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**DECLARATION OF  
VERANDA, A CONDOMINIUM COMMUNITY**

**Dallas, Dallas County, Texas**

**Declarant**

**VERANDA DALLAS CONDOMINIUMS, LLC**

**DECLARATION OF  
VERANDA, A CONDOMINIUM COMMUNITY**

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## DECLARATION

OF

### VERANDA, A CONDOMINIUM COMMUNITY

VERANDA DALLAS CONDOMINIUMS, LLC, a Texas limited liability company ("**Declarant**"), owns the real property described in Appendix A of this Declaration. By recording this Declaration, Declarant submits the property described in Appendix A to the provisions of the Uniform Condominium Act, Chapter 82 of the Texas Property Code, for the purpose of creating Veranda, A Condominium Community.

Declarant **DECLARES** that the property described in Appendix A will be held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's representations and reservations in the attached Appendix F, which run with the real property and bind all parties 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.

#### ARTICLE 1

#### DEFINITIONS

DEFINITIONS. Unless defined otherwise in this Declaration, words and phrases 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 Uniform Condominium Act, as it may be amended from time to time.

1.2 "**Areas of Common Responsibility**" means those portions of Units that are designated, from time to time, by the Association to be maintained, repaired, and replaced by the Association, as a common expense, as if the portions were Common Elements.

1.3 "**Assessment**" means any charge levied against a Unit or Owner by the Association, pursuant to the Documents and the Act, including but not limited to Annual Assessments, Special Assessments, Individual Assessments, and Deficiency Assessments, as defined in Article 5 of this Declaration.

1.4 "**Association**" shall mean and refer to Veranda Owners Association, Inc.

1.5 "**Board**" means and refers to the Board of Directors of Veranda Owners Association, Inc.

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

1.7. **“Common Elements”** means and includes all the property described on Appendix A, and all improvements located thereon, except the Units as described in Article 3.

1.8. **“Condominium Information Statement”** means the document prepared pursuant to Sections 82.152 and 82.153 of the Act.

1.9. **“Declarant”** means Veranda Dallas Condominiums, LLC, a Texas limited liability company, or its successor, which is developing the Property.

1.10. **“Declarant Control Period”** means that period of time, beginning the date this Declaration is recorded, during which Declarant controls the operation and management of the Association, pursuant to Appendix F of this Declaration.

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

1.12. **“Development Rights”** means the rights reserved by Declarant under Appendix F of this Declaration to create Units, General Common Elements, and Limited Common Elements within the Property.

1.13. **“Director”** means a member of the Association’s Board of Directors.

1.14. **“Documents”** means, singly or collectively as the case may be, this Declaration, the Plat and Plans recorded pursuant to the Act, the Bylaws, the Association’s Articles of Incorporation, and the Rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is part of that Document.

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

1.16. **“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.

1.17. **“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.

1.18. **“Occupant”** means a business-related occupant of a Unit, regardless of whether the person owns the Unit or not.

1.19. **“Officer”** means an Officer of the Association.

1.20. **“Owner”** means a holder of recorded fee simple title to a Unit. Declarant is the initial Owner of all Units. Contract sellers and 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.

1.21. **“Property”** means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land.

1.22. **“Rules”** means rules and regulations adopted by the Board in accordance with the Documents or the Act.

1.23. **“Underwriting Lender”** generally means Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an Owner’s financing options or as a representation that the Property is approved by any institution.

1.24. **“Unit”** means the elements of an individual Condominium Unit which are not owned in common with the Owners of the other Condominium Units in the Project as shown on the Plans and Plat attached hereto as Appendix B. The boundaries of each such Unit shall be and are the exterior surface of the front and rear perimeter walls of the Unit. Where Units abut the boundaries shall be and are the points between the two walls of the respective Units.. In interpreting deeds, mortgages, deeds of trust, and other instruments, the existing physical boundaries of the Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries, regardless of settling, rising, or lateral movement of the building and regardless of variances between boundaries shown on the Plat and those of the building. The individual ownership of each Unit space herein defined shall further include the interior construction, partitions, appliances, fixtures, and improvements which are intended to exclusively serve such Unit space, such as interior room walls, floor coverings or finish, closets, cabinets, shelving, individual bathroom and kitchen fixtures, plumbing and appliances, individual lighting and electrical fixtures and other separate items or chattels belonging exclusively to such Unit, any of which may be removed, replaced, disposed of, or otherwise treated without affecting the use or enjoyment of any other Unit space or ownership. None of the land in this Project on which any Unit space or porch space is located shall be separately owned, as all land in this Project shall constitute part of the “Common Elements” of the Property as herein defined.

## ARTICLE 2

### NAMES, LOCATION, AND DESCRIPTION

2.1. PROPERTY NAME. The name of the Property is Veranda, A Condominium Community.

2.2. ASSOCIATION NAME & TYPE. The name of the Association is Veranda Owners Association, Inc. The Association is or will be chartered as a Texas nonprofit corporation.

2.3. PROPERTY LOCATION. The Property is located entirely in the City of Dallas, Dallas County, Texas.

2.4. PROPERTY DESCRIPTION. The Property is located on land described in Appendix A to this Declaration, and includes every Unit and all Common Elements thereon.

2.5. SUBJECT TO DOCUMENTS. The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration and of the other Documents, which run with the Property, bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner.

2.6. 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 Owners representing at least two-thirds (2/3rds) of the total allocated votes. Upon 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 upon 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.

### ARTICLE 3

#### UNITS AND LIMITED COMMON ELEMENTS

3.1. UNIT BOUNDARIES. The boundaries and the identifying number of each Unit are shown on the Plat and Plans attached as Appendix B. The boundaries are further described as follows:

3.1.1. Lower Horizontal Boundary: The lower surface of the concrete slab and piers foundation is the Unit's lower horizontal boundary.

3.1.2. Upper Horizontal Boundary: The outside of the roof and roof deck surface is the upper horizontal boundary.

3.1.3. Vertical Perimeter Boundaries - Exterior Walls: On exterior boundary walls, the Unit's vertical boundaries are outside of the exterior surface, and at the center of the two wall construction where the Units abut.

