume 20001, Page 286, Deed and Plat Records, Bexar County, Texas.
4. 10' x 20' water easement along a portion the Tendick St. property line as shown on plat recorded in Volume 20001, Page 286, Deed and Plat Records, Bexar County, Texas.

ATTACHMENT 2 – ENCUMBRANCES
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

ATTACHMENT 3

COMMON INTEREST ALLOCATION

The Common Interest Allocation and percentage of liability for Common Expenses for each Unit is 1/15. Each Unit is allocated one (1) vote.

ATTACHMENT 3 – COMMON INTEREST ALLOCATION
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

ATTACHMENT 4**MAINTENANCE RESPONSIBILITY CHART**

“All aspects” includes maintenance, repair, and replacement, as needed.

COMPONENT OF PROPERTY	ASSOCIATION RESPONSIBILITY	OWNER RESPONSIBILITY
Fences, screening walls, and retaining walls around perimeter of property	All aspects.	None.
Exterior lighting	All aspects.	None.
Sidewalks	All aspects.	None.
Mailboxes & exterior street addresses or Unit numbers	All aspects.	None.
Landscaping – Yard Area.	Periodic mowing and edging; debris removal; trimming bushes up to a maximum height of 6'; application of fertilizer and pre-emergent weed killer; weed and pest control.	All other aspects.
Landscaping – General Common Elements	All aspects.	None.
Irrigation Maintenance – Yard Area.	Repair or replacement of (i) broken, damaged or clogged sprinkler heads; (ii) cut surface mounted drip tubes or broken pipes below ground; (iii) master and zone level control valves; (iv) system controllers; and (v) cut/damaged control wires.	All other aspects.
Irrigation Maintenance – General Common Elements	All aspects.	None.
Roofs and roof facilities	All aspects.	None.

ATTACHMENT 4 – MAINTENANCE RESPONSIBILITY CHART
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

COMPONENT OF PROPERTY	ASSOCIATION RESPONSIBILITY	OWNER RESPONSIBILITY
Exterior Building components	All aspects, other than routine cleaning of patios.	None, other than routine cleaning of patios.
Building Foundation	All aspects.	None.
Unit interior, including improvements, fixtures, partition walls and floors within Unit	None.	All aspects.
Sheetrock within Unit & treatments on walls	None.	All aspects.
Exterior Unit doors	All aspects, except the cost of associated with the repair or replacement shall be a Unit Owner expense.	The cost of repair and/or replacement which shall be levied as an Individual Assessment.
Windows	All aspects, except the cost of associated with the repair or replacement shall be a Unit Owner expense.	The cost of repair and/or replacement which shall be levied as an Individual Assessment.
Garage Doors	All aspects excluding any electronic garage door or garage door opening system.	Any electronic garage door or garage door opening system.
Water, wastewater, electrical lines & systems.	All aspects of common lines & systems serving more than one Unit, none for those serving an individual Unit.	All aspects of lines, pipes, fixtures, and appliances serving only that Owner's Unit.
HVAC System	All aspects if serving more than one Unit, otherwise none.	All aspects if serving the Owner's Unit exclusively, otherwise none.
Intrusion alarms smoke/heat detectors, monitoring equipment.	None for those exclusively serving an individual Unit.	All aspects for those exclusively serving an individual Unit.

ATTACHMENT 4 – MAINTENANCE RESPONSIBILITY CHART
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

NOTE 1: The components listed in the first column are applicable only if they exist, and may not be construed to create a requirement to have such a component.

NOTE 2: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, the Association may perform the work after giving required notices to the Owner.

NOTE 3: Set forth above is a summary of the maintenance obligations imposed upon the Association and the Owners generally as described more fully in this Declaration. Please note that the information set forth in this Attachment 4 is a summary **only** and is not intended to modify any of the provisions of this Declaration. Accordingly, in the event of a conflict between the summary set forth in this Attachment 4 and any provision set forth in the Declaration above, the provision set forth in the Declaration above will control.

ATTACHMENT 4 – MAINTENANCE RESPONSIBILITY CHART
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

ATTACHMENT 5**GUIDE TO THE ASSOCIATION'S EXAMINATION OF COMMON ELEMENTS**

This Guide provides information to assist the Board in conducting an annual examination of the Common Elements for the purpose maintaining replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the General Common Elements maintained by the Association. The examination is required by *Section 9.5* of the Declaration and is a necessary prerequisite to establishing sufficient reserves as required by *Section 6.12* of the Declaration. Additional information on conducting the examination may be obtained from the Community Associations Institute and their publication, *The National Reserve Study Standards of the Community Associations Institute*. See www.caionline.org. In addition, the Community Associations Institute provides certification for qualified preparers of reserve studies, known as a "Reserve Professionals Designation" (R.S.). Neither this Declaration nor current law requires that the Board engage an individual holding a Reserve Professional Designation for the purpose of conducting the annual examination of the Common Elements. Because laws and practices change over time, the Board should not use this Guide without taking into account applicable changes in law and practice.

