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AMENDED & RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

LOFTS ON WEST 17TH STREET

Houston, Texas

June 17, 2014

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Exhibit	Subject Matter
"A" & "A-1"	Property Legal Description
"B" & "B-1"	Recorded Plats
"C" & "C-1"	Site Plan – With Cross-hatched Common Area
"D"	Addresses
"E"	Initial Use Restrictions

AMENDED & RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

LOFTS ON WEST 17TH STREET

THIS AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "**Declaration**") is made this _____ day of June, 2014, by Urban Lofts XVIII Land & Development, Ltd., a Texas limited partnership ("**Declarant**") for the property known as Lofts on West 17th Street.

ARTICLE 1
CREATION OF THE PROPERTY

1.1 PURPOSE AND INTENT. Declarant (as defined in Article 2), as the owner of the real property described in Exhibit "A" and "A-1" intends, by recording of this Declaration, to amend and restate that certain Declaration of Residential Restrictions dated February 28, 2014 and recorded under Harris County Clerk's No. 20140040478 ("**Prior Restrictions**") and to establish a general plan of development and construction of a planned unit development on the Property described herein. This Declaration, together with the other Governing Documents described in Section 1.3, provides for the overall development, administration, maintenance, and preservation of the Property and all Lots, Dwellings and Common Areas situated therein. An integral part of the development plan is the creation of Lofts on West 17th Street, Inc., a Texas non-profit corporation (the "Association") to own, operate, and/or maintain various Common Areas and Property improvements and to administer and enforce this Declaration and the other Governing Documents (as defined in Section 1.3).

This document does not and is not intended to create a condominium under applicable law.

1.2 BINDING EFFECT. This Declaration governs the development and use of the property described in Exhibit "A" and "A-1" (collectively the "Property"). This Declaration shall run with the title to the Property (including each and all of the Lots contained therein) and shall bind everyone having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns. Declarant, the Association, any Owner (as defined in Article 2), and their respective legal representatives, heirs, successors, and assigns, may enforce this Declaration. Each Owner shall automatically be a Member (as defined in Article 2) of the Association.

Unless otherwise provided by applicable law, in which case such law shall control, this Declaration is intended to have perpetual duration, but shall be effective for a minimum of twenty (20) years from the date it is recorded, subject to the right of Declarant and the Members to amend it as provided in Article 10. After the initial 20-year period, it shall automatically be extended for successive 10-year periods in perpetuity unless, within the 12-month period

preceding any extension, an instrument signed by the then Owners of at least 80% of the Lots (as defined in Article 2) agreeing to terminate this Declaration is recorded. This Section does not authorize termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3 GOVERNING DOCUMENTS. The following chart identifies the documents which govern the Property (as they may be amended from time to time, the "**Governing Documents**") and describes, in part, the purpose of each. Every Owner and Occupant of a Lot (as such terms are defined in Article 2) shall comply with the Governing Documents.

Declaration → (Recorded)	creates obligations which are binding upon the Association and all present and future owners and occupants of, and others with any interest in, the Property
Use Restrictions → (initial set attached as Exhibit "E")	govern use of property and activities within the Property
Board Resolutions and Rules → (Board may adopt)	establish rules, policies, and procedures for internal governance and Association activities; regulate operation and use of Common Area (as defined in Article 2)

Pursuant to Section 9.2, additional covenants, conditions, and restrictions may be imposed on all or any portion of the Property, in which case the more restrictive provisions will be controlling. However, no Person (as defined in Article 2) shall record any additional covenants, conditions, or restrictions affecting any portion of the Property without Declarant's written consent, during the Declarant Control Period (as defined in Article 2), or without the Board's (as defined in Article 2) written consent thereafter. Any instrument recorded without the necessary consent is void and of no force or effect.

If there are conflicts between applicable law, this Declaration (exclusive of the Use Restrictions), the Use Restrictions, the Certificate, and the By-Laws, then applicable law, this Declaration, (exclusive of the Use Restrictions), the Use Restrictions, the Certificate, and the By-Laws (in that order) shall prevail. If any court determines that any provision of the Governing Documents is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

ARTICLE 2
CONCEPTS AND DEFINITIONS

2.1 DEFINED TERMS. The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

(a) "Act": The Texas Residential Property Owners Protection Act, Title 11, Chapter 209 of the Texas Property Code Annotated, as such act may be amended.

(b) "Affiliate": Any Person which (either directly or indirectly, through one or more intermediaries) controls, is in common control with, or is controlled by, another Person, and any Person that is a director, trustee, officer, employee, independent contractor, shareholder, agent, co-venturer, subsidiary, personal representative, or attorney of any of the foregoing. For the purposes of this definition, the term "control" means the direct or indirect power or authority to direct or cause the direction of an entity's management or policies, whether through the ownership of voting securities, by contract, or otherwise.

(c) "Association": Lofts on West 17th Street, Inc., a Texas non-profit corporation, its successors or assigns.

(d) "Benefited Assessment": Assessments charged against a particular Lot or Lots for Association expenses as described in Section 8.3.

(e) "Board of Directors" or "Board": The body responsible for the general governance and administration of the Association, selected as provided in the By-Laws of the Association.

(f) "City": The City of Houston, Texas.

(g) "Common Area": The Area as shown on Exhibit "C" and "C-1" attached hereto.

(h) "Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of all Owners, including without limitation maintenance, repair and/or replacement of any portion or all of the Common Area, and which may include a reserve for capital repairs and replacements and administrative charges, as may be authorized pursuant to this Declaration or in any Supplemental Declaration or any other reserves that the Board determines to be necessary or appropriate. Common Expenses also may include expenses incurred by the Association pursuant to any Cost Sharing Agreement.

(i) "Cost Sharing Agreement": Any agreement, contract or covenant between the Association and an owner or operator of property adjacent to, in the vicinity of the Property, for the allocation of expenses that benefit both the Association (or its Members) and the owner or operator of such property and/or an applicable owners association.

(j) "County": Harris County, Texas

(k) "Declarant": URBAN LOFTS XVIII LAND & DEVELOPMENT, LTD. or any successor or assign as developer of all or any portion of the Property, (hereinafter referred to as "Declarant"). On all matters, Declarant may act through any of its Affiliates. Any Person who at any time holds the rights of Declarant hereunder and subsequently transfers or assigns the rights of Declarant to another Person shall be known as a "**PREDECESSOR Declarant**" and, unless otherwise agreed in writing, shall be entitled to the rights of a PREDECESSOR Declarant established

in this Declaration. Whether or not specifically stated, a PREDECESSOR Declarant shall be afforded the same protection with respect to matters arising from actions taken during its tenure as Declarant as the predecessor Declarant would have if it were still Declarant.

(l) "Declarant Control Period": The time period during which the Declarant may appoint all or a majority of the Board members. The Declarant Control Period shall end when the first of the following occurs (as Declarant may determine in its sole discretion):

i. when 100% of the Lots proposed under the Development Plan have been issued certificates of occupancy and have been conveyed by Declarant (or its affiliate) to purchasers who have thereupon become Member/Owners;

ii. when, in its sole discretion, the Declarant so determines.

(m) "Dwelling": The home, townhome, patio home or other residential structure constructed upon a Lot.

(n) "Governmental Authority": Any federal, state, City, County, municipal or other governmental or quasi-governmental department, entity, authority, agency or instrumentality having or asserting jurisdiction over the Property or a portion thereof.

(o) "HUD": U.S. Department of Housing and Urban Development.

(p) "Legal Costs": The costs which a Person (including, without limitation, the Association) entitled to reimbursement for "Legal Costs" under any provision of the Governing Documents incurs in pursuing legal action (regardless of whether suit is filed or whether arbitration or court action is taken) to enforce the Governing Documents, including, but not limited to, reasonable attorneys' and paralegals' fees, expert witness fees, and court costs at all tribunal levels.

(q) "Lot": Those portions of the Property as subdivided and shown on Exhibit "B" and "B-1" which may be independently owned and conveyed, and which is improved with a dwelling. The term shall refer to the land, if any, which is part of the Lot as well as any improvements, such as the residential dwelling, on the Lot. The boundaries of each Lot shall be shown on Exhibit "B" and "B-1".

(r) "Member": A Person subject to membership in the Association, as described in Section 6.2.

(s) "Mortgage": A mortgage, a deed of trust, a deed, or any other form of security instrument affecting title to any Lot and held by an institutional lender to secure purchase money or improvement debt. The term "**Mortgagee**" shall refer to a beneficiary or holder of a Mortgage. The term "**Institutional Lender**" shall include any bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, a credit union, real estate or realty

investment trust, any agency of the Federal government, the Federal Investment Mortgage Association, the Federal Home Loan Mortgage Corporation, or similar Governmental Authorities.

(t) "Occupant": Any Owner if the Owner occupies the Lot and/or any tenant of a Lot and the Owner's and/or a tenant's household members, guests, invitees, agents, visitors, and contractors who lawfully or unlawfully occupy or enter a Lot. All actions or omissions of any Occupant shall be deemed the actions or omissions of the Owner of such Lot.

(u) "Owner": The record title holder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation (e.g., a Mortgagee). If a Lot is sold under a recorded contract for deed, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

(v) "Person": An individual, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

(w) "Plat": The plats of the Property were recorded on June 4, 2014 under Film Code No. 664174 and 664176 of the Map Records of Harris County, Texas, a copy of which is attached hereto as Exhibit "B" and "B-1" for all or any portion of the Property. As to a particular portion of the Property, the applicable Plat shall be deemed to be the Plat (and/or Plat amendment, revision or similar instrument, as applicable) to which such portion of the Property is subject or which otherwise affects such portion of the Property at the time this applicable determination is to be made.

(x) "Property-Wide Standard": The standard of conduct, maintenance, appearance, conditions or other activity generally prevailing from time to time throughout the Property, or the minimum standards established pursuant to the Governing Documents, Architectural Guidelines, Use Restrictions, and/or Board resolutions, whichever establishes the highest standard. The Property-Wide Standard may contain objective elements and subjective elements.

(y) "Regular Assessment": Annual or other regularly scheduled periodic assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1 (a).

(z) "Special Assessment": Assessments levied against Lots in accordance with Section 8.2 to cover unbudgeted expenses or expenses in excess of those budgeted.

(aa) "Supplemental Declaration": A recorded instrument which subjects additional property to this Declaration and/or imposes additional and/or modified restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument filed by the Declarant pursuant to Section 7.1 that

establishes specific minimum standards for the maintenance, operation and use of any Common Area as part of the Property-Wide Standard.

(bb) "Use Restrictions": The initial use restrictions, governing activities on the Lots and the Common Areas set forth in EXHIBIT "E," as they may be changed in accordance with Article 3 or Article 10 or otherwise, as amended from time to time.

(cc) "VA": U.S. Department of Veterans Affairs

(dd) "Wetland" or "Wetlands": Any area or areas within the Property identified or designated as habitat for wetland species of plants and/or animals by any Governmental Authority properly exercising its jurisdictional authority.

2.2 INTERPRETATION OF CERTAIN REFERENCES.

(a) Recording. All references in the Governing Documents to a "recorded" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed, or the filing of a legal instrument, in the public records of the County, or such other place designated as the official location for filing documents affecting title to real estate in the County in order to make them a matter of public record.

(b) Consent or Approval. All references in the Governing Documents to "consent" or "approval" shall refer to written permission or approval which, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

(c) Discretion and Determinations. All references in the Governing Documents to "discretion" or to the right to "determine" any matter shall refer to the sole and absolute power, right and/or discretion to decide or act and, unless otherwise expressly limited in the Governing Documents, a Person entitled to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

ARTICLE 3
OCCUPANCY OF LOTS

3.1 GENERAL. In addition to the initial Use Restrictions set forth in EXHIBIT "E" which may be modified as provided herein, the Lots shall be subject to the following. The restrictions set forth in this Section may be amended only in accordance with Article 10 and other applicable provisions of this Declaration.

(a) Use and Occupancy Restriction. Subject to the provisions of this Declaration, no part of the Property may be used for purposes other than (a) single family residential housing and the related common purposes for which the Property was designed; (b) customary home-based businesses to be operated solely within the

interior of a Dwelling. No Dwelling and no portion of the Common Area shall be used or occupied for any other business, commercial trade or professional purpose or as a church or other religious institutional meeting place, either apart from or in connection with the use thereof as a residence, whether for profit or not. The foregoing restrictions as to residential usage shall not, however, be construed in such manner as to prohibit an Owner or Occupant from:

i. Maintaining a personal or professional library;

ii. Keeping personal business or professional records or accounts; or

iii. Handling personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of this Declaration, provided that it does not entail traffic to or from the Dwelling or upon the Common Area by anyone for business purposes, storage of equipment, machinery, supplies or inventory, objectionable odors or other nuisances or other violations of this Declaration.

iv. is not apparent or detectable by sight, sound or smell from the outside of the Lot;

v. complies with applicable zoning and other legal requirements and other requirements of this Declaration;

vi. does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees; and

vii. is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the use and enjoyment of other Lots by the Owner thereof or the security or safety of others within the Property.

Leasing of a single Lot by the Owner thereof for residential occupancy shall not be considered a "business" within the meaning of this subsection; however, no Owner or group of Owners who are Affiliates shall, on their own behalf or through any agent, engage in leasing activity with respect to multiple Lots at the same time.

(b) Leasing. For purposes of this Declaration, "leasing" is the regular, exclusive occupancy of a portion or all of a Dwelling or Lot by any Person other than the Owner, for which the Owner receives any consideration or benefit, including, without limitation, a fee, service, or gratuity. The improvements on the Lot or Dwelling may be leased only in its entirety (e.g., separate rooms within the same dwelling may not be separately leased).

All leases shall be in writing and shall have a term of at least six months, except with the Board's prior written consent. No Owner may rent all or a portion of a Lot more than twice in any 12-month period, even if a tenant defaults on a lease

or abandons the Lot before expiration of the lease term. The restrictions on lease terms set forth in this paragraph shall not apply to Lots owned or leased by Declarant, its Affiliates, or Persons that Declarant approves, in connection with their development, construction, or sale of Lots in the Property.

All leases shall include an acknowledgment by the tenant that the tenant and all Occupants of the leased Lot or Dwelling are bound by and obligated to comply with the Governing Documents and that the tenant has received a copy of the Governing Documents. The Owner shall be responsible for providing a copy of the Governing Documents to the tenant prior to execution of the lease and shall monitor enforcement and compliance with the Governing Documents by the tenant and all Occupants of the leased Lot or Dwelling.