3.1.4. What the Unit Includes: Each Unit includes the spaces and improvements within the above-described vertical and horizontal boundaries, including any attached garage. In other words, the Unit includes the portion of the building in which the residence and garage are located. Each Unit also includes the following improvements and equipment serving the Unit exclusively, whether located inside or outside the Unit,

whether or not attached to or contiguous with the Unit: space heaters or furnace, water heaters, air conditioners, utility meters, fuse boxes, electrical switches, wiring, pipes, ducts, conduits, smoke detectors, security systems, television antenna, lighting fixtures, telephone and electrical receptacles, and skylights.

3.1.5. Exclusions : 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 Common Elements or both.

3.1.6. Inconsistency with Plans: If this definition is inconsistent with the Plats and Plans, then this definition will control.

3.1.7. Representations of Size. 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 a limited number of representational floor plans, each of which is marked with a rounded and estimated size of air-conditioned space, taken from pre-construction architectural drawings. Those marketing sizes bear no relation to the size of the space contained within the Unit's vertical and horizontal boundaries.

3.2. INITIAL DESIGNATIONS OF LIMITED COMMON ELEMENTS. The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

3.2.1. Shown on Plats and Plans. Portions of the Common Elements may be allocated as Limited Common Elements on the Plats and Plans, attached hereto as Appendix B, 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.

3.2.2. Appurtenant Areas. Only to the extent they are not part of the Unit, the front porches, which are obviously intended for the sole and exclusive use of the Unit to which the area is appurtenant are deemed Limited Common Elements, whether or not the area is so designated on Plats and Plans.

3.2.3. Parking Spaces. Each Unit has an attached two (2) car garage for parking vehicles, as shown on Appendix B and as designated on Appendix E.

3.3. SUBSEQUENT ALLOCATION OF LIMITED COMMON ELEMENTS. A Common Element not allocated by this Declaration as a Limited Common Element may be so allocated only pursuant to the provisions of this Article. Declarant reserves the right, under Section F.3.b. of Appendix F of this Declaration, to create Limited Common Elements within the Property.

3.4. REALLOCATION OF LIMITED COMMON ELEMENTS. A Limited Common Element may not be reallocated, except by amendment. An amendment of reallocation requires the approval of all Owners and Mortgagees of Units whose interests are to be allocated or reallocated. The parties executing the amendment will provide an executed copy of the amendment to the Association, which will record it, provided that the amendment complies with the provisions of this Declaration and the Act. The amendment must contain words of conveyance and must be recorded and indexed in the names of the parties and the Property. The amendment will specify to which Unit or Units the Limited Common Element is allocated. The parties executing the amendment are responsible for the preparation of the amendment and will reimburse the Association for its reasonable attorneys' fees in connection with review and recording of the amendment.

#### ARTICLE 4

##### ALLOCATED INTERESTS

4.1. ALLOCATION OF INTERESTS. The table showing the identifying number and allocated interests of each Unit is attached as Appendix D. The interests have been allocated in accordance with the formulas set out in this Article. The same formulas are to be used in reallocating interests if Units are added to the Property. The date on which the amendment creating additional Units is recorded in the county's real property records is the effective date for assigning allocated interests to those Units. The interests allocated to each Unit are calculated by the following formulas.

4.2. COMMON ELEMENT INTERESTS. The share of undivided interest in the Common Elements allocated to each Unit is uniform for all Units. Each Unit's fractional share is weighted, calculated by dividing the total square footage of each Unit by the total square footage of all the Units combined.

4.3. COMMON EXPENSE LIABILITIES. The share of liability for common expenses allocated to each Unit is uniform for all Units. Each Unit's fractional share is based on its undivided interest in the Common Elements or calculated by dividing its total square footage by the total square footage of all Units in the Property.

4.4. WEIGHTED VOTES. The total number of votes equals the total number of Units in the Property. The one (1) vote appurtenant to each Unit is uniform and is based on the percentage interest in the Common Elements appurtenant to each Unit.

#### ARTICLE 5

##### COVENANT FOR ASSESSMENTS

5.1. PURPOSE OF ASSESSMENTS. The Association will use Assessments for the general purposes of preserving and enhancing the Property, and promoting the recreation, common benefit, and enjoyment of Owners and Occupants, including but not limited to

maintenance of real and personal property, 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.

5.2. PERSONAL OBLIGATION. An Owner is obligated to pay Assessments levied by the Board against the Owner or his 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 this Declaration pertains. 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 is not subject to offset by the Owner. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Unit.

5.3. TYPES OF ASSESSMENTS. There are four (4) types of Assessments: Regular, Special, Individual, and Deficiency.

5.4. REGULAR ASSESSMENTS.

5.4.1. Purpose of Regular Assessments. Regular Assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair, and replacement, as necessary, of the Common Elements, and improvements, equipment, signage, and property owned by the Association.
- b. Maintenance, repair, and replacement, as necessary, of the Area of Common Responsibility.
- c. Utilities billed to the Association.
- d. Services billed to the Association and serving all Units, such as trash removal and pest control.
- e. Street lighting.
- f. Management, legal, accounting, auditing, and professional fees for services to the Association.
- g. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- h. Insurance premiums and deductibles.
- i. Contributions to the reserve funds.

j. Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the Board is necessary or proper for maintenance of the Property, operation of the Association, or enforcement of the Documents.

5.4.2. Annual Budget. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and common expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or its summary available to an Owner of each Unit, although failure to receive a budget or summary does not affect an Owner's liability for Assessments. The Board will provide copies of the detailed budget to Owners who make written request and pay a reasonable copy charge.

5.4.3. 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 its allocated share of the annual budget. 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.

5.4.4. Supplemental Increases. If during the course of a year the Board determines that Regular Assessments are insufficient to cover the estimated common expenses 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.

5.5. COMMON ELECTRICAL USAGE ASSESSMENTS. Those Units that have common electrical equipment owned by the Association with electricity supplied through the respective Units' electric meter will initially receive a \$5 per month reduction in its Monthly Assessment. This rate may be adjusted upward should such Units' share of the electricity be higher than \$5 per month.