Developing a Plan

In developing a plan, the age and condition of Common Elements maintained by the Association must be considered. The possibility that new types of material, equipment, or maintenance processes associated with the repair and/or maintenance of Common Elements should also be taken into account. The individual or company who prepares the examination calculates a suggested annual funding amount and, in doing so, may consider such factors as which components are included, estimated replacement costs of the components, useful lives of the components, inflation, and interest on reserve account balances or other earnings rates. Annual contributions to the replacement fund from annual Assessments are based on this examination or reserve study. A reserve study generally includes the following:

- Identification and analysis of each major component of Common Elements maintained by the Association
- Estimates of the remaining useful lives of the components
- Estimates of the costs of replacements or repairs
- A cash flow projection showing anticipated changes in expenditures and contributions over a time period generally ranging between 20 and 30 years
- The "Funding Goal" which is generally one of the following:
 - Component Full Funding: Attaining, over a period of time, and maintaining, once the initial goal is achieved, a cumulative reserve

account cash balance necessary to discharge anticipated expenditures at or near 100 percent; or

- Threshold Funding: Maintaining the reserve account cash balance above a specified dollar or percent funded amount.

Note that Threshold Funding will increase the likelihood that Special Assessments will be required to fund major repairs and replacements. For example, one study has shown that a Threshold Funding goal of 40 to 50% results in an 11.2% chance that the Association will be unable to fund repairs and replacement projects in the next funding year. See "Measuring the Adequacy of Reserves", *Common Ground*, July/August 1997. The same study found that Component Full Funding reduces this likelihood to between .09 and 1.4%.

Finding Common Element Component Replacement Information

Common Element component replacement information may be obtained from contractors, suppliers, technical specialists (IT, cable, fiber optics, etc.), a "Reserve Study" specialist or from using tables in technical manuals on useful lives of various components. As provided in *Section 9.5* of the Declaration, the Board must reevaluate its funding level each year based upon changes to the Common Elements as well as changes to replacement costs and component conditions. The specific components of Common Elements include, but are not limited to, roofing, electrical systems, plumbing, information technology equipment, floor coverings, air conditioning systems, heating and hot water equipment, roads, recreational facilities, and furniture and equipment owned or maintained by the Association. Components covered by maintenance contracts may be excluded if the contracts include maintenance and replacement of the components. The Board must also include within their overall budget a deferred maintenance account for those components requiring periodic maintenance which does not occur annually. Typically, the deferred maintenance account would include such components as painting, staining, and caulking.

ATTACHMENT 6

GUIDE TO ASSOCIATION’S MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS

This Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Association’s Board of Directors may, from time to time, use this Guide to consider what functions, if any, to delegate to one or more managers, managing agents, employees, or volunteers. Because laws and practices change over time, the Association and/or the Board should not use this Guide without taking account of applicable changes in law and practices.

<p align="center">MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS</p>	<p align="center">PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</p>	<p align="center">DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</p>
<p><u>FINANCIAL MANAGEMENT</u></p> <p>To adopt annual budget and levy Assessments, per Declaration.</p> <p>Prepare annual operating budget, periodic operating statements, and year-end statement.</p> <p>Identify components of the property the Association is required to maintain. Estimate remaining useful life of each component. Estimate costs and schedule of major repairs and replacements, and develop replacement reserve schedule for 5, 10, and 20-year periods. Annually update same.</p> <p>Collect Assessments and maintain Association accounts.</p> <p>Pay Association’s expenses and taxes.</p> <p>Obtain annual audit and income tax filing.</p> <p>Maintain fidelity bond on whomever handles the Association funds.</p> <p>Report annually to Members on financial status of the</p>		

<p style="text-align: center;">MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS</p>	<p style="text-align: center;">PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</p>	<p style="text-align: center;">DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</p>
<p>Association.</p>		
<p><u>PHYSICAL MANAGEMENT</u></p> <p>Inspect, maintain, repair, and replace, as needed, all components of the property for which the Association has maintenance responsibility.</p> <p>Contract for services, as needed to operate or maintain the property.</p> <p>Prepare specifications and call for bids for major projects.</p> <p>Coordinate and supervise work on the property, as warranted.</p>		
<p><u>ADMINISTRATIVE MANAGEMENT</u></p> <p>Receive and respond to correspondence from Owners, and assist in resolving Owners' problems related to the Association.</p> <p>Conduct hearings with Owners to resolve disputes or to enforce the Documents.</p> <p>Obtain and supervise personnel and/or contracts needed to fulfill Association's functions.</p> <p>Schedule Association meetings and give owners timely notice of same.</p> <p>Schedule Board meetings and give directors timely notice of same.</p> <p>Enforce the Documents.</p> <p>Maintain insurance and bonds as required by the Documents or Applicable Law, or as customary for</p>		