Each lease shall set forth the name, address, and telephone number of the Lot's Owner and of the tenant; the date the tenant's occupancy commences and ends; a description of each motor vehicle owned or operated by the tenant or members of the tenant's household; and a description of all pets to be kept at the Lot.

If an Owner elects to permit a tenant to sublease during the term of the lease, such sublease shall be subject to the limitations and requirements established in this Declaration to the same extent and effect as the original lease.

Within 10 days of a lease being signed for a Lot or Dwelling, the Owner shall notify the Board or the Association's managing agent of the lease and provide a copy of such lease and such additional information the Board and/or the Association's managing agent may reasonably require. An Owner proposing to lease a Lot or Dwelling may obscure the rental and deposit amounts or any other information that the Owner deems to be of a confidential or personal nature in the copy of the proposed lease submitted to the Board so long as the lease contains the information listed above. In addition to this subsection (b), the Board may, from time to time, adopt reasonable rules regulating leasing and subleasing.

No Owner may assign or otherwise transfer the Owner's obligations under this Declaration to any tenant or other Occupant. The Association shall have the right to enforce the covenants, conditions, and restrictions set forth in this Declaration against the Owner, the tenant, or any Occupant of the Lot, individually or collectively. The Association shall not be bound by any provision in the lease or other agreement between Owner and such Owner's tenant, including, without limitation, those requiring prior notice or imposing other conditions on the rights of the Association.

The Association shall be deemed a third party beneficiary of all leases of Lots or Dwellings, and shall have the right, but not the obligation, to enforce the terms and conditions of such leases against the tenant or the Owner. Notwithstanding the foregoing, the Association's failure to object to any term or condition of a lease or occupancy arrangement shall not be deemed to be consent or approval of any term or condition of the lease, nor shall the Association have any obligation

whatsoever for the performance of any obligation of Owner or tenant contained in the lease or otherwise.

Notwithstanding any condition of any lease to the contrary, each Owner, by acceptance of the deed to a Lot, hereby covenants and agrees with the Association and all other Owners of Lots in the Property, including, but not limited to, Declarant, that the Owner shall be responsible for any violation of the Governing Documents resulting from the acts or omissions of Occupants of the leased Lot or Dwelling to the same extent that Owner would be liable for such violation if it had resulted from the acts or omissions of the Owner or a member of the Owner's household or guests. The Owner's obligations hereunder shall be deemed a guaranty of performance by such Owner's tenant and the Occupants of the leased Lot, and the Association shall have the right to take any action or seek any remedy for a tenant's or an Occupant's failure or refusal to comply with the Governing Documents directly from or against the Owner without first taking such action or obtaining such remedy from or against the tenant or Occupant.

(c) Signs. No sign of any kind shall be erected by or on behalf of an Owner or Occupant without the prior written consent of the Board, except: (1) signs required to comply with or obtain the benefit of applicable laws (e.g., beware of dog signs or political campaign signs); and (2) not more than one sign indicating that the Lot is receiving security services. All approved or permitted signs shall be professionally prepared, shall be the kinds normally displayed in residential neighborhoods with homes of comparable type, quality, and price range to those in the Property and shall be of a size deemed reasonable by the Board in its discretion. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or Occupant within the Common Area or any portion of the Property, including the Common Area, any Lot, or any structure or dwelling located on the Common Area or any Lot (if such sign would be visible from the exterior of such structure or dwelling as determined in the Board's discretion).

(d) Occupants Bound. Every Owner shall cause the Occupants of such Owner's Lot or Dwelling to comply with the Governing Documents and shall be responsible for all violations of the Governing Documents and any damage they cause to the Common Areas, notwithstanding the fact that such Persons also are personally responsible for complying and may be sanctioned for any violation.

(e) Subdivision or Replatting of a Lot. Lots may not be subdivided or their boundary lines changed except with Declarant's or the Board's prior written approval. Declarant may subdivide, change the boundary lines of, and replat any Lot it owns without Board approval. In addition, during the Declarant Control Period, Declarant or any Declarant Affiliate may convert Lots it owns into Common Area.

Any Owner owning two adjoining Lots may, with the prior written approval of Declarant during the Declarant Control Period, and the Board thereafter, combine such Lots into a single building site for the purpose of constructing one Dwelling

and such other improvements as are approved hereunder; however, each of the Lots so combined shall be treated as a single Lot for all purposes, including, but not limited to, voting and assessment. Declarant or the Association, as applicable, may grant or withhold their approval to any such combination in their sole discretion. Approval by the Board or Declarant shall not be deemed to constitute or to waive necessity for, compliance with any City, County, or other applicable requirements for such combination.

(f) Lodging; Timeshares. No Lot may be used as a rooming house, hostel, or hotel. Timesharing or other arrangements involving more than three ownership interests in a Lot (including, without limitation, ownership by more than three Persons as joint tenants or tenants-in-common), or assigning separate use periods of less than one hundred eighty (180) consecutive days' duration, are prohibited. The term "timesharing" shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement under which the right to use, occupy, or possess all or any portion of a Lot rotates among various Persons on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time or is otherwise shared among various persons pursuant to a reservation system.

3.2 RULES AND REGULATIONS. In addition to the Use Restrictions set forth herein and in EXHIBIT "E," the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Property regarding the use of Common Areas. Such rules shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by Members holding a majority of the Member votes in the Association. Any adoption, modification, addition, deletion, or cancellation of rules shall be subject to Declarant's prior written approval during the Declarant Control Period.

3.3 OWNERS' ACKNOWLEDGMENT AND NOTICE TO PURCHASERS. Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment, and marketability of such Owner's Lot is limited and affected by the terms of the Governing Documents, including Use Restrictions and Board rules, which may change from time to time. Copies of the current Use Restrictions and Board rules may be obtained from the Association.

ARTICLE 4
ARCHITECTURE AND LANDSCAPING

4.1 GENERAL. Except for work done by or on behalf of Declarant or any Declarant Affiliate, no structure, improvement or object shall be placed, erected, or installed upon any Lot, and no improvements of any kind or other work (including, without limitation, staking, clearing, excavation, grading and other site work, exterior alterations or additions, permanent lighting, or planting or removal of landscaping) shall take place within the Property, except in compliance with this Section.

Any Owner may remodel, paint, or redecorate the interior of any structure on such Lot without approval (see 4.2 (a) and (b) below) hereunder. However, modifications to the interior of screened porches, patios, and any other portions of a Lot or structure visible from outside a structure are subject to approval under this Section.

Improvements shall be constructed only by qualified Persons acceptable to the Board. Owners shall be responsible for obtaining all permits and approvals from the City, County and other Governmental Authorities.

This Section does not apply to Declarant's, or its Affiliates', development or construction activities, nor to the Association's activities after the Declarant Control Period.

4.2 ARCHITECTURAL REVIEW.

(a) By Declarant. Declarant shall have exclusive authority to develop the Property, construct Dwellings or to enter into contract with other person for construction of Dwellings, administer and enforce architectural controls and to review and act upon all applications for architectural, landscaping and other improvements within the Property until the expiration or termination of the Declarant Control Period.

(b) Board Review. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Section, the Board shall assume jurisdiction over architectural matters. When appointed, the Board shall consist of at least three persons. Members of the Board shall be Members of the Association or representatives of Members.

(c) Architect, Builder and General Contractor Approval. In order to ensure that appropriate standards of construction are maintained throughout the Property, all architects, builders and general contractors must be approved by the Board prior to engaging in any construction activities within the Property. The Board may implement an approval process utilizing established criteria and requiring the submission of a written application for approval. Approval of any plans may be withheld until such time as the Owner's architect, builder or contractor has been approved by the Board. Approval of an architect, builder or general contractor may be conditioned upon an agreement with the Board to maintain certain insurance coverages required by the Board, pay construction deposits to ensure completion of a project without damage to the Property, and pay fees determined by the Board, from time to time. Both the criteria and the application form are subject to change in the discretion of the Board. Approval of architects, builders and contractors may not be construed as a recommendation of a specific architect, builder or contractor by the Board or Declarant, nor a guarantee or endorsement of the work of such architect, builder or contractor. The criteria and requirements established by the Board for approval of architects, builders and contractors are solely for Declarant's and Declarant's Affiliates' protection and benefit and are not intended to provide the Owner with any form of guarantee with respect to any approved architect, builder, or contractor. Owner's selection of an architect,

builder, or contractor shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such architect, builder or contractor. Furthermore, Owner waives any and all claims and rights that Owner has or may have now or in the future, against the Board, Declarant, any Declarant Affiliate, and/or any predecessor Declarant.

4.3 PROCEDURES.

(a) Procedures. No construction activities or other activities described in Section 4.1 may begin until a request is submitted to and approved in writing by Declarant during the Declarant Control Period and thereafter by the Board. The request must be in writing and be accompanied by plans and specifications and other information the Declarant or the Board require. Plans and specifications shall show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction or other activity as the Declarant or the Board deems relevant.

In reviewing each submission, the Declarant or the Board may consider any factors it deems relevant, including, without limitation, harmony of the proposed design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Declarant or the Board shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

Any approvals granted under this Section are conditioned upon completion of all elements of the approved work, unless written approval to modify any application has been obtained.

Declarant or the Board, by resolution, may exempt certain activities from the application and approval requirements of this Section, provided such activities are undertaken in strict compliance with the requirements of such resolution.

(b) Delinquent Assessments and Other Charges. Notwithstanding the provisions of subsection (a) above, any application for the approval of plans and specifications as set forth in this Section shall be deemed to be disapproved unless and until any and all delinquent assessments and other charges permitted by this Declaration have been paid current by the Owner submitting such plans and specifications for approval.

Subsequent to the approval of plans and specifications pursuant to this Section, if the Owner shall become delinquent in the payment of assessments or other

charges permitted by this Declaration at any time during the prosecution of the approved work, the Owner shall be deemed to be in violation of such approval and shall be subject to any means of enforcement set forth in the Governing Documents.

4.4 NO WAIVER OF FUTURE APPROVALS. Each Owner acknowledges that the people reviewing applications under this Section will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of, may vary accordingly. In addition, each Owner acknowledges that it may not always be feasible to identify objectionable features until work is completed, at which time, it may or may not be unreasonable to require that such objectionable features be changed. However, the Declarant may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the Declarant or the Board's right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5 VARIANCES. The Declarant or the Board may authorize variances from compliance with any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or permit. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Declarant or the Board from denying a variance in other circumstances. A variance requires Declarant's written consent during the Declarant Control Period.

4.6 RELEASE OF LIABILITY. This Section establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Property. Review and approval of any application pursuant to this Section may be based on purely aesthetic considerations at the sole discretion of the Declarant or the Board. The Declarant or the Board shall be responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every dwelling is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

Each Owner releases Declarant, Declarant's Affiliates, any predecessor Declarant, the Association, its officers, the Board, any committee, or any member of any of the foregoing for (1) the approval of, disapproval of, or failure to approve or disapprove any plans; (2) soil conditions, drainage, or other general site work related to approved work; (3) any defects in plans revised or approved hereunder; (4) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any owner or their contractor or their subcontractors, employees, or agents; or (5) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or activities on or modifications to any Lot. In all such matters or claims related therefrom, the Association shall defend, indemnify and hold harmless the Declarant, Declarant's Affiliates, any predecessor Declarant, the Board, the members of each, and the Association officers as provided in the Certificate.

4.7 ENFORCEMENT. Any construction, alteration, improvement, or other work done in violation of this Section is subject to enforcement action pursuant to Section 7.3. Any act of any

contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed to be an act done by or on behalf of such Owner.

ARTICLE 5
MAINTENANCE AND REPAIR

5.1 MAINTENANCE OF LOTS.

(a) Each Owner must maintain such Owner's Lot, including, without limitation, all structures, landscaping, and other improvements comprising the Lot, in a manner consistent with the Governing Documents, the Property-Wide Standard, in good condition and repair and any other applicable covenants. In addition, each Owner shall maintain the driveway exclusively serving such Owner's Lot, mailbox, sidewalk and landscaping located between the boundary of such Owner's Lot and the back-of-curb of any driveway adjacent to the Dwelling situated on such Owner's Lot, unless the Association assumes all or part of such maintenance responsibility, and then only to the extent not assumed by the Association.

(b) Declarant or a builder may have constructed or installed drainage swales, drainage lines, Drainage Equipment, a water detention area and/or other equipment (collectively, "**Drainage Equipment**") on a Lot or within the Common Area for the purpose of managing and/or containing the flow of surface water, if any, found upon Lots or draining from adjacent property from time to time. Except to the extent that such responsibility is assigned to or assumed by the City or the Association pursuant to this Declaration or any Supplemental Declaration, the Association shall be responsible for the maintenance, operation, and repair of such Drainage Equipment. Maintenance, operation, and repair shall mean and include, without limitation, the exercise of practices, such as mowing, removal of debris, and erosion repair, which allow the Drainage Equipment to provide drainage, water storage, conveyance, or other storm water management capabilities. Filling, excavation, construction of fences, or otherwise obstructing the surface water flow in or into the Drainage Equipment is prohibited. No alteration of Drainage Equipment shall be authorized and any damage to any Drainage Equipment, whether caused by natural or human-induced phenomena, shall be repaired and the Drainage Equipment returned to its former condition as soon as possible by the Association.

(c) Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement. The maintenance, repair, replacement, and other obligations of the Association and Owner specified in this Declaration shall be performed as and when the Board determines it necessary to maintain the property to a level consistent with the Property-Wide Standard.