5.6. SPECIAL ASSESSMENTS. In addition to Regular 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. For any of the following purposes, a Special Assessment must be approved by at least a majority of the votes in the Association:

- a. Acquisition of real property.
- b. Construction of additional improvements to the Property -- not repair or replacement of existing improvements.
- c. Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

5.7. INDIVIDUAL ASSESSMENTS. In addition to Regular and Special Assessments, the Board may levy an Individual Assessment against a Unit and its Owner. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or his Unit into compliance with the Documents; fines for violations of the Documents; insurance deductibles; submetered utilities serving the Unit; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the Units, which may be assessed according to benefit received; and "pass through" expenses for services to Units provided through the Association and which are equitably paid by each Unit according to benefit received.

5.8. INSURANCE ASSESSMENTS. Each Unit Owner will be assessed for his respective pro-rata share of the insurance costs once per year. Unit Owners will be notified of the respective amount of such assessment each Unit Owner will be assessed thirty (30) days prior to the due date.

5.9. DEFICIENCY ASSESSMENTS. The Board may levy a Deficiency Assessment against all Units for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

5.10. CONTROL FOR ASSESSMENT INCREASES. At least thirty (30) days prior to the effective date of a Special Assessment or increase in Regular Assessments, the Board will notify an Owner of each Unit of the amount of, the budgetary basis for, and the effective date of the Special or increased Regular Assessment. The Special Assessment or increase will automatically become effective unless Owners representing at least a majority of the votes in the Association disapprove the Special Assessment or increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

5.11. RESERVE FUNDS. The Association will establish, maintain, and accumulate reserves for operations and for replacement and repair. The Association will budget for reserves and use its best efforts to fund reserves out of Regular Assessments.

5.11.1. Operations Reserves. The Association will maintain operations reserves at a level sufficient to cover the cost of operational or maintenance emergencies or contingencies, including the full amount of deductibles on insurance policies maintained by the Association.

5.11.2. Replacement and Repair Reserves. The Association will maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the Common Elements and Area of Common Responsibility.

5.12. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of Owners representing at least a majority of the votes in the Association and 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, pledge, or deed in trust 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.

## ARTICLE 6

### ASSESSMENT LIEN

6.1. 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 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 his title may be subject to the continuing lien for Assessments attributable to a period prior to the date he purchased his Unit.

6.2. SUPERIORITY OF ASSESSMENT LIEN. The Assessment lien is superior to all other liens and encumbrances on a Unit, except only for (a) real property taxes and assessments levied by governmental and taxing authorities and (b) a 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 a lien for construction of improvements to the Unit or an assignment of the right to insurance proceeds on the Unit, regardless of when recorded or perfected.

6.3. EFFECT OF MORTGAGEE'S FORECLOSURE. A Mortgagee's foreclosure of its deed of trust 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. At the Mortgagee's foreclosure sale the purchaser is liable for assessments coming due from and after the date of the sale and for the Owner's pro rata share of the pre-foreclosure deficiency as a common expense.

6.4. NOTICE AND RELEASE OF NOTICE. To evidence the Assessment lien, the Board may, but is not required to, cause a written notice of the lien to be recorded in the county's real property records. After the debt for which the notice was recorded has been cured, the Association may record a release of the notice. The Association may require reimbursement of its costs of preparing and recording the notices before granting the release.

6.5. POWER OF SALE. By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of non-judicial sale in connection with the Association's Assessment lien. The Board may appoint, from time to time, an Officer, agent, trustee, substitute trustee, or attorney to exercise the power of sale on behalf of the Association. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a Board meeting.

6.6. 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 law. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.

## ARTICLE 7

### EFFECT OF NONPAYMENT OF ASSESSMENTS

An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Board is responsible for taking action to collect delinquent Assessments. Neither the Board nor the Association, 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 that the Association has.

7.1. 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%) or the maximum permitted by law. If the Board fails to establish a rate, the rate is ten percent (10%) per annum. Interest is an Individual Assessment.

7.2. LATE FEES. Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time. Late fees are an Individual Assessment.

7.3. 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 attorney's fees and processing fees charged by the manager. Collection costs are an Individual Assessment.

7.4. ACCELERATION. If an Owner defaults in paying an Assessment that is payable in installments, the Board 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.

7.5. SUSPENSION OF USE AND VOTE. If an Owner's account has been delinquent for at least thirty (30) days, the Board may suspend the right of Owners and Occupants to use Common Elements and common services during the period of delinquency. Services include master-metered or sub-metered utilities serving the Unit. The Board may not suspend an Owner or Occupant's right of access to the Unit. The Board may lock the sub-meter of a delinquent Owner at the particular Unit's supply point. The board may suspend the right to vote appurtenant to the Unit. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay assessments.

7.6. 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.

7.7. NOTICE TO MORTGAGEE. The Board may notify and communicate with any holder of a lien against a Unit regarding the Owner's default in payment of Assessments.

7.8. APPLICATION OF PAYMENTS. The Board may refuse to accept partial payment, i.e., less than the full amount due and payable. The Board may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Unit account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer.

## ARTICLE 8

### MAINTENANCE AND REPAIR OBLIGATIONS

8.1. ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are Units or Common Elements.

- a. All General Common Elements, including, but not limited to, sidewalks, driveways to garages, landscaping, United States Postal mail boxes, and any unassigned parking spaces.
- b. All Limited Common Elements, including front porches.
- c. The Areas of Common Responsibility.

8.2. AREAS OF COMMON RESPONSIBILITY. The Association has the right, but not the duty, to designate Areas of Common Responsibility to be maintained, repaired, and replaced by the Association as a common expense. Additions, deletions, or changes in designation must be approved by Owners representing at least a majority of the votes in the Association; published and distributed to an Owner of each Unit; and reflected in the Association's annual budget and reserve funds. Any designation applies to every Unit having the designated feature. Unless Owners representing a majority of the votes in the Association decide otherwise, the cost of maintaining the Areas of Common Responsibility will be added to the annual budget and assessed against all Units as a Regular Assessment. The Association will maintain at all times a dated list of the Areas of Common Responsibility for distribution to Owners and prospective purchasers. The Initial Designation of the Areas of Common Responsibility is attached hereto as Appendix H.