<p align="center">MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS</p>	<p align="center">PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</p>	<p align="center">DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</p>
<p>similar types of property in the same geographic area.</p> <p>Maintain Association books, records, and files.</p> <p>Maintain Association’s corporate charter and registered agent & address.</p>		
<p><u>OVERALL FUNCTIONS</u></p> <p>Promote harmonious relationships within the community.</p> <p>Protect and enhance property values in the community.</p> <p>Encourage compliance with the Documents and Applicable Law and ordinances.</p> <p>Act as liaison between the community of Owners and governmental, taxing, or regulatory bodies.</p> <p>Protect the Association and the property from loss and damage by lawsuit or otherwise.</p>		

APPENDIX "A"

DECLARANT RESERVATIONS

A.1. General Provisions.

A.1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling certain Declarant-related provisions in this Appendix.

A.1.2. General Reservation and Construction. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of a conflict between this Appendix "A" and any other Document, this Appendix "A" controls. This Appendix may not be amended without the prior written consent of Declarant. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

A.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and Declarant Control Period to ensure a complete and orderly sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees. The "**Development Period**", as specifically defined in the *Section 1.16* of the Declaration, means the seven (7) year period beginning on the date this Declaration is Recorded, unless such period is earlier terminated by Declarant's Recordation of a notice of termination. Declarant Control Period is defined in *Section 1.14* of the Declaration.

A.2. Declarant Control Period Reservations. For the benefit and protection of Owners and Mortgagees, and for the purpose of ensuring a complete and orderly build-out and sellout of the Property, Declarant will retain control of the Association, subject to the following:

A.2.1. Appointment of Board and Officers. Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader," subject to the following limitations: (i) within one hundred and twenty (120) days after fifty percent (50%) of the total number of Units that may be created have been conveyed to Owners other than Declarant, at least one-third of the Board must be elected by the Owners other than Declarant; and (ii) within one hundred and twenty (120) days after seventy-five percent (75%) of the total number of Units that may be created have been

APPENDIX "A" – DECLARANT RESERVATIONS
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

conveyed to Owners other than Declarant, all Board members must be elected by all Owners, including the Declarant. Notwithstanding the above, the above mentioned periods in subsections (i) and (ii) shall occur no later than seven (7) years after the Declaration is Recorded.

A.2.2. Obligation for Assessments. For each Unit owned by Declarant, Declarant is liable for Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments in the same manner as any Owner. Regarding Regular Assessments, Declarant at Declarant's option may support the Association's budget by either of the following methods: (i) Declarant will pay Regular Assessments on each Declarant owned Unit in the same manner as any Owner; or (ii) Declarant will assume responsibility for the difference between the Association's actual operational expenses as they are paid and the Regular Assessments received from Owners other than Declarant. **On the earlier to occur of three (3) years after the first conveyance of a Unit by the Declarant or termination of the Declarant Control Period, Declarant must begin paying Assessments on each Declarant owned Unit.**

A.2.3. Obligation for Reserves. During the Declarant Control Period, neither the Association nor Declarant may use the Association reserve funds to pay operational expenses of the Association.

A.2.4. Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any Common Element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the Common Element will be free of encumbrance except for the property taxes, if any, accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.

A.3. Development Period Rights. Declarant reserves the following rights during the Development Period:

A.3.1. Leasehold. No part of the Regime is a leasehold condominium, as defined by the Act.

A.3.2. Annexation. The Property is subject to expansion by phasing during the Development Period. During the Development Period, Declarant may annex additional property into the Regime, and subject such property to this Declaration and the jurisdiction of the Association by Recording an amendment or supplement of this Declaration, executed by Declarant, in the Real Property Records of Bexar County, Texas.

A.3.3. Creation of Units. When created, the Regime contains six (6) Units; however, Declarant reserves the right to create up to and including sixty (60) Units.

APPENDIX "A" – DECLARANT RESERVATIONS
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

Declarant's right to create Units is for a term of years and does not require that Declarant own a Unit at the time or times Declarant exercises its right of creation. The instrument creating additional units must include a revised schedule of allocated interests.

A.3.4. Changes in Development Plan. During the Development Period, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, the subdivision or combination of Units, changes in the sizes, styles, configurations, materials, and appearances of Units, and Common Elements.

A.3.5. Transfer Fees. During the Development Period, Declarant will not pay transfer-related and resale certificate fees.