5.2 COMMON WALL. If two Dwellings share a common wall as an exterior wall for each of said Dwelling, the Owners of such Dwelling shall be bound by the following:

(a) Each wall, fence and roof which is built as a part of the original construction of the Dwelling and placed on the dividing line between two Dwellings shall constitute a common wall, fence or roof, and, to the extent not inconsistent with the provisions of this Section, the rules of law in effect in the State of Texas regarding common walls, fences and roofs and liability for property damage due to negligence or willful acts or omissions shall apply thereto subject to the following:

i. The cost of reasonable repair and maintenance of a common wall, fence or roof shall be shared equally by the Owners who share said wall or roof.

ii. That neither Owner, without the written consent of the other, shall ever alter, change, repair or do any other act or thing to said common wall, fences or roofs which would in any way affect said wall structurally, the said Owners hereby agreeing that the common wall between such Dwelling and any extension thereof shall at all times be, and the same is, a "Party Wall."

iii. That in case either Owner desires to build a building longer than the present Party Wall herein described, that said wall shall be on a line with the present Party Wall, and be of the same size, and of the same or similar material, and of like quality with the present Party Wall and if either Owner desires to build more than one (1) story high, the wall shall be on top of and of the same likeness and appearance as the present Party Wall or any extension thereof, and be of the same or similar material and of like quality with the present Party Wall; or

iv. That when either Owner shall extend the Party Wall, the other Owner shall have the right to use the extended Party Wall as a Party Wall by paying the other Owner one-half of the cost of whatever portion of the extension of the Party Wall as that Owner shall use.

v. That if it shall become necessary or desirable to repair or rebuild the whole or any portion of the Party Wall, the expense of repairing or rebuilding shall be borne equally by the Owners as to so much and such portion of the Party Wall as the Owners may at the time of rebuilding or repairing be using in common. Whenever the Party Wall or such portion thereof shall be rebuilt, it shall be erected on the same location, on the same line, and be of the same size, and of the same or similar material, and of like quality with the present Party Wall.

vi. That in case of damage or destruction of the Party Wall or any extension thereof, including the foundation, either Owner shall have the right to repair or rebuild the Party Wall or extension, and the other Owner, whenever that Owner desires to use the same, shall have the right to do so on the payment of one-half of the expense of the repairing or rebuilding as to so much and such portion of the Party Wall as said Owner may at the

time of rebuilding or repairing be using in common for the purpose aforesaid, without prejudice, however, to the right of the other Owner to call for a larger contribution from said Owner under any rule of law regarding liability for negligence or willful acts or omissions in damaging, destroying or failing to properly maintain the Party Wall or any extension thereof.

vii. That notwithstanding any other provision of this Agreement an Owner who by his negligent or willful act causes the Party Wall to be damaged or exposed to the elements shall bear the whole cost of repairing or furnishing the necessary protection against such elements.

5.3 INSURANCE ON LOTS; CASUALTY LOSSES. Each Owner shall maintain property insurance providing fire and extended coverage at full replacement cost, less a reasonable deductible, on all insurable improvements located on such Owner's Lot. In addition, every Owner shall be obligated to obtain and maintain at all times insurance covering injury to persons and consequential damages to any other Lot and the Common Area due to occurrences originating within the Owner's Lot caused by the negligence or failure of responsibility of the Owner, the failure of the Owner to maintain the Lot, and any other casualty within the Lot which causes damage to the Lots or the Common Area, to the extent such coverage is not provided by policies maintained by the Association or to the extent insurable losses may result in the Owner's liability for payment of deductibles under the Association's policies.

Each Owner shall provide a certificate evidencing such insurance to the Association within 10 days of any written request from the Board of Directors. In addition, if the Board so requests, each Owner shall file with the Association a copy of the individual policy or policies covering such Lot. Each Owner shall promptly notify the Board in writing in the event such policy on such Lot is canceled. In the event that an Owner fails to obtain any insurance which the Owner is required to obtain hereunder, or permits such insurance to lapse, the Association may, but shall not be obligated to, obtain such insurance on behalf of the Owner and assess the costs thereof to the Owner and the Owner's Lot as a Benefited Assessment.

In the event of damage to or destruction of a structure on a Lot, the Owner shall promptly repair or reconstruct the structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article 4. Alternatively, and with the approval of the Declarant or Board in accordance with Article 4, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat, attractive landscaped condition consistent with the Property-Wide standard.

ARTICLE 6
THE ASSOCIATION AND ITS MEMBERS

6.1 FUNCTION OF ASSOCIATION. The Association is the entity responsible for management, maintenance, operation, and control of the Common Area. The Association also has primary responsibility for administering and enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and applicable law. The

Board shall be responsible for management of the Association and may contract with a property manager for such purposes. The Board is appointed or elected as provided in the By-Laws. Each Owner of a Lot shall automatically be a Member of the Association subject to Sections 6.2 and 6.3 below. Membership in the Association is appurtenant to and may not be severed from ownership of the Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in this Declaration, the Certificate of Formation, or By-Laws of the Association, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot.

6.2 MEMBERSHIP. There shall be only one membership per Lot. If a Lot is owned by more than one Person, each co-Owner shares the privileges of the membership, subject to reasonable Board regulation and the voting restrictions described in Section 6.3(a) and in the By-Laws. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner that is not an individual (e.g., a corporation) may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Lots within any additional property made subject to this Declaration pursuant to Article 9, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

6.3 VOTING.

(a) Members have one equal vote for each Lot owned, and there shall be one vote per Lot.

(b) In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

ARTICLE 7
ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 ACCEPTANCE AND CONTROL OF COMMON AREA.

(a) The Association may acquire and hold, operate, maintain and repair the Common Area.

(b) The Association is responsible for management, operation, and control of the Common Area, subject to the Governing Documents and any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may, from time to time, adopt such reasonable rules regulating use of the Common Area as it deems appropriate provided such rules shall be subject to Declarant's written approval during the

Declarant Control Period. The Association may enter into a property management agreement with any Person, including Declarant or any Declarant Affiliate.

Declarant hereby reserves the right, at all times after conveyance of a Lot or Lots or any portion of the Common Area, to enter the Common Area, without prior notice, and to inspect the condition thereof and the improvements and facilities thereon, if any. If Declarant determines, in its sole judgment, that the Association has failed to maintain any portion of the Common Area in a manner consistent with the Property-Wide Standard, it may so notify the Association, in writing, and the Association shall promptly perform the required maintenance or repairs. Failure of the Association to maintain the Common Area in a manner consistent with the Property-Wide Standard shall relieve Declarant and any predecessor Declarant of any liability to the Association or to any Member for any condition of the Common Area. Declarant shall have the right to make a record of its inspections by any means available, including, but not limited to, photographing, filming, and/or videotaping the Common Area, and shall have the right to perform tests or examinations to determine the condition of the Common Area. Notwithstanding the foregoing, Declarant shall have no obligation to perform inspections of the Common Area owned by the Association, and the Association shall not be relieved of its obligation to maintain the Common Area because of the election of Declarant or any predecessor Declarant to inspect or not to inspect or report

7.2 INSURANCE. The Association shall keep the Common Area insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters) and may obtain insurance against such other hazards and casualties as the Association may deem desirable.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect any or all of the following types of insurance, as deemed necessary or advisable in the Board's business judgment and as may be reasonably available: (i) blanket property insurance covering all insurable improvements within the Common Area to the extent that the Association has responsibility for repair or reconstruction in the event of a casualty, or assumes such responsibility pursuant to Section 5.2, regardless of ownership with full replacement value coverage; (ii) commercial general liability insurance on the Common Area insuring against liability for bodily injury, death, and property damage arising from the activities of the Association or with regards to Common Area, including, without limitation, if obtainable, a cross liability endorsement insuring each Member and Declarant against liability to each other Member and the Association and vice versa; (iii) directors and officers liability coverage; (iv) commercial crime insurance, including fidelity insurance, covering all Persons responsible for handling Association funds in an amount at least equal to three months of Regular Assessments, plus all reserve funds; (v) such additional insurance as the Board, in its business judgment, determines advisable. All such policies procured during the Declarant Control Period shall list the Declarant as an additional insured. Notwithstanding the foregoing, Declarant may obtain insurance for multiple communities which it is developing and/or other

projects under a blanket policy instead of obtaining a separate policy for the Association, and charge a reasonable portion of the cost thereof to the Association.

Unless otherwise provided in a Supplemental Declaration, premiums for Common Area insurance shall be a Common Expense.

(b) Policy Requirements. The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or Limited Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Benefited Assessment.

(c) Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, Declarant, any predecessor Declarant, and the directors, trustees, officers, shareholders, attorneys, agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

The Association shall deposit any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, in a capital improvements account for the benefit of the Members. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

7.3 ENFORCEMENT.

(a) The Association, acting through the Board, may impose sanctions for violation of the Governing Documents, subject to the notice and hearing procedures set forth in the By-Laws, as applicable. Such sanctions may include, without limitation:

i. imposing monetary fines, up to the maximum, if any, permitted by applicable laws, which may accrue from the date of notice and which shall constitute a lien upon the violator's Lot (in the event that any Occupant, violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

ii. suspending the vote attributable to the violating Owner's Lot if permitted and then in accordance with applicable law;

iii. suspending the right of the violator and any Occupant of the violator's Lot to use the Common Area or any recreational facilities, if any;

iv. recording notices in the County land records describing any violation of the Governing Documents;

v. suspending any services which the Association provides to an Owner or the Owner's Lot if the Owner is delinquent in paying any assessment or other charge owed to the Association for longer than 30 days (or such longer period as is required by HUD or VA if either such agency is insuring or guaranteeing the Mortgage on any Lot or has granted project approvals for such Mortgages); and

vi. without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article 4 from continuing or performing any further activities on the Property.

(b) In addition, but without limitation of the Association's other rights and remedies, the Association, acting through the Board or its designee, may take the following action to enforce the Governing Documents without, to the extent permitted by applicable law, the necessity of compliance with the notice and hearing procedures set forth in the By-Laws:

i. requiring an Owner, at its own expense, to perform maintenance on such Owner's Lot, to complete or cure any construction or modification approved pursuant to Article 4, or to remove any structure, item or improvement on the Common Area or such Owner's Lot in violation of the Governing Documents, including, without limitation, or any conditions imposed by the Board and to restore the Lot to its previous condition;

ii. levying Benefited Assessments pursuant to Section 8.3 to cover costs which the Association incurs to bring a Lot into compliance with the Governing Documents, including Legal Costs, or costs incurred as a consequence of the conduct of an Owner or occupant of a Lot, their guests or invitees;

iii. entering the property pursuant to the easement granted in Article 11 and exercising self-help to remove or cure a violating condition, or to complete any construction or modification approved pursuant to Article 4 which was begun and not completed within the required time period, upon failure of an Owner to take action as required pursuant to subsection (i) above within 10 days after the Board's mailing of written notice to do so, and any such entry shall not be deemed a trespass;

iv. exercising self-help in any situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/or

v. bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents whether brought by the Association, Declarant, or Owner, the prevailing party shall be entitled to recover all Legal Costs incurred in any such action, as permitted by the Act. In the event that Legal Costs are incurred, but the violation is cured voluntarily or by negotiated settlement before a final court ruling is issued, the party against whom the enforcement action has been taken shall be liable for reimbursement of such Legal Costs, failing which the Association, Declarant or Owner entitled to reimbursement shall have the right to recover such Legal Costs from the responsible party. If the Association is entitled to recover Legal Costs, in addition to the right to maintain an action against the responsible party, the Legal Costs shall constitute a Benefited Assessment against the Lot of the responsible party, and the Association shall have the right to impose a lien against such Lot in the amount of such assessment.

i. The Association's decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under the same or other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

(d) The Association, by contract or other agreement, may enforce applicable governmental regulations and permit a Governmental Authority to enforce ordinances, rules, statutes, or laws within the Property for the benefit of the Association and its Members.

(e) Declarant shall be entitled to exercise all of the rights and powers granted to the Association under Sections 7.3(a), 7.3(b), and 7.3(c), and shall be entitled to recover all costs that it incurs in so doing from the responsible Owner.

(f) Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted as provided in the Governing Documents by Declarant, its successors and assigns, the Association, its successors or assigns, or any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner or Declarant to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association shall have the right of self-help to cure any violations that remain uncured after any required notice is given.

7.4 IMPLIED RIGHTS; BOARD AUTHORITY. The Association may exercise any right or privilege given to it expressly or by reasonable implication from the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Area, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members. In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

7.5 RESPONSIBILITIES UNDER GOVERNMENTAL PERMITS. Declarant shall have the absolute and unconditional right in its sole discretion to assign, delegate, or otherwise transfer to the Association any of its continuing obligations and/or responsibilities under governmental permits and approvals with respect to the Property. The Association shall accept and assume such obligations and responsibilities without condition or consideration. Such assignment, delegation, or transfer and assumption shall be effective without the consent of, or any further action by the Association, but upon Declarant's request, the Association shall promptly execute any documents which Declarant requests to evidence the assignment, delegation, or transfer and assumption of such obligations and/or responsibilities. The Association shall comply in all respects with the terms of, and shall not undertake any activity inconsistent with, such permits and approvals. The Association shall indemnify, defend and hold Declarant harmless from any claims or losses arising out of the violation or failure to comply with any permit(s), or out of the operation, maintenance or use of any improvement or facility authorized by the permit(s), provided such claim or loss first occurs after the effective date of the assignment, delegation, transfer (or tender of the assignment, delegation, or transfer, if wrongfully refused by an Association).

7.6 MANAGEMENT COMPANIES AND MANAGEMENT AGREEMENTS. The Association shall have the right to engage a professional managing agent or agents after termination of the Declarant Control Period. Any management company retained by the Association after termination of the Declarant Control Period shall provide the services as provided in the management agreement between the Association and such management company as well as such additional duties and services as the Board shall authorize and as are otherwise within the scope of the Board's authority. The management company may be Declarant or any Declarant Affiliate.

7.7 COMMON UTILITY/WATER SUPPLY SYSTEM. If there is a common Utility and/or Water Supply System serving all of the Lots on any portion of or any parcel or parcels constituting the Property with common metering for use of such utility service and/or water supply by the

Property, then notwithstanding anything to the contrary set forth herein, such Utility and/or Water Supply System and all meters and appurtenances thereto shall be deemed part of the Common Area and owned and maintained by the Association, and the Declarant and Owners of all Lots shall and by this instrument give and grant to the Association an easement and right-of-way over, upon and under the area of each Lot at such location as shall be necessary for the purpose of installation, maintenance, repair and/or replacement of such Utility and/or Water Supply System; and each of the Declarant and Owners of Lots shall do any and all things and execute and deliver any and all documents which may be necessary or appropriate to evidence such ownership of the Utility and/or Water Supply System and the easement with respect thereto. If the use and/or consumption of such Utility and/or Water Supply System is invoiced to the Property as a whole or sections thereof, the Association shall be responsible for payment of such invoices and shall invoice each Lot and the Owners thereof for their proportionate share of costs through the use of meters or submeters installed by the Association as a Common Expense. Each Owner agrees to promptly pay to the Association the allocated share of such costs as invoiced to such Lot by the Association and such allocated share shall be treated as an Assessment hereunder, provided however that the Association may discontinue providing such Utility and/or Water Supply System to any Lot is such invoice to such Lot remain unpaid for more that sixty (60) days and the Association may further charge late fees for late payment of such charges by any Owner and a reconnection fee if such Utility or Water Supply System has been disconnected or suspended due to non-payment as provided herein, further provided that the Association or Declarant shall have provided at least ten (10) days written notice to such Lot or Owner prior to disconnection or suspension of such services.