BEFORE ACQUIRING AN OWNERSHIP INTEREST IN A UNIT, EACH PROSPECTIVE PURCHASER IS STRONGLY ENCOURAGED to contact the Association to obtain and review the most recent designation of Areas of Common Responsibility, which is subject to change from time to time.

8.3. OWNER RESPONSIBILITY. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:

8.3.1. To maintain, repair, and replace his Unit, including roof deck, roof, exterior, and foundation.

8.3.2. To keep the Limited Common Elements appurtenant to his Unit in a neat, clean, odorless, orderly, and attractive condition.

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

8.3.4. 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 hereditament thereto.

8.3.5. To be responsible for his own willful or negligent acts and those of his or the Occupant's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the Common Elements, the Area of Common Responsibility, or the property of another Owner.

8.4. OWNER'S DEFAULT IN MAINTENANCE. If the Board determines that an Owner has failed to properly discharge his 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 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 Owner's expense, which is an Individual Assessment against the Owner and his 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 the action being the Owner's expense.

## ARTICLE 9

### PROPERTY EASEMENTS AND RIGHTS

9.1. GENERAL. In addition to other easements and rights established by the Documents, the Property is subject to the easements and rights contained in this Article.

9.2. RECORDED EASEMENTS AND LICENSES. The attached Appendix C contains a description of and the recording data for recorded easements and licenses appurtenant to or included in the Property or to which any portion of the Property is or may become subject by reservation in this Declaration.

9.3. OWNER'S EASEMENT OF ENJOYMENT. Every Owner is granted a right and easement of enjoyment over the General Common Elements and to use of improvements therein,

subject to other rights and easements contained in the Documents. An Owner may delegate this right of enjoyment to the Occupants of his Unit.

9.4. OWNER'S MAINTENANCE EASEMENT. Every Owner is granted an easement over adjoining Units and Common Elements for the maintenance or reconstruction of his Unit, subject to the consent of the Owner of the adjoining Unit, or the Association in the case of Common Elements, and provided the easement does not damage or materially interfere with the use of the adjoining Unit or Common Element. Requests for entry to an adjoining Unit or Common Element will be made in advance for a time reasonably convenient for the adjoining Owner, who may not unreasonably withhold consent. If an Owner damages an adjoining Unit or Common Element in exercising this easement, the Owner is obligated to restore the damaged property to its original condition, at his expense, within a reasonable period of time.

9.5. OWNER'S INGRESS/EGRESS EASEMENT. Every Owner is granted a perpetual easement over the Property, as may be reasonably required, for unrestricted ingress to and egress from his Unit or the appurtenant Limited Common Elements.

9.6. OWNER'S ENCROACHMENT EASEMENT. Every Owner is granted an easement for the existence and continuance of any encroachment by his 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.

9.7. ASSOCIATION'S ACCESS EASEMENT. The Association is granted an easement of access and entry into every Unit and Common Element to perform maintenance, to enforce architectural and use restrictions, to respond to emergencies, and to perform any other duties required by the Documents.

9.8. UTILITY EASEMENT. The Association may grant permits, licenses, and easements over the Common Elements for utilities, roads, and other purposes necessary for the proper operation of the Property. 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. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

READERS, PLEASE PAY PARTICULAR HEED TO THE NEXT PROVISION TITLED "SECURITY".
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9.9. 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, for himself and his guests, that Declarant, the Association, and its Directors, Officers, committees, agents, and

employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Occupant acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each Owner and Occupant further acknowledges that Declarant, the Association, and its 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, burglar, 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 its Directors, Officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken, specifically exterior lighting.

## ARTICLE 10

### ARCHITECTURAL COVENANTS AND CONTROL

10.1. PURPOSE. Because the Units are part of a single, unified community, the Association has the right and responsibility to regulate the exterior design, use, and appearance of the Units and Common Elements in order to preserve and enhance the Property's value and architectural harmony.

10.2. PROHIBITION OF ALTERATION AND IMPROVEMENT. A person may not make any addition, alteration, or improvement to the Property, or do anything that affects the appearance, use, or structural integrity of the Property, without the prior written consent of the Board. Prohibited acts include, but are not limited to the following:

- a. installation of an exterior antenna, microwave or satellite dish, except as permitted by law, receiving or transmitting tower, ornamental iron or burglar bars, storm window or door, exterior lighting, storage shed, basketball goal, free standing mailbox, trash can enclosure, roof deck cover or enclosure, chimney, skylight, or exterior holiday decorations. Owner may not add anything permanent that extends above the top of the parapet walls, not originally constructed, except typical furniture and fixtures. Umbrellas must be folded when not in use. Satellite dishes must be placed no higher than top of the penthouse roof and with due regard for the view of downtown skyline by others.
- b. installation of equipment that may create a noise annoyance, such as noise-producing security devices and exterior pumps.
- c. installation of walls, screens, fences, gates, or carports.
- d. enclosure of garage.
- e. installation of impermeable decking or other improvement that may interfere with established drainage patterns.

f. adding anything permanent that extends above the top of the parapet walls, not originally constructed, except typical furniture and fixtures. Umbrellas must be folded when not in use. Satellite dishes must be placed no higher than the top of the penthouse roof and must not interfere with the view of downtown skyline from other Units.

10.3. BOARD APPROVAL. An Owner may not start or maintain construction, alteration, addition, installation, modification, redecoration, or reconstruction of any component of the Property without the Board's prior approval. To request Board approval, an Owner must make written application, including plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The Board will retain the application, including plans and specifications, for the Association's files.

10.4. DEEMED APPROVAL. If an Owner has not received the Board's written approval or denial within ninety-one (91) days after delivering his application to the Board, the Owner may presume that his request has been approved by the Board. The Owner may then proceed with the improvement, provided he adheres to the plans and specifications, which accompanied his application, and provided he initiates and completes the improvement in a timely manner.

10.5. PRIOR APPROVAL. Notwithstanding the foregoing, no permission or approval is required for work that strictly complies with guidelines, plans, specifications, or policies previously developed and approved for all Units by the Board and still in effect at the time work is initiated. Written approval for specified improvements or alterations on certain Units or Limited Common Elements does not constitute approval for all Units and Limited Common Elements.