A.3.6. Website & Property Name. During the Development Period, Declarant has the unilateral right to approve or disapprove uses of any website purporting to serve the Association, all information available on or through the Association website, if any, and all uses of the property name by the Association.

A.3.7. Statutory Development Rights. As permitted by the Act, Declarant reserves the following Development Rights which may be exercised during the Development Period: (i) to add real property to the Regime; (ii) to create Units, General Common Elements, and Limited Common Elements within the Regime; (iii) to subdivide Units or convert Units into Common Elements; and (iv) to withdraw from the Regime any portion of the real property marked on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights," provided that no Unit in the portion to be withdrawn has been conveyed to an Owner other than Declarant.

A.3.8. Development Rights Reserved. Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights," if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

A.3.9. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other Owners or any mortgagee, for the following limited purposes:

- (i) To meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.

- (ii) To correct any defects in the execution of this Declaration or the other Documents.
- (iii) To add real property to the Regime, in the exercise of statutory Development Rights.
- (iv) To create Units, General Common Elements, and Limited Common Elements within the Regime, in the exercise of statutory Development Rights.
- (v) To subdivide, combine, or reconfigure Units or convert Units into Common Elements, in the exercise of statutory Development Rights.
- (vi) To withdraw from the Regime any portion of the real property marked on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights" in the exercise of statutory Development Rights.
- (vii) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- (viii) To change the name or entity of Declarant.
- (ix) For any other purpose, provided the amendment has no material adverse effect on any right of any owner.

A.4. Special Declarant Rights. As permitted by the Act, Declarant reserves the following described Special Declarant Rights, to the maximum extent permitted by Applicable Law, which may be exercised, where applicable, anywhere within the Property during the Development Period:

- A.4.1. The right to complete or make Improvements indicated on the Plat and Plans.
- A.4.2. The right to exercise any Development Right permitted by the Act and this Declaration.
- A.4.3. The right to make the Property part of a larger condominium or planned community.
- A.4.4. The right to use Units owned or leased by Declarant or Common Elements as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property.

- A.4.5. For purposes of promoting, identifying, and marketing the Property, Declarant reserves an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and Occupants. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events – such as open houses, MLS tours, and broker parties – at the Property to promote the sale of Units.
- A.4.6. Declarant has an easement and right of ingress and egress in and through the Common Elements and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant’s obligations under the Act and this Declaration.
- A.4.7. The right to appoint or remove any Declarant-appointed officer or director of the Association during Declarant Control Period consistent with the Act.

A.5. Additional Easements and Rights. Declarant reserves the following easements and rights, exercisable at Declarant’s sole discretion, for the duration of the Development Period:

- A.5.1. An easement and right to erect, construct, and maintain on and in the Common Elements and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property.
- A.5.2. The right to sell or lease any Unit owned by Declarant. Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained in the Documents.
- A.5.3. The right of entry and access to all Units to perform warranty-related work, if any, for the benefit of the Unit being entered, adjoining Units, or Common Elements. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.
- A.5.4. An easement and right to make structural changes and alterations on

APPENDIX “A” – DECLARANT RESERVATIONS
DECLARATION OF CONDOMINIUM REGIME
LUMA CONDOMINIUMS

offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered Common Elements and Units to conform to the architectural standards of the Property. The restoration will be done no later than one hundred and twenty (120) days after termination of the Development Period.

A.5.5. An easement over the entire Property, including the Units, to inspect the Common Elements and all Improvements thereon and related thereto to evaluate the maintenance and condition of the Common Elements.

A.5.6. The right to provide a reasonable means of access and parking for prospective Unit purchasers in connection with the active marketing of Units by Declarant.

A.6. **Common Elements.** Because the Common Elements are owned by the Owners, collectively and in undivided interest, the Common Elements are not capable of being separately conveyed. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of the ownership of the Common Elements. Because ownership of the Common Elements is not conveyed by Declarant to the Association, there is no basis for the popular misconception that Owners may "accept" or "refuse" the Common Elements.

File Information

**eFILED IN THE OFFICIAL PUBLIC eRECORDS OF BEXAR COUNTY
LUCY ADAME-CLARK, BEXAR COUNTY CLERK**

Document Number: 20190064546
Recorded Date: April 10, 2019
Recorded Time: 12:51 PM
Total Pages: 118
Total Fees: \$490.00

**** THIS PAGE IS PART OF THE DOCUMENT ****

**** Do Not Remove ****

Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was eFILED in File Number Sequence on this date and at the time stamped hereon by me and was duly eRECORDED in the Official Public Record of Bexar County, Texas on: 4/10/2019 12:51 PM



Lucy Adame-Clark
Lucy Adame-Clark
Bexar County Clerk