ARTICLE 8
ASSOCIATION FINANCES

8.1 BUDGETING AND ALLOCATING COMMON EXPENSES.

(a) Calculation of Regular Assessments. Before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses which it expects to incur for the coming year, including any contributions to be made to reserves pursuant to Section 8.2 for periodic major maintenance, repair and replacement of items that the Association maintains as a Common Expense. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the Common Expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities, and any other non-assessment income.

The Association is authorized to levy Regular Assessments to fund the Common Expenses against all Lots subject to assessment under Section 8.5, in the proportions described in Section 8.5. In determining the Regular Assessment rate, the Board may consider any assessment income expected to be generated from any property anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Regular Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.6 which may be either a contribution, an advance

against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a summary of the proposed budget and notice of the Regular Assessment to be levied pursuant to such budget to each Owner at least 30 days prior to the effective date of the budget. The budget and assessment shall automatically take effect on such date unless disapproved at a meeting by Members representing 75% of the total votes by Members and by Declarant during the Declarant Control Period. There shall be no obligation to call a meeting of the Members for the purpose of considering the budget except upon petition of the Members as provided for special meetings in the By-Laws.

If any proposed budget is disapproved, or if the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year, subject to the notice requirements set forth above and applicable law.

8.2 SPECIAL ASSESSMENTS. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses, reserves or anticipated expenses in excess of those budgeted. Any such Special Assessment shall be levied against the entire membership if such Special Assessment is for Common Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of a majority of the Board, and the affirmative vote or written consent of Declarant, during the Declarant Control Period. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.3 BENEFITED ASSESSMENTS. The Association may levy Benefited Assessments against one or more particular Lots as follows:

(a) to cover the costs, including, without limitation, overhead and administrative costs, of providing services to a Lot pursuant to any special services which the Association may offer or pursuant to a Supplemental Declaration. Benefited Assessments for special services may be levied in advance of the provision of the service; and

(b) to cover costs incurred in bringing a Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, including, without limitation, Legal Costs, as applicable. Also, fines levied by the Association pursuant to Section 7.3 and any insurance

deductible for which the Owner is responsible shall constitute Benefited Assessments.

8.4 ASSESSMENT RATE; COMMENCEMENT OF ASSESSMENTS; TIME OF PAYMENT. The obligation to pay assessments commences as to each Lot on the date the Lot is conveyed to a person other than Declarant or any Declarant Affiliate or on the first day of the month in which the Board first determines a budget and levies assessments pursuant to this Section, whichever is later. Regular and Special Assessments for Common Expenses shall be allocated equally among all Lots subject to assessment. The first annual Regular Assessment and Service Area Assessment, if any, levied on each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and may impose special requirements for Owners who have failed to pay, on a timely basis, two or more payments, in any 12 month period, of any nature, due under the Governing Documents. If the Board so elects, assessments may be paid in quarterly or monthly installments. Unless the Board otherwise provides, the entire Regular Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on such Owner's Lot, the Board may require that the outstanding balance on all assessments be paid in full immediately.

8.5 OBLIGATION FOR ASSESSMENTS.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Lot, covenants and agrees to pay all assessments levied in accordance with the Governing Documents for each Lot owned. All assessments, together with interest (computed from the assessment's due date at a rate of 18% per annum or the maximum rate permitted by law, whichever is less), late charges as determined by Board resolution, administrative charges and expenses, and Legal Costs, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempted from liability for assessments by non-use of the Common Area, abandonment of such Owner's Lot, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or

Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Following a written request, the Association shall furnish to any Owner liable for any type of assessment a written statement signed by an Association officer or an authorized managing agent setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

(b) Declarant's Option to Fund Budget Deficits. Notwithstanding anything to the contrary contained in this Declaration, to the extent permitted by applicable law, during the Declarant Control Period, Declarant may but shall not be obligated to satisfy the obligation for assessments on Lots which it owns either by paying assessments in the same manner as any other Owner or by funding the budget deficit. The budget deficit is the difference between (i) the amount of assessments levied on Member-owned Lots, plus any other income received during the fiscal year, and (ii) the amount of the Association's actual expenditures during the fiscal year, excluding contributions to reserves and excluding special assessments arising as a result of any unusual loss or liability.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by Declarant. After termination of the Declarant Control Period, Declarant shall pay assessments on Lots which it or its Affiliates own in the same manner and in the amounts stated in this Section as any other Owner.

(c) Declarant's Right to Loan or Advance Funds. Declarant may (but is not obligated to) loan, advance or otherwise make payments to the Association to assist the Association in meeting its financial obligations, in addition to Declarant's obligation to pay assessments or fund the deficit under this Section. Notwithstanding anything to the contrary contained in this Section, if Declarant loans, advances or otherwise pays assessments in excess of its obligations under this Section then any such sums shall be repaid to the Declarant prior to the termination of the Declarant Control Period.

8.6 LIEN FOR ASSESSMENTS. A lien shall exist and the Association may record a "Notice of Non-Payment" against any Lot in a manner provided therefore by the Texas Property Code and the Act, to secure payment of assessments that remain unpaid for a period of 30 days or longer after becoming due. For purposes of this Section, assessments shall include interest, late charges (subject to applicable law), and Legal Costs permitted by the Act. Such lien shall be superior to all other liens, except (a) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, and (b) other liens or encumbrances which by law would be superior. The Association's lien may be enforced by suit, judgment, and/or judicial or nonjudicial foreclosure in a like manner as a Mortgage or real estate under power of sale under the Texas Property Code and in accordance with the Act.

Notwithstanding the above, and subject to the provisions of the Act and to any other applicable law, the Board may designate assessments or charges levied solely for the purpose of funding Common Expenses related to acquisition, development, or construction of infrastructure or capital improvements serving the Property (or to pay the cost to underwrite, service, and repay any debt incurred to finance any such acquisition, development, or construction) as a "**Capital Improvement Assessment**", and the lien therefor shall be superior to (a) the Association's lien for other Common Expenses, and (b) all other liens except those deemed superior under federal or applicable law and which may not be made subordinate by this provision. This lien may also be foreclosed by judicial or nonjudicial foreclosure in a like manner as a Mortgage on real estate under power of sale under the Texas Property Code and in accordance with the Act.

In any foreclosure action brought under the power of sale provisions, the Association shall be deemed to be the holder and owner of the obligation secured by this Declaration. The registered agent of the Association shall be the trustee for all purposes of the foreclosure proceeding, and the Association shall have the power to appoint a substitute trustee if for any reason the Association desires to replace the trustee, and the substitute trustee shall succeed to all rights, powers and duties thereof. The Association shall request of the trustee to sell the Lot subject to the lien at public auction for cash, after having first given such notice and advertising the time and place of such sale in such manner as may then be provided by law for Mortgages, and upon such sale and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey to the purchaser in as full and ample manner as authorized by the Texas Property Code and in accordance with the Act. The trustee shall be authorized to retain an attorney to represent such trustee in such proceedings. The proceeds of the sale shall, after the trustee retains its commission, together with any additional Legal Costs incurred by the trustee, be applied to the costs of the sale, including but not limited to costs of collection, taxes, assessments, costs of recording, service fees, and incidental expenditures, the amount due on any note secured by the Lot, and any advancements made by the Association in the protection of the security.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure by the first Mortgagee (or pursuant to a deed in lieu of foreclosure to a first Mortgage) extinguishes the lien relating to any amounts due prior to the Mortgagee's foreclosure or the deed in lieu of foreclosure. The purchaser of such foreclosed Lot shall not be personally liable for assessments on such Lot due prior to the foreclosure sale. Such unpaid assessments shall be a Common Expense collectible from Owners of all Lots subject to assessment under Section 8.5, including, without limitation, such purchaser, its successors and assigns.

Notwithstanding the above, while the Association owns a Lot: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

8.7 TRANSFER FEE. Except for the "**Excluded Transactions**" (as defined below) upon the sale or transfer of title to any Lot, or any portion thereof, a transfer fee (the "**Transfer Fee**") shall be due and payable to the Association at the time of closing for such sale or transfer. The amount of the Transfer Fee shall be established by the Board on an annual basis. At no time shall the Transfer Fee be greater than 1% of the sale price of the Lot (with the Lot also including the home and any other improvements upon the Lot). For purposes of this Declaration, the "sale price" of the Lot shall be deemed to mean the total cost to the purchaser of a Lot and all improvements thereupon as indicated on the title company's closing statement or other similar document. The purchaser or transferee of a Lot, or any portion thereof, shall be responsible for delivery of the Transfer Fee to the Association. In the event that the Transfer Fee is not paid at closing, the amount due shall be collectible as an assessment as set forth in this Section, shall bear interest, and shall constitute a lien against the Lot. Declarant and the Association hereby grant the Association a power-of-attorney, coupled with an interest, so as to provide the Association with the right, at no expense to the Declarant or the Association, to collect the Transfer Fee and enforce the provisions of this Section 8.7 against the Owner of the Lot, including, but not limited to, the right to seek collection of the Transfer Fee and other sums payable pursuant to this Section 8.7. In addition, the Association may collect its reasonable attorneys' fees and court costs in enforcing the provisions of this Section 8.7.

Notwithstanding the foregoing, the transfer fee shall not be due and payable for the following transactions (collectively, the "**Excluded Transactions**"):

(a) the transfer of a Lot, or portion thereof, to the spouse of an Owner or to a direct lineal descendant of the Owner;

(b) the transfer of a Lot, or portion thereof, to a trust whose beneficiaries are solely the spouse and direct lineal descendants of the Owner;

(c) the transfer of a Lot, or portion thereof, to an entity in which the Owner owns, directly or indirectly, not less than 51% of the ownership interests in such entity;

(d) the transfer of a Lot, or portion thereof, to an entity that owns, directly or indirectly, not less than 51% of the ownership interests in Owner;

(e) a Mortgagee acquiring title to a Lot, or portion thereof, pursuant to a foreclosure action;

(f) a Mortgagee acquiring title to a Lot or portion thereof, pursuant to a conveyance in lieu of foreclosure; or

(g) any transfer which the Board, in its sole discretion, waives in writing the transfer fee.

Except for the Excluded Transactions permitted under subparagraph (a) above (for which no notice shall be required), the transferring Owner shall give the Association at least thirty (30) days' prior written notice of any transfer which is an Excluded Transaction with sufficient documentation to establish that the transfer is an Excluded Transaction.

It is hereby acknowledged that, in the event a transfer of a Lot, or portion thereof, is deemed in that particular instance to be an "Excluded Transaction," the subsequent transfer of that Lot, or portion thereof, shall again be subject to the transfer fee unless such subsequent transfer independently qualifies as a separate Excluded Transaction in accordance with this Section.

8.8 USE AND CONSUMPTION FEES: LICENSES AND ROYALTIES. The Board may charge use and consumption fees to any Person using Association services, utilities, or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners). Any such fees charged to Owners shall be considered a Benefited Assessment against the Lots of such Owners under Section 8.3.

ARTICLE 9
DEVELOPMENT OF THE PROPERTY

9.1 ANNEXATION BY DECLARANT. Declarant reserves the right to modify Improvements on any Lot, the Common Areas and any Plat from time to time in its discretion and at its option prior to expiration or termination of the Declarant Control Period. Declarant shall not be required to follow any predetermined order of improvement and development within the Plat or Property.

9.2 ADDITIONAL COVENANTS AND EASEMENTS. By Supplemental Declaration, Declarant may impose additional covenants, restrictions and easements on all or portions of the Property. If someone other than Declarant owns any Lot or portion of the Property, then such Owner's consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.3 EFFECT OF FILING SUPPLEMENTAL DECLARATION. A Supplemental Declaration shall be effective upon recording. Unless otherwise specified in the Supplemental Declaration, the Lots subjected to this Declaration by such Supplemental Declaration shall have equal voting rights in the Association and equal pro rata liability for Regular Assessments with all other Lots.

ARTICLE 10
ADDITIONAL RIGHTS RESERVED TO DECLARANT

10.1 WITHDRAWAL OF PROPERTY. Declarant reserves the right to amend this Declaration, until expiration or termination of the Declarant Control Period, to remove from the coverage of this Declaration any property which has not been improved by a structure intended for occupancy, whether or not such property has been improved by landscaping, decorative walls, signs, irrigation, utilities, or other improvements. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. Except as provided in Section 7.1(b), if the property is Common Area, the Association's consent is required for such withdrawal.

10.2 MARKETING AND SALES ACTIVITIES. Notwithstanding anything in the Governing Documents to the contrary, Declarant, its Affiliates, and their assigns and builders authorized by Declarant may construct, maintain, and operate upon portions of the Common Area and Lots and/or portions of the Property they own, such facilities, activities, and things as, Declarant, in its discretion, may deem to be required, convenient, or incidental to the construction or sale of Lots in the Property. Such permitted facilities, activities, and things shall include, without limitation, business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. Owners may be excluded from use of all or any portion of such facilities in Declarant's sole discretion. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant, Declarant's Affiliates, and their assigns, and authorized builders may park vehicles in areas other than garages or driveways, including, without limitation, on streets.

10.3 RIGHT TO DEVELOP. Declarant and its Affiliates, and their respective employees, agents, and designees, shall have a right of access and use, and an easement over, upon, and under, all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area or any other portion or area of the Property, as Declarant deems appropriate in Declarant's discretion.

Notwithstanding anything contained in any written letter, document or materials, or oral statement received by any Owner, each Owner acknowledges and agrees that the present plans and themes for the Property's development may change and that such Owner has not relied on any representation, warranty, or assurance by any Person (a) that any Lots, or other property or facilities, will be added, modified, or eliminated within the Property; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that it is not entitled to rely upon and has not received or relied upon any representations, warranties, or guarantees whatsoever as to the current or future: (a) design, construction, completion, development, use, benefits, or value of property within the Property; (b) number, types, sizes, prices, or designs of any residential or non-residential structures or improvements built or to be built in any part of the Property; or (c) use or development of any property adjacent to or within the vicinity of the Property.