10.6. NO APPROVAL REQUIRED. No approval is required to repaint exteriors in accordance with a Board-approved color scheme, or to rebuild a Unit in accordance with originally approved plans and specifications. Nor is approval required for an Owner to remodel or repaint the interior of a Unit, provided the work does not impair the structural soundness of the building.

## ARTICLE 11

### LIMITATIONS ON LEASING

11.1. SUBJECT TO DOCUMENTATION. All leasehold tenants are subject to the Declaration.

11.2. CONDITIONS OF LEASE. In addition to the prior Section's limitation on leasing, (a) no Unit may be rented for transient or hotel purposes or for a period less than seven (7) days; (b) no unit may be subdivided for rent purposes, and not less than an entire unit may be leased; (c) all leases must be in writing and must be made subject to the Documents; (d) an Owner is responsible for providing his tenant with copies of the Documents and notifying him of changes thereto; and (e) each tenant is subject to and must comply with all provisions of the Documents, federal and State laws, and local ordinances.

11.3. EVICITION OF TENANTS. Every lease agreement on a Unit, whether written or oral, express or implied, is subject to and is deemed to include the following provisions:

11.3.1. Violation Constitutes Default. Failure by the tenant or his invitees to comply with the Documents, federal or State law, or local ordinance is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's 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 State law for the default, including eviction of the tenant, subject to the terms of this Section.

11.3.2. 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 his attorney in fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the Documents against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf, provided the Association gives the Owner at least ten (10) days' notice, by certified mail, of its intent to so enforce the Documents.

11.3.3. 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 his 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.

11.4. MORTGAGEES & DECLARANT EXEMPT. A Mortgagee acquiring possession of or title to a Unit by exercise of its rights under a deed of trust is exempt from the effect of this Article. This exemption does not pass to the Mortgagee's successors and assigns. During the Development Period, Declarant is exempt from the effect of this Article.

## ARTICLE 12

### USE RESTRICTIONS

12.1. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its 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.

12.2. 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:

- a. The types, sizes, numbers, conditions, uses, and locations of motorized and recreational vehicles on the Property.
- b. The use of a private street and driveways within the Property, including speed limits and parking restrictions.
- c. The disposal of trash, including types and locations of containers.
- d. Hazardous, illegal or annoying materials or activities in and upon the Property.
- e. The use and maintenance of a private security system for the Property.
- f. The occupancy and leasing of Units.
- g. The wasteful consumption of utilities billed to the Association.
- h. The use, maintenance, and appearance of windows, garages, porches, roof decks, and private entrances visible from the street or other Units.
- i. The types, sizes, numbers, locations, and behavior of animals at the Property.
- j. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Occupants.

12.3. 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 a resident from using the Unit for personal business or professional pursuits provided that: (a) the uses are incidental to the use of the Unit as a dwelling, (b) the uses conform to all applicable governmental ordinances, (c) there is no external evidence of the uses, and (d) the uses do not entail visits to the Unit by employees or the public.

12.4. OCCUPANCY OF UNITS. The Board may adopt rules regarding the occupancy of Units for business office and professional purposes. If the Rules fail to establish occupancy standards, no more than five (5) persons may occupy a Unit on a regular basis. A person may not occupy a Unit if the person constitutes a direct threat to the health or safety of other persons, or if the person's occupancy would result in substantial physical damage to the property of others.

12.5. ANNOYANCE. No Unit or Limited Common Element may be used in any way that: (a) may reasonably be considered annoying to neighbors; (b) may be calculated to reduce the desirability of the Property as a professional business establishment; (c) may endanger the health or safety of Owners or Occupants; (d) may result in the cancellation of insurance on the

buildings, or (e) will violate any law. The Board has the sole authority to determine what constitutes an annoyance.

12.6. ANIMAL RESTRICTIONS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose. Household pets may be kept subject to the Rules. A household pet means a house dog, a house cat, a small caged bird, or aquarium fish. If the Rules fail to establish animal occupancy quotas, no more than two (2) dogs or cats, or one (1) dog and one (1) cat, may be maintained in each Unit. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board.

12.7. APPEARANCE RESTRICTIONS. Both the exterior and interior of the Units, must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Units. The Board will be the arbitrator of acceptable appearance standards.

12.8. WINDOW RESTRICTIONS. All window treatments within the Unit, that are visible from the street or another Unit, must be white in color or stained wood unless authorized in writing by the Board.

12.9. SIGN RESTRICTIONS. For sale or for lease signs may be placed in front of each Unit facing a city street. An additional sign may be placed at the end of a building with a rider saying "interior unit".

12.10. GARAGE RESTRICTIONS. The original garage area of a Unit may not be enclosed or used for any purpose that would prohibit the parking of operable vehicles therein, without the Board's written authorization. Any automatic garage door opener is to be maintained by its Owner. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving or an Owner is inside the garage.

12.11. VEHICLE RESTRICTIONS. All vehicles on the Property, whether owned or operated by the Occupants or their families and guests, are subject to the following restrictions:

12.11.1. Types. No large commercial-type vehicle, mobile home, motor home, camper, bus, trailer, boat, aircraft, inoperable vehicle, or any other similar vehicle or any vehicular equipment, mobile or otherwise, which the Board deems to be a nuisance, unsightly, or inappropriate may be kept, parked, or stored anywhere on the Property unless used for daily transportation and, in that event, subject to Board approval.

12.11.2. Repairs. Repairs or restorations of vehicles are prohibited on driveways or the private street; however, car washing is approved in the area behind the garage door subject to the provisions of Paragraph 12.11.3 below.

12.11.3. Obstruction. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the private street.

12.11.4. Removal. The Association may effect the removal of any vehicle in violation of this Section or Rules regulating vehicles.

12.12. LANDSCAPING RESTRICTIONS. No person may perform landscaping, planting, or gardening anywhere upon the Property, except within fenced or enclosed limited common areas, without the Board's prior written authorization.