10.4 INTENTIONALLY OMITTED.

10.5 RIGHT TO TRANSFER OR ASSIGN DECLARANT RIGHTS. Any or all of Declarant's rights and obligations set forth in this Declaration or the By-Laws may, except to the extent restricted by applicable law, be transferred, in whole or in part, from time to time, to other Persons. No such transfer or assignment shall be effective unless it is in a recorded instrument signed by Declarant. Declarant may allow other Persons to exercise, on a one-time or limited basis, any Declarant right without transferring the entire right. In such case, a recorded instrument is not required.

10.6 PROPERTY SYSTEMS AND SERVICES. Declarant reserves for itself, its successors and assignees, and grants to the Association (after termination of the Declarant Control Period or at such earlier time as Declarant elects in writing) the exclusive and perpetual right to provide and operate, or to permit others to provide and operate, within the Property, such telecommunication systems (including, without limitation, cable television, Property intranet, internet, and other

systems for receiving, distributing, and transmitting electronic data, signals, and audio or visual communications), security systems and services, utilities, trash collection, and other systems and services, including, without limitation, conduits, wires, amplifiers, towers, antennae, and other apparatus and equipment for the operation or provision thereof (collectively, the "**Property Systems and Services**") as Declarant, in its discretion, deems appropriate. Such right shall include, without limitation, the right to select and contract with companies licensed, if applicable, to provide such services in the vicinity of the Property, and to charge individual users a fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant Governmental Authority, if applicable. Declarant may receive, and shall be entitled to retain, any rebate, credit, fee, or incentive relating to the installation, operation, or provision of any Property Systems and Services.

During the Declarant Control Period, Declarant may require that the Association enter into agreements for the provision of Property Systems and Services to all Lots as a Common Expense, or to Lots within a particular Service Area as a Service Area Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Benefited Assessment.

10.7 RIGHTS TO USE NAMES; LICENSE AGREEMENTS. The Property Name (if any) and all similar or derivative names, along with all logos associated therewith, and any and all other marks utilized by Declarant, are the proprietary trade names and service marks of Declarant or its Affiliates. No Person shall use such trade names, service marks or logos for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, or in any logo or depiction or in any other fashion or manner without the prior written consent of the Person who owns such mark in each instance. In addition, due to the integrated nature of the Property as a planned Property, and the public identification of the Lots with the Property, any name or "logo" to be used in connection with or displayed on any Lot, and any sales or other materials or documentation related to the use of the Lot, shall be subject to Declarant's prior written consent in each instance. Such approval may be given or withheld in Declarant's discretion and may be subject to such terms and conditions as Declarant deems appropriate in Declarant's discretion.

Notwithstanding the above, Owners may use the name "Lofts on West 17th Street Association" where such term is used solely to specify that their particular Lot is located within the Property (subject, however, to such terms and conditions as the owner of the trade name or mark may impose in order to protect any registered trade names and service marks).

10.8 EASEMENT TO INSPECT AND RIGHT TO CORRECT. Declarant reserves for itself and others it may designate, from time to time, the right to inspect, monitor, test, redesign, modify and correct any structure, improvement, or condition which may exist on any portion of the Property, including Lots, and a nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a Dwelling or other structure on a Lot shall be permitted without the Owner's consent, which consent shall not unreasonably be withheld, conditioned, or delayed. The failure or refusal to permit reasonable access to the Lot for the purposes contemplated under this paragraph shall excuse Declarant or its designee

from responsibility for repairs or damages. The Person exercising this easement shall promptly repair, and pay for, any resulting damage. The provisions of this paragraph do not impose any obligation on Declarant or any other Person to perform any such inspection, monitoring, testing, redesigning, modification, or correction.

ARTICLE 11
EASEMENTS

11.1 EASEMENTS OVER THE COMMON AREA. Subject to the provisions herein, every Owner shall have a right to use and an easement of enjoyment in, over and to (i) the Common Area and (ii), all drive areas and vehicular and pedestrian passage areas ("Driveways") designated for use by all Owners and/or invitees, all such rights and easements to be appurtenant to and which shall pass with title to each Lot and their respective transferees, successors and assigns as shown on the Site Plan attached hereto. Owners and Occupants and their agents and invitees are prohibited from damaging or obstructing any portion of the Common Area and shall indemnify and hold harmless the Association and all other Owners with respect thereto. Declarant grants to each Owner a right and easement of use, access, and enjoyment in and to said Common Area and the Driveways, subject to:

(a) The Governing Documents and any other applicable covenants;

(b) Any restrictions or limitations contained in any deed conveying the Common Area to the Association;

(c) The Board's right to:

i. adopt rules regulating the use of the Common Area, the Driveways and Lots, including, without limitation, rules limiting the number of guests who may use the Common Area and the Driveways, and charge use fees for such use;

ii. suspend the right of an Owner and the Occupants of such Owner's Lot to use any Common Area amenity (A) for any period during which any assessment or other charge against the Owner's Lot remains delinquent;

iii. for a period not to exceed 30 days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents;

iv. dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration; and

v. mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.

(d) The rights of Declarant to conduct activities and establish facilities as provided in Section 10.2, 10.3 and any other rights and/or easements granted to Declarant under this Declaration.

Any Owner may extend such Owner's right to use the Common Area and the Driveways to the Occupants of such Owner's Lot, subject to reasonable Board regulation. An Owner who leases such Owner's Lot in accordance with this Declaration shall be deemed to have assigned all such rights to the tenants of such Lot for the lease term and shall not have any right to utilize the Common Area and the Driveways during such term, except as necessary to access the Lot.

11.2 EASEMENTS OF ENCROACHMENT. Declarant or the Association may grant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots. Such easement shall permit encroachment only by a structure, improvement or fixture which has been constructed by Declarant or approved in accordance with Article 4 of this Declaration and which is constructed on another's property without the actual intention of encroaching on such property. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3 EASEMENTS FOR UTILITIES, ETC.

(a) Installation and Maintenance. Declarant reserves for itself and its duly authorized agents, successors and assigns including, without limitation, authorized parties pursuant to the Development Agreement, during the Declarant Control Period, and grants to the Association, subject to Declarant's rights under Section 10.6, perpetual, non-exclusive easements throughout the Property (but not through a structure) to: (i) install utilities and infrastructure to serve the Property, including, without limitation, water, sewer, telephone, electric, gas, irrigation, cable, satellite, and other systems for sending and receiving data and/or other electronic signals, drainage structures, facilities and systems, and security and similar systems and other Property Systems and Services; (ii) install walkways, pathways and trails, curb cuts, driveways and paved areas, street lights, and signage on property which Declarant or the Association owns or within public rights-of-way or easements reserved for such purpose (or for the installation of landscaping or utilities) on a Plat; (iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; (iv) access and read utility meters; and (v) for any other purpose in Declarant's discretion. The right, license, or easement granted to a utility supplier shall include the non-exclusive right to ingress and egress over any streets for access and maintenance of its equipment and facilities.

Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Additional Specific Easements. Declarant hereby reserves for itself the right and power to create, establish and record such additional specific easements anywhere in the Property (except through or beneath a structure) as may be necessary or appropriate, in Declarant's discretion, to assist in the construction, development and operation of the Property, including, without limitation, any Lot, and such

easements may be granted, transferred or assigned to Declarant, Declarant's Affiliates, Owners, utility providers, and other third parties as deemed necessary or appropriate by the Declarant.

11.4 EASEMENTS FOR ENTRY FOR MAINTENANCE, EMERGENCY, AND ENFORCEMENT.

(a) Declarant, and each Owner by acceptance of the deed to the Owner's Lot, grants to the Association an easement and the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons. Such easement and right may be exercised by the Association through its officers, directors, committee members, employees, contractors, managers and agents in their capacities as such, and by all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

(b) Declarant, and each Owner by acceptance of the deed to the Owner's Lot, grants to the Association easements over the Property, including each Lot but excluding the interior of any dwelling, as necessary for the Association to (a) perform its maintenance responsibilities under the Governing Documents; and (b) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

(c) Declarant, and each Owner by acceptance of the deed to the Owner's Lot, grants to the Association an easement and right to enter a Lot, excluding the interior of any dwelling, to abate a Governing Document violation and/or remove any structure, thing or condition which violates the Governing Documents, using such measures as may be reasonably necessary. Any costs incurred, including Legal Costs, may be assessed against the Owner as a Benefited Assessment.

(d) Entry under this Section shall not constitute a trespass, and shall not require prior notice to the Owner.

11.5 EASEMENTS FOR CROSS-DRAINAGE. All portions of the Property shall be burdened with easements for drainage of stormwater runoff from other portions of the Property; however, no Person other than Declarant shall alter the drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Property without the consent of the Owner(s) of the affected property, the Board, and Declarant during the Declarant Control Period.

11.6 EASEMENT FOR MAINTENANCE OF SURFACE WATER AND STORM WATER MANAGEMENT SYSTEM.

The Declarant and the Association shall have a perpetual, non-exclusive easement over all portions of the surface water, detention pond and storm water management system for access to operate, maintain, repair, or replace the system. By this easement, the Declarant and the Association shall have the right to enter upon any portion of any Lot which is a part of or adjacent to the surface water and storm water management system, at a reasonable time and in a reasonable manner, to operate, maintain, repair, or replace the system as the City, County or any Governmental Authority requires or permits. Additionally, Declarant and the Association shall have a perpetual, non-exclusive easement for drainage over the entire surface water and storm water management system, as necessary for the operation, maintenance, repair, and replacement of such equipment. No Person other than Declarant shall alter the drainage flow of or over the surface water and storm water management system, including, without limitation, buffer areas or swales, without the Association's prior written approval, and, during the Declarant Control Period, Declarant's prior written consent.

11.7 PRIVATE ROADWAYS.

(a) All Driveways and roadways in the Property to be situated upon and across Lots may be used for ingress and egress purposes by all other Owners and their invitees. Such portion of Driveways and roadways shall be owned by Owners of the Lots across which they extend but the costs of maintenance and repair shall be deemed as part of the Common Expenses and none of such portions of the Property shall be dedicated to the City, County, State of Texas or to public use by recordation of such Plat. However, such Driveways and roadway easements shall be maintained by the Association at the sole cost of the Association subject to assessment as set forth in this Declaration.

(b) Declarant hereby reserves unto itself, its agents, employees, successors, and assigns an easement over the roadways for the purpose of constructing, maintaining, repairing, or rebuilding any subdivision improvements installed or to be installed in the Property and for performing any other work within the Property (including Lots) which Declarant deems reasonably necessary, in its discretion, or which Declarant is required to perform pursuant to a contract with any Owner or pursuant to the requirements of any government agency having jurisdiction over the Property. With regard to construction on any of the Lots by the Owners thereof, the contractors, subcontractors, laborers, materialmen, and other Persons providing construction services and materials to any such Lots shall have access to such Lots over the roadways subject to such rules as the Association may adopt.

(c) The Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Driveways for Owners, law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to the Property provided that such easement shall not authorize any such Persons to enter the Property except while acting in their official capacities.

11.8 GENERAL DEVELOPMENT EASEMENTS. Declarant reserves for itself, its successors or assigns, a blanket easement throughout the entire Property, to allow it to take whatever action it determines is necessary or beneficial to the development or operation of the Property. This blanket easement is to allow Declarant to construct, maintain, sell, improve, mortgage or dispose of any or all Lots in the Property in the manner that it deems necessary.

11.9 LIABILITY FOR USE OF EASEMENTS. No Owner shall have a claim or cause of action against Declarant, any Declarant Affiliate, the Association, their successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Property, except in cases of willful or wanton misconduct.

ARTICLE 12
DISPUTE RESOLUTION

12.1 AGREEMENT TO ENCOURAGE RESOLUTION OF DISPUTES WITHOUT LITIGATION. It is the intent of the Association and Declarant to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Property, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures. Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

12.2 INITIATION OF LITIGATION BY ASSOCIATION. To the fullest extent permitted by law after termination of the Declarant Control Period, the Association shall not initiate any judicial or administrative proceeding unless first approved by the Board or a majority of the Members in the Association at a meeting of the Members at which a quorum is present in person or by proxy.

ARTICLE 13
DISCLOSURES AND WAIVERS.

13.1 NO LIABILITY FOR THIRD PARTY ACTS.

Owners and Occupants of Lots are responsible for their own personal safety and for their real and personal property situated in or upon a Lot or Dwelling. The Association and/or the Declarant may, but neither is obligated to, maintain or support certain activities within the Property which are intended to promote or enhance safety or security within the Property. However, the Association and Declarant and their officers, directors, employees, and agents, shall not in any way be considered insurers or guarantors of safety or security within the Property, nor shall they or either of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including, without limitation, fire protection, burglar alarm, or other security monitoring systems, (or if there is any gate or other mechanism or system for limiting access to the Property), cannot be compromised or circumvented, nor that any such systems or measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its Occupants that the Association, the Board, its officers, its committees, and agents, Declarant and any predecessor Declarant are not insurers or guarantors of security or safety and that each Person within the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties. Each Owner on behalf of itself and the Occupants of its Lot agrees to release and discharge the Association, the Board, its officers, its committees, and agents, Declarant, any Declarant Affiliate, and any predecessor Declarant from and against any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths and expenses of whatever nature or kind, including, without limitation, Legal Costs arising by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

Declarant or the Association may, but shall not be obligated to, employ or retain, at Declarant's or the Association's sole cost and expense, a person or persons to staff a gate or gatehouse located at the entrance to the Property and perform such functions on behalf of Declarant as Declarant, in its sole discretion, deems appropriate, including, but not limited to, facilitating access by contractors, subcontractors, inspectors, brokers, and salespersons, and others to any sales office and/or Lots that are under construction or for sale. Any such person employed or retained by the Declarant shall under no circumstances be responsible for the security or safety of any persons or property within the Property, nor shall the Association or any Owner or Occupant of the Property be authorized to direct or request favors of any such person. Neither Declarant nor the Association shall have any obligation to staff the gatehouse or gate.