12.13. DRAINAGE RESTRICTIONS. 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.

12.14. STRUCTURAL INTEGRITY. No person may directly or indirectly impair the structural soundness or integrity of a building or another Unit, nor do any work that will impair an easement or hereditament.

12.15. SPECIFIC USES. Except for ingress and egress, the front yards, sidewalks, and driveways on the Property may not be used for any purpose that has not been authorized in writing by the Board.

## ARTICLE 13

### MORTGAGEE PROTECTION

13.1. INTRODUCTION. This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. Some sections of this Article apply to "Mortgagees," as defined in Article I. Other sections apply to "Eligible Mortgagees," as defined below.

13.2. 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.

13.3. KNOWN MORTGAGEES. An Owner who mortgages his Unit will notify the Association, giving the complete name and address of his Mortgagee and the loan number. The Association's obligations to Mortgagees under the Documents extend only to those Mortgagees known to the Association. All actions and approvals required by Mortgagees will be conclusively satisfied by the Mortgagees known to the Association, without regard to other holders of mortgages on Units. The Association may rely on the information provided by Owners and Mortgagees.

13.4. ELIGIBLE MORTGAGEES. "Eligible Mortgagee" means the holder, insurer, or guarantor of a first purchase money mortgage secured by a recorded deed of trust lien against a Unit who has submitted to the Association a written notice containing its name and address, the loan number, and the identifying number and street address of the mortgaged Unit. A single notice per Unit will be valid so long as the Eligible Mortgagee holds a mortgage on the Unit. The Board will maintain this information. The Association will treat the notice as the Eligible Mortgagee's request to be notified of any proposed action requiring the consent of Eligible

Mortgagees. A provision of the Documents requiring the approval of a specified percentage of Eligible Mortgagees will be based on the number of Units subject to mortgages held by Eligible Mortgagees. For example, "fifty-one percent (51%) of Eligible Mortgagees" means Eligible Mortgagees of fifty-one percent (51%) of the Units that are subject to mortgages held by Eligible Mortgagees.

13.5. NOTICE OF ACTIONS. The Association will use its best efforts to send timely written notice to Eligible Mortgagees of the following actions:

- a. Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Unit.
- b. Any sixty (60)-day delinquency in the payment of assessments or charges owed by the Owner of the mortgaged Unit.
- c. A lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- d. Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.
- e. Any proposed amendment of a material nature, as provided in this Article.
- f. Any proposed termination of the condominium status of the Property.

13.6. LAWSUITS. Special assessments for the cost of a lawsuit or other legal action by the Association may not be levied, except with the approval of sixty-seven percent (67%) of the weighted votes in the Association and by at least sixty-seven percent (67%) of Eligible Mortgagees.

13.7. AMENDMENTS OF A MATERIAL NATURE. A Document amendment of a material nature must be approved by Owners representing at least sixty-seven percent (67%) of the weighted votes in the Association, and by at least fifty-one percent (51%) of Eligible Mortgagees. This approval requirement does not apply to amendments effected by the exercise of a Development Right. A change to any of the provisions governing the following would be considered material:

- a. Voting rights.
- b. Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens.
- c. Reductions in reserves for maintenance, repair, and replacement of Common Elements.

- d. Responsibility for maintenance and repairs.
- e. Reallocation of interests in the General or Limited Common Elements, or rights to their use; except that when Limited Common Elements are reallocated by agreement between Owners, only those Owners and only the Eligible Mortgagees holding mortgages against those Units need approve the action.
- f. Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, or a Unit is being subdivided, then only those Owners and the Eligible Mortgagees holding mortgages against the Unit or Units need approve the action.
- g. Convertibility of Units into Common Elements or Common Elements into Units.
- h. Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property.
- i. Hazard or fidelity insurance requirements.
- j. Imposition of any restrictions on the leasing of Units.
- k. Imposition of any restrictions on Owners' right to sell or transfer their Units.
- l. If the Property consists of fifty (50) Units or more, a decision by the Association to establish self management when professional management had been required previously by the Documents or an Eligible Mortgagee.
- m. Restoration or repair of the Property, in a manner other than that specified in the Documents, after hazard damage or partial condemnation.
- n. Any provision that expressly benefits mortgage holders, insurers, or guarantors, including this Section 13.7.

13.8. TERMINATION. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by Owners representing at least sixty-seven percent (67%) of the weighted votes in the Association, and by at least fifty-one percent (51%) of Eligible Mortgagees. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least sixty-seven percent (67%) of Eligible Mortgagees.

13.9. IMPLIED APPROVAL. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond with a written response of approval or objection within thirty (30) 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.

13.10. 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.

13.11. FINANCIAL STATEMENTS. If the Property consists of fifty (50) Units or more, and if a Mortgagee submits a written request, the Association will give the Mortgagee an audited statement for the preceding fiscal year within one hundred and twenty (120) days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

13.12. ATTENDANCE AT MEETINGS. A representative of an Eligible Mortgagee may attend and address any meeting, which an Owner may attend.

13.13. 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.

13.14. RIGHT OF FIRST REFUSAL. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

13.15. INSURANCE POLICIES.

13.15.1. Notice of Cancellation. Insurance policies maintained by the Association should require the insurer to notify in writing each Mortgagee named in the mortgage clause at least ten (10) days before the insurer cancels or substantially changes the Association's coverage. Additionally, the Association will use its best efforts to send timely written notice to Eligible Mortgagees of a lapse, cancellation, or material modification of any insurance policy maintained by the Association.

13.15.2. Insurance Carrier. The Association's hazard insurance policy must be written by an insurance carrier that meets or exceeds the requirements, from time to time, of an Underwriting Lender. The initial requirements are those in the most current Fannie Mae's Selling Guide, Section 701.01, Part VI, which are incorporated herein by reference.

13.15.3. Policy Deductible. The deductible on the Association's hazard insurance policy must not exceed the maximum limits permitted by an Underwriting Lender. The initial deductible requirements for hazard insurance policies are those in the most current Fannie Mae's Selling Guide, Section 701.03, Part VI, which requires a maximum deductible in an amount that is the lesser of \$10,000 or one percent (1%) of the policy face amount. Funds to cover the deductible should be included in the Association's operating reserve account.