13.2 VIEW IMPAIRMENT. Neither Declarant nor the Association guarantee or represent that any view over and across the Lots or any open space or any other portion of the Property within the Property will be preserved without impairment. Neither Declarant nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping. The Association (with respect to the Common Area) and Declarant have the right to relocate, prune, thin, or add trees and other landscaping from time to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

13.3 NOTICES AND DISCLAIMERS AS TO PROPERTY SYSTEMS AND SERVICES. In recognition of the fact that interruptions in cable television and other Property Systems and Services will occur from time to time, neither Declarant, any predecessor Declarant, nor any of Declarant's successors or assigns or Affiliates shall in any manner be liable for, and no Property System and Service user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in Property Systems and Services, regardless of whether or not such interruption is caused by reasons within the service provider's control. Declarant shall be entitled to retain any rebate, discount, or other compensation received from the provider of any Property Systems and Services in connection with the installation or operation of such system.

13.4 CONSTRUCTION ACTIVITIES. All Owners and Occupants are hereby placed on notice that Declarant, any Declarant Affiliate, and/or their agents, contractors, subcontractors, licensees, and other designees, successors, or assigns as well as other Owners, shall continue, from time to time, to conduct construction activities within and/or adjacent to the Property. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and/or by using any portion of a Lot or the Property generally, Owners acknowledge, stipulate, and agree (a) that such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Lot or any other portion of the Property where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) to release and discharge Declarant, any Declarant Affiliate, or any predecessor Declarant, and all of their agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, from and against any and all losses, claims, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths and expenses of whatever nature or kind, including, without limitation, legal costs, arising from or relating to any breach of this covenant; (d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant and its Affiliates to sell, convey, lease, and/or allow the use of Lots within the Property.

13.5 UTILITY LINES. Each Owner, on behalf of such Owner and the Occupants of such Owner's Lot, acknowledges that neither the Association, the Board, Declarant, any predecessor Declarant, nor any Declarant Affiliate shall in any way be considered insurers or guarantors of health within the Property and neither the Association, the Board, Declarant, any predecessor Declarant, nor any Declarant Affiliate shall be held liable for any and all losses, claims, damages (compensatory, consequential, punitive or otherwise), injuries or deaths, or expenses of whatever nature or kind, including, without limitation, Legal Costs caused by or related to the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Property. Each Owner and Occupant assumes all such risks arising from the presence of utility lines, utility sub-stations or other utility facilities and further acknowledges that neither the Association, Declarant, any predecessor Declarant nor any Declarant Affiliate have made any representations or warranties, nor has any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

13.6 LIABILITY FOR ASSOCIATION OPERATIONS. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant and any predecessor Declarant (including, without limitation, their respective Affiliates, successors, and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, Legal Costs), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of amenities and other portions of the Common Areas and the collection of assessments.

ARTICLE 14
CHANGES IN COMMON AREA

14.1 CONDEMNATION. The Association may join with an Owner with respect to condemnation proceedings concerning the Common Area. Whenever any part of the Common Area is taken or conveyed under threat of condemnation to any authority having the power of eminent domain, the Board shall determine, in the exercise of its business judgment, whether each other Owner is entitled to notice. The award made for such taking shall be payable to the Association:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within 60 days after such taking, Members entitled to cast at least 75% of votes and Declarant, during the Declarant Control Period, shall otherwise agree. Any such construction shall be in accordance with plans the Board approves.

If the taking does not involve any Common Area improvements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Association and used for such purposes as the Board shall determine.

14.2 PARTITION. Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

14.3 TRANSFER OR DEDICATION OF COMMON AREA. The Association may convey, dedicate, or otherwise transfer portions of the Common Area to the City, County or to any other Governmental Authority with the consent of the Declarant. After termination of the Declarant Control Period, such conveyance, dedication, or transfer shall also require the consent of Members representing at least two-thirds of votes.

ARTICLE 15
AMENDMENT TO DECLARATION

15.1 BY DECLARANT. Until termination of the Declarant Control Period, Declarant may to the fullest extent permitted by applicable law, unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD, or VA, to make, purchase, insure, or guarantee mortgage loans on the Lots; (d) to satisfy the requirements of any Governmental Authority; or (e) for any other purpose which does not

materially adversely affect title to any Lot, unless the Owner of such Lot consents to such amendment.

15.2 BY THE BOARD OF DIRECTORS. In accordance with Title 11, Chapter 205, §205.004 of the Texas Property Code Annotated, the Board may amend this Declaration if such amendment is for the limited purpose of complying with HUD or VA requirements for insuring or guaranteeing mortgage loans on the Lots. An amendment adopted under this Section of the Declaration must (a) indicate that the amendment is adopted under authority of Title 11, Chapter 205, §205.004 of the Texas Property Code Annotated by specifically referencing that section; (b) be executed by a majority of the Board; and (c) be filed in the Harris County real property records.

15.3 BY THE MEMBERS. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 67% of the Association's total votes.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

15.4 VALIDITY AND EFFECTIVE DATE. No amendment may remove, revoke, or modify any right or privilege of Declarant or any Owner or Member without the written consent of Declarant or such Owner or Member, respectively (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that the Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment, if required by applicable laws, permits and/or approvals. No action to challenge the validity of an amendment may be brought more than one year after the amendment is recorded.

Any amendment shall become effective upon the earliest of (a) actual notice; (b) recording; or (c) later effective date specified in the amendment. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

15.5 EXHIBITS. Exhibits "A", "B", "B-1", "C", "C-1", "D", and "E", attached to this Declaration are incorporated herein.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed, sealed and delivered by its authorized officer on this the 17 day of June, 2014.

DECLARANT:

URBAN LOFTS XVIII LAND & DEVELOPMENT, LTD.
A Texas limited partnership

By: Urban Lofts XVIII GP, Inc.
A Texas corporation
Its General Partner

By: _____
LARRY S. DAVIS, PRESIDENT

STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority on this day personally appeared Larry S. Davis, President of Urban Lofts XVIII GP, Inc., a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and that he executed the same on behalf of and as the act of such corporation and for the purposes and consideration expressed in the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 17 day of June 2014..

Linda I. Blair
Notary Public, State of Texas
My Commission Expires
March 20, 2016

_____
Notary Public, State of Texas

EXHIBIT "A"

Property/Legal Description

Lots One (1) through Six (6) of Block One (1) of Lofts on West 17th Street, a Subdivision of 0.2500 Acres or 10,890 square feet of land, according to the map or plat thereof, recorded under Film Code No. 664174 of the Map Records of Harris County, Texas, being a replat of

All of that certain tract of land being 0.2500 acres (10,890 square feet) (known as Lot 362D) of the Shady Acres Extension Number Three as recorded in Volume 8, Page 28, Harris County Map Records (H.C.M.R.) Harris County, Texas and being more particularly described by metes and bounds as follows: (bearings based on the recorded plat of Shady Acres Extension Number Three)

COMMENCING at a point marking the intersection of the East right-of-way line of Bevis Street (70 feet wide) and the North right-of-way tine of West 17th Street (70 feet wide) and being the Southwest corner of the West Eighteenth Street Townhomes Subdivision as recorded in Film Code No. 498050, H.C.M.R.;

THENCE South 89°12'00" East, along said North right-of-way line of West 17th Street, in common with the South line of said West Eighteenth Street Townhomes Subdivision a distance of 363.00 feet to a point being the Southeast corner of said subdivision, same being the Southwest corner and the POINT OF BEGINNING of the herein described tract, from which a found 1/2" iron rod bears East, a distance of 0.60 feet;

THENCE North, leaving said right-of-way line and along the East line of said West Eighteenth Street Townhomes Subdivision, in common with the West line of the herein described tract a distance of 150.00 feet to a point for corner (unable to locate property corner due to obstruction at the time of survey) being the Southwest corner of a called 0.2500 acre tract (known as Lot 362B) described in deed to the Estate of Barbara H. Narum as recorded in Harris County Clerks File (H.C.C.F.) No. J080825, same being the Northwest corner of the herein described tract;

THENCE South 89°12'00" East, leaving the East line of said West Eighteenth Street Townhomes Subdivision and along the South line of said Lot 362B, in common with the North line of the herein described tract a distance of 72.60 feet to a point lying on the West line of a called 1.0000 acre tract being all of Lot 361 of said Shady Acres and described in deed to Alford Properties, Inc. as recorded in H.C.C.F. No. B517656 and being the Southeast corner of said Lot 362B, same being the Northeast corner of the herein described tract, from which a found 1/2" iron bears South 81°35'East, a distance of 1.94 feet;

THENCE South, along the West line of said Lot 361, in common with the East line of the herein described tract a distance of 150.00 feet to a found 1/2" iron rod lying on said North right-of-way line and being the Southwest corner of said Lot 361, same being the Southeast of the herein described tract;

THENCE North 89°12'00" West, along said right-of-way line, in common with the South line of the herein described tract a distance of 72.60 feet to the POINT OF BEGINNING and containing 0.2500 acres (10,890 square feet) of land.

AND

Lots One (1) through Six (6) of Block One (1) of Lofts on West 17th Street, a Subdivision of 0.2499 Acres or 10,890 square feet of land, according to the map or plat thereof, recorded under Film Code No. 664176 of the Map Records of Harris County, Texas, being a replat of

All of that certain tract of land being 0.2500 acres (10,890 square feet) (known as Lot 359C) of the Shady Acres Extension Number Three as recorded in Volume 8, Page 28, Harris County Map Records (H.C.M.R.) Harris County, Texas and being more particularly described by metes and bounds as follows: (bearings based on the recorded plat of Shady Acres Extension Number Three

COMMENCING at a point marking the intersection of the East right-of-way line of Bevis Street (70 feet wide) and the North right-of-way line of West 17th Street (70 feet wide) and being the Southwest corner of the West Eighteenth Street Townhomes Subdivision as recorded in Film Code No. 498050, H.C.M.R.;

THENCE South 89°12'00" East, along said North right-of-way line of West 17th Street a distance of 726.00 feet to a found 2" iron pipe in concrete being the Southeast corner of a called 1.0000 acres tract being all of Lot 360 of said Shady Acres and described in deed to Alford Properties, Inc. as recorded in H.C.C.F. No. B517656, same being the Southwest corner and the POINT OF BEGINNING of the herein described tract;

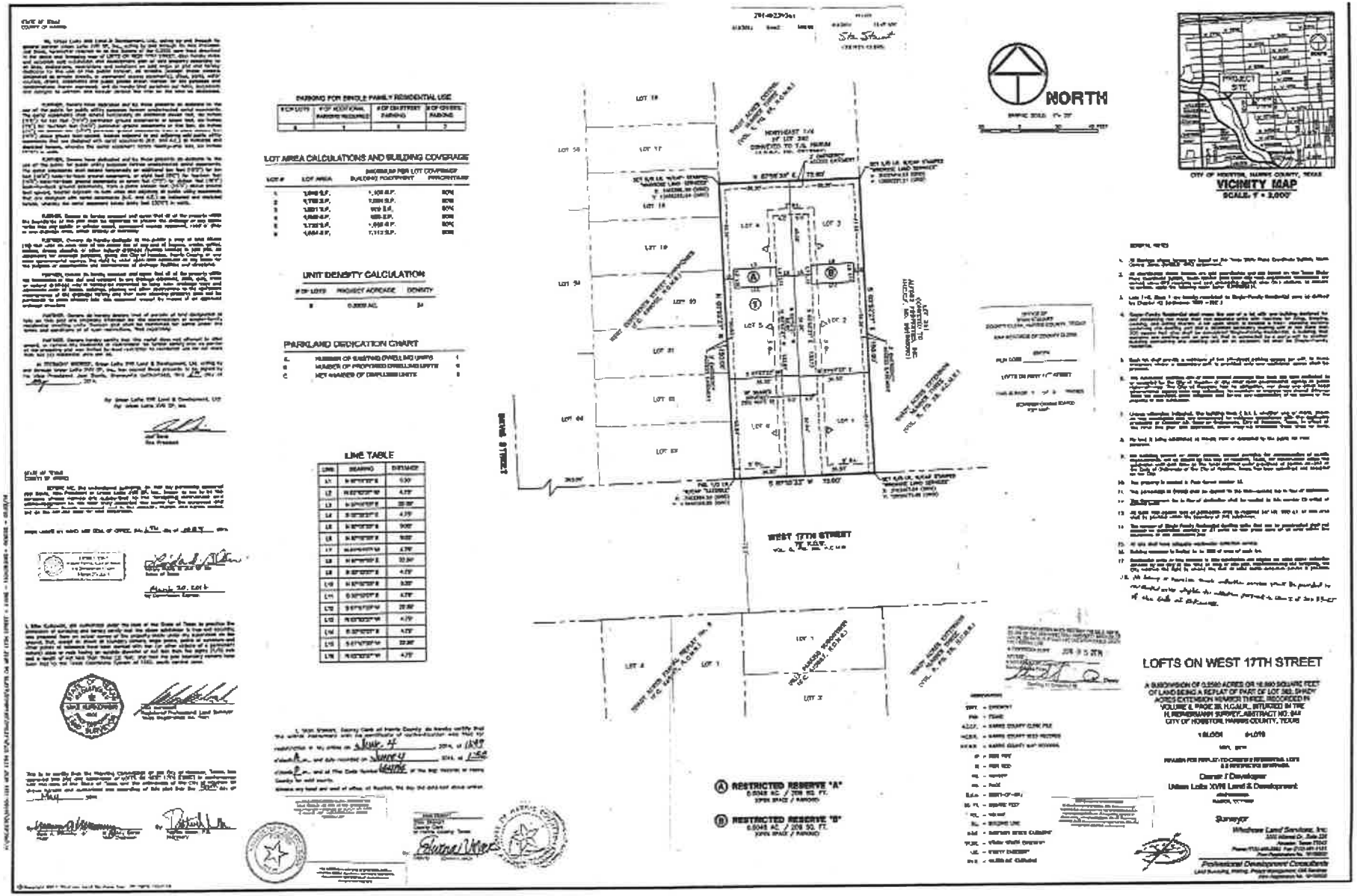
THENCE North, leaving said right-of-way line and along the East line of said Lot 360, in common with the West line of the herein described tract a distance of 150.00 feet to a point for corner (unable to locate property corner due to obstruction at the time of survey) being the Southwest corner of a called 0.2500 acres tract (known as Lot 359A) of said Shady Acres and described in deed to Alford Properties, Inc. as recorded in H.C.C.F. No. B440202, same being the Northwest corner of the herein described tract;

THENCE South 89°12'00" East, along the South line of said Lot 359A, in common with the North line of the herein described tract a distance of 72.60 feet to a point for corner (unable to locate property corner due to obstruction at the time of survey) being the Southeast corner of said Lot 359A, same being the Southwest corner of Lot 2 of the Shady Acres Homes Subdivision as recorded in Film Code No. 608260, H.C.M.R., same being the Northwest corner of a called 0.2500 acre tract (known as Lot 359D) described in deed to Timothy Mercer as recorded in H.C.C.F. No. 2007044134, same being the Northeast corner of the herein described tract, a from which a point being the Southeast corner of Lot 7 of said Shady Acres Homes, same being the Northeast corner of a called 0.2500 acre tract (known as Lot 358C) described in deed to Timothy Mercer as recorded in H.C.C.F. No. 2007044135, same being the Northwest corner of a called 0.2500 acre tract (known as Lot 358D) described in deed to Timothy Mercer as recorded in H.C.C.F. No. 2007044135, bears South 89°12'00" East, a distance of 145.20 feet, from said point a found 1/2" iron rod bears South 14°31' West, a distance of 1.26 feet, and from said common corner a point being the Northeast corner of said Lot 3581) bears South 89°12'00" East, a distance of 72.60 feet, from said point a found 1/2" iron rod bears South 47°23' East, a distance of 1.86 feet;

THENCE South, along the West line of said Lot 3590, in common with the East line of the herein described tract a distance of 150.00 feet to a found 3/8" iron rod being the Southwest corner of said Lot 3590, same being the Southeast corner of the herein described tract, from which a found 1/2" iron rod being the Southeast corner of said Lot 358D bears South 89°12'00" East, a distance of 217.80 feet;

THENCE North 89°12'00" West, along said right-of-way line, in common with the South line of the herein described tract a distance of 72.60 feet to the POINT OF BEGINNING and containing 0.2500 acres (10,890 square feet) of land.