13.15.4. Full Replacement Cost. The Association's hazard insurance policy should cover one hundred percent (100%) of the insurable replacement cost of the insurable improvements, as required by an Underwriting Lender. The initial amount requirements are those in the most current Fannie Mae's Selling Guide, Section 701.03, Part VI, which permits use of a guaranteed replacement cost endorsement, or a replacement cost endorsement, together with an agreed amount endorsement in case of coinsurance.

13.15.5. Endorsements. The Association will obtain endorsements to its hazard insurance policy as required by an Underwriting Lender. The initial endorsement requirements are those in the most current Fannie Mae's Selling Guide, Section 701.03, Part VI, which requires an inflation guard endorsement, if available; building ordinance or law endorsement; and steam boiler and machinery coverage endorsement, if applicable.

13.15.6. Liability Coverage. The amount of the Association's liability insurance should be at least that required by an Underwriting Lender. The initial endorsement requirements are those in the most current Fannie Mae's Selling Guide, Section 703, Part VI, which requires a minimum of \$1 million for bodily injury and property damage per single occurrence.

## ARTICLE 14

### AMENDMENTS

14.1. CONSENTS REQUIRED. As permitted by the Act or by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by certain Owners alone, or by the Board alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least sixty-seven percent (67%) of the weighted votes in the Association.

14.2. METHOD OF AMENDMENT. This Declaration may be amended by any method selected by the Board from time to time, pursuant to the bylaws, provided the method gives an Owner of each Unit the substance if not exact wording of the proposed amendment, a description in layman's terms of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment. For amendments requiring the consent of Eligible Mortgagees, the Association will send each Eligible Mortgagee a detailed description, if not exact wording, of any proposed amendment.

14.3. EFFECTIVE. To be effective, an amendment must be in the form of a written instrument (i) referencing the name of the Property, 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, Eligible Mortgagees; and (iii) recorded in the real property records of every county in which the Property is located.

14.4. DECLARANT PROVISIONS. No amendment may affect Declarant's rights under this Declaration or the Act without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. Although Declarant certifies that, to Declarant's knowledge, Appendix F contains all the information required by the Act, Declarant nonetheless reserves the right to amend Appendix F, in whole or in part, to correct any technical errors or deficiencies. Because Appendix F of this Declaration is destined to become obsolete, beginning no later than two (2) years after any development right to add new units was last exercised, the Board may restate, rerecord, or publish this Declaration without Appendix F, provided the other appendixes are not relettered. The automatic expiration and subsequent deletion of Appendix F does not constitute an amendment of this Declaration. This section may not be amended without Declarant's written and acknowledged consent.

## ARTICLE 15

### INSURANCE

15.1. GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article, with which the Board will make every reasonable effort to comply, including the following:

15.1.1. Common Expense. The cost of insurance coverages and bonds maintained by the Association is a common expense.

15.1.2. Insurer. 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 hazard insurance policy must be written by a company that complies with the "Insurance Carrier" subsection of the Mortgagee Protection article of this Declaration.

15.1.3. Insured. The Association must be the named insured on all policies obtained by the Association. The loss payee clause should show the Association as trustee for each Owner and Mortgagee.

15.1.4. Subrogation. Policies of casualty and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner.

15.1.5. Association as Trustee. Each Owner irrevocably appoints the Association, acting through its board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

15.1.6. 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. To the extent required by the "Insurance Carrier" paragraph of the Mortgagee Protection article of this Declaration, the Board will give to Eligible Mortgagees, and the insurer will give to Mortgagees, prior notices of cancellation, termination, expiration, or material modification.

15.1.7. Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an Owner or Occupant or their invitees, the Owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission. The Association's hazard insurance policy must be written with deductibles that meet or exceed the requirements of the "Policy Deductible" paragraph of the Mortgagee Protection article of this Declaration.

15.1.8. Mortgage Clause. The Association's policies should contain the standard mortgage clause naming either the Mortgagee or its servicer followed by "its successors and assigns."

15.1.9. Prejudice. The insurance will not be prejudiced by the act or omission of any Owner or Occupant who is not under the Association's control.

15.2. CASUALTY OR HAZARD INSURANCE. The Association will obtain blanket all-risk insurance, if reasonably available, for all improvements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This 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 (a) General Common Elements; (b) Limited Common Elements; and (c) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

15.2.2. Units Insured by Association. In addition to insuring the Common Elements against casualty loss, the Association shall/may maintain casualty insurance on the Units, either as originally constructed or including betterments and improvements installed by Owners. In insuring Units, the Association may be guided by types of policies customarily available for similar types of properties. If substantial portions of Units are designated as Areas of Common Responsibility, then the Association shall maintain casualty insurance on the Units. The Initial Designation attached hereto as Appendix H warrants insurance of Units by the Association.

15.2.3. Endorsements. To the extent reasonably available, the Association will obtain endorsements to its hazard insurance policy as required by the "Endorsements" paragraph of the Mortgagee Protection article of this Declaration.

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 his 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 the "Liability Insurance" paragraph of the Mortgagee Protection article of this Declaration. 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 state law or if the Board so chooses.

15.5. FIDELITY COVERAGE. To the extent reasonably available, the Association will 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 (a) the estimated maximum funds, including reserve funds that will be in the Association's custody at any time the policy is in force; or (b) an amount equal to three (3) months of Regular Assessments on all Units. A management agent that handles Association funds should be covered for its own fidelity insurance policy with the same coverages.

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. MORTGAGEE REQUIRED POLICIES. Unless coverage is not available or has been waived in writing, the Association will maintain any insurance and bond required by an Underwriting Lender for condominium developments as long as an Underwriting Lender is a Mortgagee or an Owner.

15.8. 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.