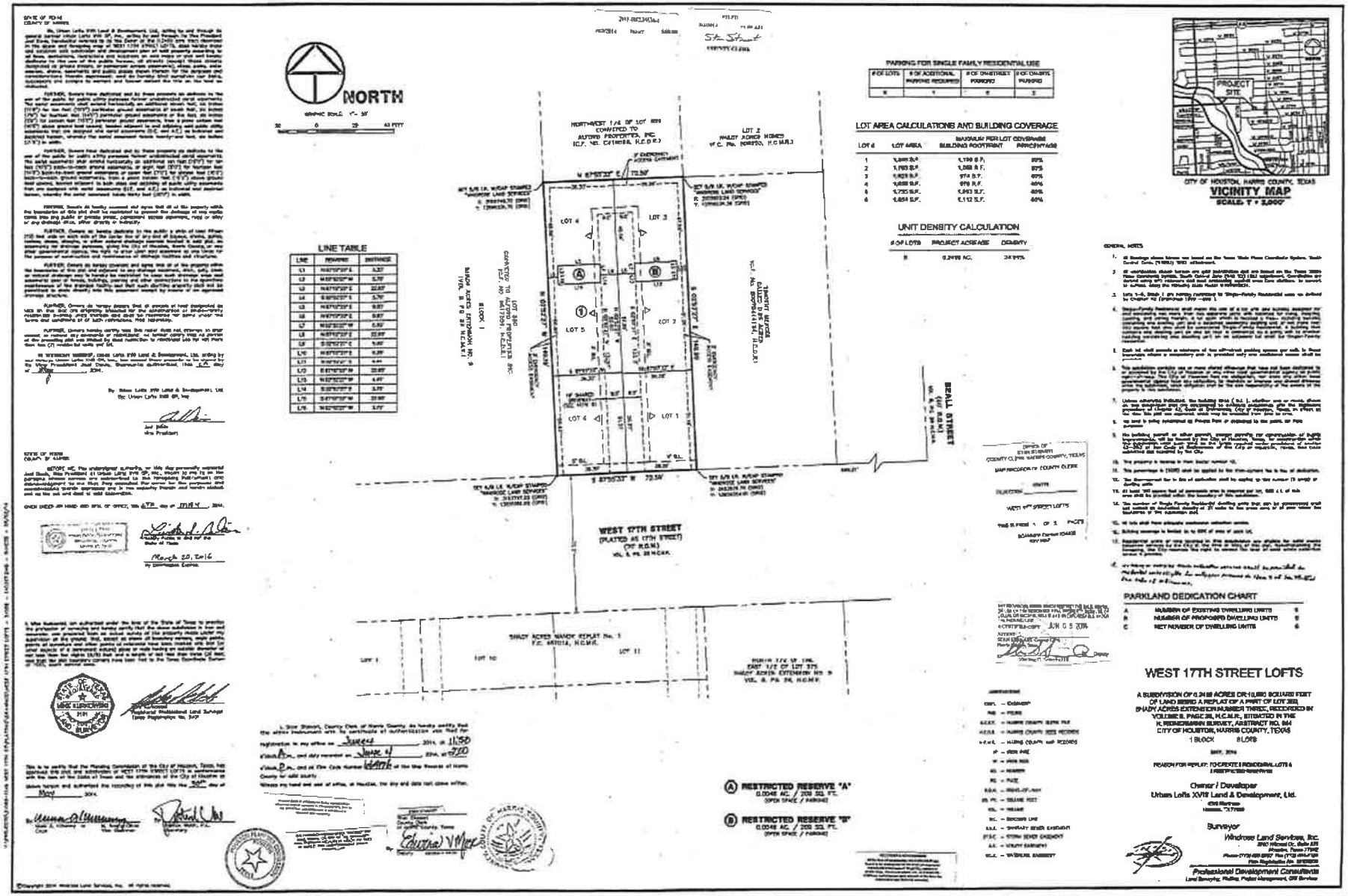
Exhibit "B" - Plat Recorded Under File #664174



34200274_1.docx
Lofts on West 17th CCRs

Exhibit "B"

Exhibit "B-1" - Plat Recorded Under File #664176



34200274_1 docx
Lofts on West 17th CCRs

Exhibit "C"

Exhibit "C" - Common Area (Cross-hatched Area)

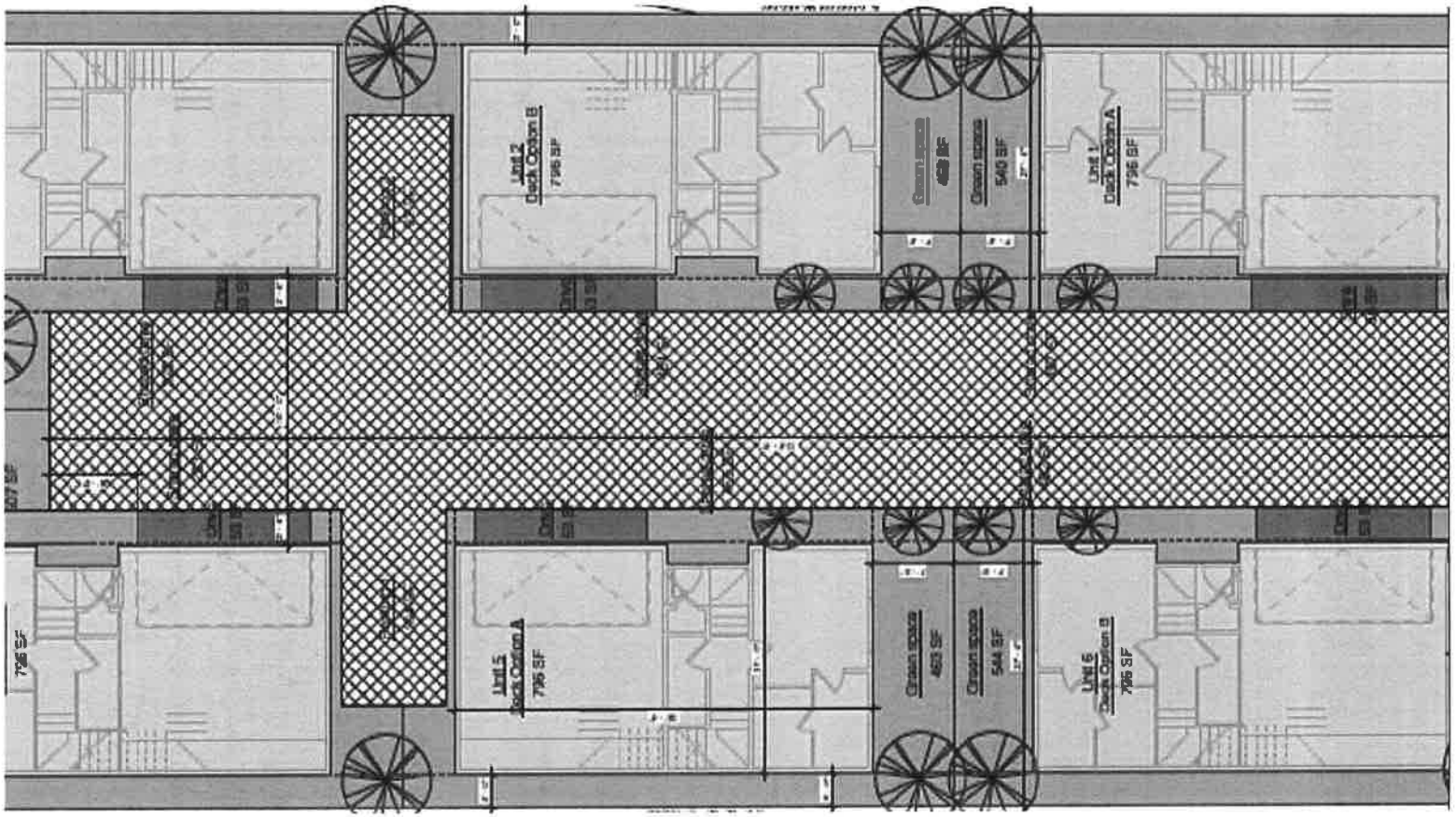


Exhibit "C-1" - Common Area (Cross-hatched Area)

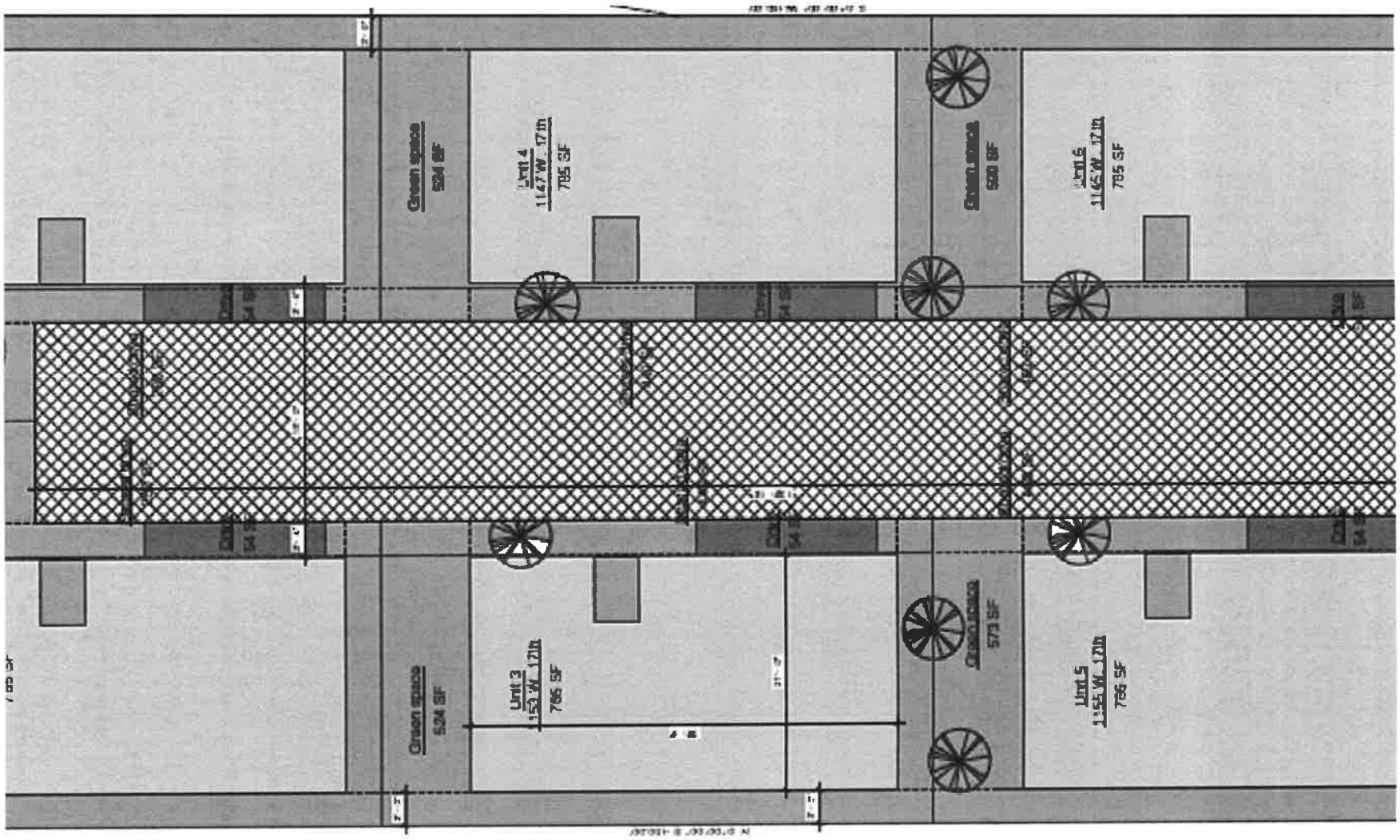


EXHIBIT "D"

Addresses

LOFTS ON WEST 17TH STREET
HOUSTON, TEXAS 77007

1.	Lot 1/Block 1	1221 W. 17th Street
2.	Lot 2/Block 1	1223 W. 17th Street
3.	Lot 3/Block 1	1225 W. 17th Street
4.	Lot 4/Block 1	1227 W. 17th Street
5.	Lot 5/Block 1	1229 W. 17th Street
6.	Lot 6/Block 1	1231 W. 17th Street

1.	Lot 1/Block 1	1145 W. 17th Street
2.	Lot 2/Block 1	1147 W. 17th Street
3.	Lot 3/Block 1	1149 W. 17th Street
4.	Lot 4/Block 1	1151 W. 17th Street
5.	Lot 5/Block 1	1153 W. 17th Street
6.	Lot 6/Block 1	1155 W. 17th Street

EXHIBIT "E"

Use Restrictions

The following Use Restrictions are covenants deemed included as part of the foregoing Declaration, shall be covenants running with the land and shall apply to all of the Property until such time as they are amended, modified, repealed, or limited pursuant to procedures set forth in the Declaration.

1. General. The Property and all Lots, Dwellings and portions of the Property submitted to this Declaration shall be used only for residential, recreational, and related purposes consistent with this Declaration and any Supplemental Declaration. Such purposes may include, without limitation, an information center and/or a sales office for Declarant and/or any real estate broker retained by Declarant to assist in the sale of property described in Exhibit "A", offices for any property manager retained by the Association, business offices for Declarant and the Association, model homes, public facilities, and parking facilities for such uses.

2. Restricted Activities. The following activities are prohibited within the Property unless expressly authorized by, and then subject to such conditions as may be imposed by, Declarant or the Board:

(a) Parking of any vehicles on streets or thoroughfares, and parking of commercial vehicles or equipment, mobile homes, campers and similar recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed carports, or garages, except temporarily during loading and unloading; provided, however, that construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. For purposes of this provision, "commercial vehicles" shall be defined as any vehicle with commercial writing on their exteriors or vehicles primarily used, designed, or registered for a commercial purpose, and vehicles with advertising signage attached or displayed on such vehicle's exterior, but shall not include passenger cars with identifying decals or painted lettering not exceeding a total area of one square foot in size or official vehicles owned by governmental or quasi-governmental bodies including, without limitation, police and sheriff insignias;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number (in the Board's discretion) of dogs (except that no pit bulls are allowed), cats, or other household pets of the nature commonly sold in pet stores located within regional malls in urban areas may be permitted in a Lot (not to exceed a total of three (3) such pets); however, those pets which roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a danger, nuisance or inconvenience to the Owners or Occupants of other Lots shall be removed by the Owner thereof upon request of the Board. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and the person walking the dog shall clean up after it. The Board may adopt additional rules clarifying the number and types of pets permitted on a Lot. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or noxious odors outside the Lot or creates a nuisance or an unreasonable level of noise or other conditions which tend, in the Board's judgment, to unreasonably disturb the peace or threaten the safety of the Owners and Occupants of other Lots (this paragraph shall not preclude normal and customary use of power tools, lawn mowers, and other yard maintenance equipment during reasonable hours);
Any activity which violates local, state, or federal laws or regulations; provided, however, that the Board shall have no obligation to take enforcement action in the event of a violation;

(d) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy or noisy condition to exist outside of enclosed structures on the Lot;

(e) Any noxious or offensive activity which in the determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the Owners or Occupants of other Lots;

(f) Outside burning of trash, leaves, debris, or other materials, except during the normal course of construction by Declarant or a person authorized to do so by Declarant;

(g) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be an unreasonable source of annoyance, as the Board may determine, to Owners and Occupants of other Lots, except alarm devices used exclusively for security purposes, provided such alarm device contains a systems which causes it to shut off automatically;

(h) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Property, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff;

(i) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(j) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, however, that the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent;

(k) Discharge of firearms, fireworks, or use of explosives; provided, no Association director, officer, employee or managing agent shall have any duty to exercise self-help or to become physically involved to stop such discharge;

(m) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and for the operation of lawn mowers, pool, spa and hot tub heaters, and similar tools or equipment, and the

Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(n) Any yard sale, garage sale, moving sale, rummage sale, or similar activity, except on such dates as the Board may designate for such activities to be conducted on a Property-wide basis;

(o) Capturing, trapping, or killing of wildlife within the Property (other than by or on behalf of the Association, Declarant or by a representative or designee of a Governmental Authority) except in circumstances posing an imminent threat to the safety of persons in the Property;

(p) Any activities by persons other than Declarant or its designees which materially disturb or destroy the vegetation, wildlife, Wetlands, or air quality within the Property or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(q) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Lot without prior approval pursuant to Article 4, or use of any garage for storage or other purposes which preclude its use for parking of that number of vehicles for which it was originally designed;

(r) Operation of motorized vehicles other than mowing equipment on pathways or trails maintained by the Association;

(s) Swimming, boating, use of personal flotation devices, fishing or other active use of ponds, streams, or other bodies of water within the Property except that Declarant, its successors and assigns, shall be permitted to draw water from ponds, streams, and other bodies of water within the Property for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams, or other bodies of water within or adjacent to the Property;

(t) Entry onto any Lot or onto any maintenance or other easement to access any lake, pond, preserve, wetland or similar area within the Property, except that the Owner and Occupants of a Lot abutting any such area may access such area at points along the common boundary between such Owner's Lot and such area (but shall not enter onto other Lots or portions of any maintenance or other easement abutting any other Lot) and the authorized agents, employees, contractors, and designees of the Declarant or the Association may enter upon any Lot or maintenance or other easement for the purpose of gaining access to any such area; and

(u) Any construction, erection, placement, or modification of any structure or thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 4 of the Declaration. This shall include, without limitation, all lighting; signs; fences; basketball hoops; clothes hanging devices; garbage cans; woodpiles; swimming pools, spas, and hot tubs; air

conditioners; tanks; solar energy devices; docks, piers and similar structures; and landscaping, hedges, irrigation and sprinkler systems, walls, mailboxes, dog runs, animal pens, or fences of any kind; sheds, barns, outbuildings and dog houses; satellite dishes and antennas, except that:

an antenna

designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

designed to receive television broadcast signals;

(collectively "**Permitted Antenna**") shall be permitted in rear yards of Lots or, if necessary to receive an acceptable quality signal, in side yards or front yards, in that order of preference; provided, unless prohibited by applicable law, any installation in the front yard of a Lot shall be subject to review and approval pursuant to Article 4 of the Declaration, which review shall be completed within thirty (30) days of receipt of the application for review. The Board or may impose requirements as to location and the manner of installation and screening in order to minimize obtrusiveness as viewed from streets and adjacent property, so long as such requirements are not inconsistent with applicable law. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property, should any master system or systems be utilized by the Association and require such exterior apparatus;

a reasonable number of holiday and religious lights and decorations may be displayed on a Lot for up to thirty (30) days prior to a publicly observed holiday or religious observance and up to fifteen (15) days thereafter without prior approval, subject to the right of the Association or Declarant to require removal of any such decorations which it deems to (A) be excessive in number, size, or brightness, relative to other Lots in the area; (B) draw excessive attention or traffic; (C) unreasonably interfere with the use and enjoyment of neighboring properties; or (D) cause a dangerous condition to exist. The Association shall have the right, upon five (5) days prior written notice, to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision. The Association, and the individuals removing the lights and decorations, shall not be liable to the Owner for trespass, conversion, or damages of any kind except intentional misdeeds and gross negligence;

one United States flag and one State of Texas not exceeding 36" x 60" in size may be mounted on the exterior facade of the dwelling at a location approved pursuant to Article 4 of the Declaration;

no clotheslines of any configuration shall be installed or erected upon any Lot so as to be in any way exposed to public view from any street or adjoining Lot; and

any solar energy devices shall be permitted; provided, unless prohibited by applicable law, shall be subject to review and approval pursuant to Article 4 of the Declaration, which review shall be completed within forty-five (45) days of receipt of the application for review. The Board or may impose requirements as to location and the manner of installation and screening in order to minimize obtrusiveness as viewed from streets and adjacent property, so long as such requirements are not inconsistent with applicable law.

(v) picketing, protest marches, sit-in demonstrations, protest speeches, or other forms of public protest or conduct, including, without limitation, displaying signs or placards on the Lot or any vehicle, apparatus or otherwise within public view in the Property, which tends to vilify, ridicule, denigrate, or impugn the character of Declarant, the Association, their respective officers, directors or employees, or any Owner or Occupant. Each Owner, by acceptance of the deed to any Lot, shall be deemed to have accepted the foregoing prohibitions as reasonable limitations on such Owner's constitutional right of free speech;

(w) any activity which generates a level of noise audible to Occupants of other Lots while inside their dwellings (including, without limitation, lawn maintenance, recreational activities, games, parties, music, and other activities conducted outdoors or on porches or decks) between the hours of 11:00 p.m. and 8:00 a.m., **except that this restriction shall not apply to the Declarant or builders** during the construction or sale of dwellings on the Lots;

(x) Window treatment shall consist of drapery, blinds, decorative panels or tasteful other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding two (2) weeks after an Owner or tenant first moves into a dwelling unit or when permanent window treatments are being cleaned or repaired. Reflection or foil window treatments are prohibited. All windows and/or glass doors shall be covered with blinds, drapes, or verticals, and must have a white or neutral color back;

(y) The design and construction of all screen enclosures and in-ground pools must obtain prior written approval of the Architectural Review Board; and

(z) door-to-door solicitation within the Property.

3. Prohibited Conditions. The following shall be prohibited in the Property:

(a) plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property;

(b) structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated or otherwise fallen into disrepair;

(c) sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, Wetlands, canals, or other ground or surface waters

within the Property, except that Declarant, its designees, and the Association shall have the right to draw water from such sources;

(d) fences, other than those installed by Declarant;

(e) Above ground pools;

(f) Window or wall mounted air conditioning units; and

(g) Additional landscaping beyond the original landscape plan.

4. Common Area. The maintenance of paving on any easement over any Lot is the responsibility of the Lot Owner or the Association, as governed by the Association. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed, reconstructed or placed upon, over or across any utility and/or fire lane easements as shown, said easements being hereby reserved for the mutual use and accommodation of all public utilities using or desiring to use same. All and any public utilities shall have the right to remove and keep removed all or parts of any building, fences, trees, shrubs or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective system on the easements, and all public utilities shall at all times have the full right of ingress and egress to or from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or parts of its respective systems without the necessity at any time of procuring the permission of anyone. Any public utility shall have the right of ingress and egress to private property for the purpose of reading meters and any maintenance or service required or ordinarily performed by that utility.

Water main and wastewater easements shall also include an additional reasonable area of working space for construction and maintenance of the systems as may be reasonably necessary during periods of such construction and maintenance. An additional easement area is also granted for installation and maintenance of manholes, cleanouts, fire hydrants, water services and waste water services from the main to the curb or pavement line, and description of such additional easements herein granted shall be determined by their location as installed and as may be reasonably necessary for such purpose.

5. Insurance. Nothing shall be done or kept on any Lot or in any Dwelling that will increase the rate of insurance for the Property, the Common Area or any other Lot or Dwelling within the Property. No Owner or Occupant shall permit anything to be done or kept in his Lot which will result in the cancellation of insurance on any Lot or Dwelling, the Common Area or which will be in violation of any law.

6. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be permitted on the Property at any time temporarily or permanently, provided however that temporary structures may be erected for use in connection with the repair or rebuilding of a Dwelling or any portion thereof.

7. Fires. There shall be no exterior fires whatsoever except for barbecue fires contained within receptacles designed in such a manner that no fire hazard or nuisance is created.

8. Storage And Disposal Of Garbage And Refuse. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any Lot, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other portions of the Property in the vicinity thereof or to its Occupants. No lumber, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property.

9. Airing Laundry. No clothing or other material shall be aired or dried upon the Property in any window, patio, balcony, nor anywhere exposed to outside view.

10. Vehicle Repairs. No Owner or Occupant shall conduct major repairs or major restorations of any motor vehicles, boat, trailer, aircraft or other vehicle upon any portion of the Property. Parking spaces shall be used for parking purposes only.

11. Exterior Appearance Of Dwelling. Each Owner or Occupant shall keep clean and in good condition and repair the windows and exterior of his Dwelling and shall not permit garments, rugs, laundry or other unsightly items to extend from or be placed outside of such Dwelling including but not limited to, over windows or on patios and balconies. No unsightly objects that constitute a nuisance or might reasonably be considered to give annoyance to neighbors or ordinary sensibility shall be placed or allowed to remain on any yard or any patio or balcony or parking space.

12. General Maintenance. All Lots shall at all times be kept in a neat, clean, well maintained, painted where appropriate healthful, sanitary and attractive condition. No Lot or any part of the Common Areas shall be used or maintained as a dumping grounds for garbage, trash, junk or other waste matter. All trash, garbage or waste matter shall be kept in adequate containers constructed of metal, plastic or masonry materials, with tightly fitting lids, which shall be maintained in a clean and sanitary condition and screened from public view except as necessary for garbage pick-up days. No Lot shall be used for open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the construction or improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which these materials shall either be removed from the Lot, or stored in a suitable enclosure on the Lot.

17. Owner Maintenance. An Owner shall at his sole cost and expense maintain and keep in repair the structure (including the foundation, walls, roofs and all appurtenances thereto), exterior surface and appurtenances, interior and patio and/or balcony space and lawn, garden, parking and storage of his own Lot and Dwelling and all other Improvements and appurtenances to such Lot and Dwelling, including the fixtures thereof, keeping the same in good condition and repair, painted (if a painted area), neat and clean at all times. All fixtures and equipment installed servicing the Lot, including, but not limited to, electrical, plumbing and gas shall be maintained and kept in good condition and repair by the Owner thereof and an Owner shall be obliged to promptly repair any damage to the exterior of the Dwelling and replace any broken or cracked glass in windows and doors and any exterior portion of the Dwelling. An Owner or

JOINDER OF LIENHOLDER

FIRST CONTINENTAL INVESTMENT CO., LTD., a Texas limited partnership, being the sole beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Property hereby consents to the terms and provisions of this Amended & Restated Declaration of Covenants, Conditions and Restrictions to which this Lienholder Consent and Subordination is attached and acknowledges that the execution thereof does not constitute a default under the lien document or any other document executed in connection with or as security for the indebtedness above described, and subordinates the liens of the lien document and any other liens and/or security instruments securing said indebtedness to the rights and interests created under said Declaration, and acknowledges and agrees that a foreclosure of said liens and/or security interests shall not extinguish the rights, obligations and interests created under this Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

FIRST CONTINENTAL INVESTMENT CO., LTD.,
a Texas limited partnership

By: _____
Name: Todd Aiken
Title: Executive Vice President

STATE OF TEXAS §
§
COUNTY OF HARRIS §

Before me, Ginger Pawlak, on this day personally appeared Todd Aiken of Executive Vice President of FIRST CONTINENTAL INVESTMENT CO., LTD., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this 20 day of June, 2014.

[SEAL]

GINGER PAWLAK
MY COMMISSION EXPIRES
May 14, 2017

_____
Notary Public, State of Texas