15.9. OWNER'S RESPONSIBILITY FOR INSURANCE.

15.9.1. Insurance by Owners. Notwithstanding the foregoing, 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.

15.9.2. Owners' Responsibilities. If the Association insures the Unit, the Owner, if requested, will give the Board written notification of structural changes, additions, betterments, or improvements to his Unit, and any other information the Board may require to maintain adequate levels of insurance coverage. Each Owner will comply

with reasonable requests by the Board for periodic inspection of the Unit for purposes of insurance appraisal. If the Association does not insure the Unit, then the Owner must insure the Unit at the Owner's expense. Each Owner, at his expense, will maintain any insurance coverages required of Owners by the Association pursuant to this Article. Each Owner, at his expense, is entitled to obtain additional insurance coverage of his real property, improvements, and betterments thereto, or personal property.

15.9.3. Association Does Not Insure. The Association does not insure an Owner or Occupant's personal property. Each Owner and Occupant is solely responsible for insuring his personal property in his Unit and on the Property, including furnishings, vehicles, and stored items. **The Association strongly recommends that each Owner and Occupant purchase and maintain insurance on his 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) 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.

### 16.3. COSTS AND PLANS.

16.3.1. Cost Estimates. Promptly after the loss, the Board will obtain reliable and detailed 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. Common Elements will be repaired and restored substantially as they existed immediately prior to the damage or destruction. 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 Owners representing at least sixty-seven percent (67%) of the weighted votes in the Association and by certain Mortgagees if so required by the Mortgagee 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 any portion of his Unit not covered by the Association's blanket insurance policy, subject to the right of the Association to supervise, approve, or disapprove repair or restoration work.

16.4.2. Insured Loss. If the loss to a Unit is covered by the Association's insurance policy, the Owner will begin or facilitate repair or restoration of damage when funds are available to the Association, subject to the right of the Association to perform, supervise, approve, or disapprove the repair or restoration work.

16.4.3. 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 the Owner 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 or Units 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 its 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 condominium status of the Property will be governed by Section 82.068 of the Act, subject to the following provisions:

17.2.1. Substantial Taking. In the event of substantially total damage, destruction, or condemnation of the Property, an amendment to terminate must be approved by Owners representing at least sixty-seven percent (67%) of the weighted votes in the Association and by certain Mortgagees pursuant to the Mortgagee Protection article of this Declaration.

17.2.2. Total Taking. In the event of condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners or Mortgagees.

17.2.3. Other Circumstances. In all other circumstances, an amendment to terminate must be approved by Owners representing at least eighty percent (80%) of the weighted votes in the Association and by certain Mortgagees pursuant to the Mortgagee Protection article of this Declaration.

17.3. CONDEMNATION. The Association's response to condemnation through eminent domain 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 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 law, execute 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

### ASSOCIATION OPERATIONS

18.1. INDEMNIFICATION. The Association indemnifies every Officer, Director, the Declarant and Officers and Directors appointed by it, and each 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 an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. 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 will maintain adequate general liability and Directors and Officers liability insurance to fund this obligation, if it is reasonably available.

18.2. ASSOCIATION'S RIGHT TO ENFORCE DOCUMENTS. The remedies provided in this Section for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents:

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

18.2.2. Fine. The Association may levy reasonable charges, as an Individual Assessment, against an Owner and his 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.

18.2.3. Suspension. The Association may suspend the right of Owners and Occupants to use Common Elements (except rights of ingress and egress) for any period during which the Owner or Occupant, or the Owner or Occupant's family, guests, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Documents.

18.2.4. 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 erection, 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 in a Unit without judicial proceedings.

18.2.5. 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.

18.3. NOTICE AND HEARING. Before levying a fine for violation of the Documents, 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 the Act. 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 its 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 written communication. The Board may adopt additional or alternative procedures and requirements for notices and hearing, provided they are consistent with the Act's requirements.

## ARTICLE 19

### GENERAL PROVISIONS

19.1. COMPLIANCE. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and all applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.

19.2. CONSTRUCTION DEFECTS. During the warranty period, any construction defects discovered by an Owner will be disclosed to the Association within ten (10) days of discovery in order for the Declarant to take the necessary steps to quickly correct any such defects. In the event a settlement between the Declarant and a Unit Owner is reached, either through court action or contractual agreement, the terms of the settlement will be disclosed and the actual cost of correcting the defects will be itemized and reported in writing to any prospective purchaser of the affected Unit and/or of any other Unit in the Property.

19.3. NOTICE. All demands or other notices required to be sent to an Owner or Occupant by the terms of this Declaration will be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing notices, all notices may be sent to the Owner's Unit, and the Owner is deemed to have been given notice whether or not he actually receives it.

19.4. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

19.5. CAPTIONS. 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.

19.6. INTERPRETATION. Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

19.7. ARBITRATION. Unless prohibited by applicable law, any dispute between Owners and/or the Association shall be subject to arbitration in accordance with the rules of the American Arbitration Association.

19.8. 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 law.

19.9. PREPARER. This Declaration was prepared in the law office of Martin C. Cude, Jr., P.C., 4415 Normandy Avenue, Dallas, Texas 75205-2043.

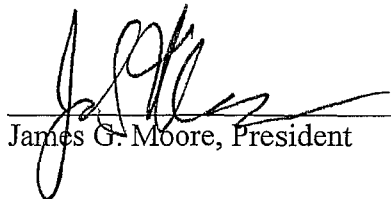
19.10. APPENDIXES. The following appendixes are attached to this Declaration and are incorporated herein by reference:

- A – Legal Description of Subject Land
- B – Plats and Plans
- C – Easements and Licenses
- D – Schedule of Allocated Interests
- E – Assignment of Parking Spaces
- F – Declarant Representations & Reservations
- G – Legal Description of Additional Land
- H – Initial Designation of Area of Common Responsibility
- I – Consent to Declaration

SIGNED AND ACKNOWLEDGED


SIGNED on this 29<sup>th</sup> day of December, 2006.

VERANDA DALLAS CONDOMINIUMS, LLC  
A Texas Limited Liability Company

BY:   
James G. Moore, President

THE STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS         §

This instrument was acknowledged before me on this 29<sup>th</sup> day of December, 2006, by James G. Moore, President of Veranda Dallas Condominiums, LLC, a Texas limited liability company, on behalf of the corporation.

  
Notary Public in and for  
The State of Texas

\_\_\_\_\_  
Notary's Name: Typed or Printed

My Commission Expires:  
\_\_\_\_\_

