

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SOUTH NOLEN MEDICAL CONDO ASSOCIATION**

**TOWN OF SOUTHLAKE
TARRANT COUNTY, TEXAS**

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SOUTH NOLEN MEDICAL CONDO ASSOCIATION**

This Declaration of Covenants, Conditions, and Restrictions is made and established effective as of May 21, 2019, by Declarant (that term and other capitalized terms are defined in Section 1.1 below);

RECITALS:

- A. Declarant is the fee simple owner of the Property.
- B. Declarant desires to create a condominium pursuant to the provisions of the Act.
- C. Declarant intends hereby to establish a plan for the individual ownership of estates in real property consisting of Units (as defined herein) and the appurtenant undivided interests in the Common Elements (as defined herein).

NOW, THEREFORE, for the mutual premises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, the Declarant do hereby submit the Property to the provisions of the Act and the Condominium established hereby, and does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations are hereby established and run with the Land and are a burden and benefit to Declarant, the Association, the Owners and their respective heirs, legal representatives, successors and assigns:

**ARTICLE I
Definitions**

Section 1.1. Terms Defined. As used in this Declaration, the following terms have the meanings set forth below and all other capitalized terms have the meaning ascribed to them:

“Access Easement” means an easement more particularly described in Section 3.5(a) of this Declaration.

“Act” means the Uniform Condominium Act, Texas Property Code, Chapter 82, Section 82.001 et seq., as amended from time to time.

“Affiliate” means “Affiliate of a Declarant” as defined in Section 82.003(a)(1) of the Act.

“Assessments” means Monthly Assessments, Special Assessments, and Individual Assessments established under this Declaration, together with dues, fees, charges, interest, late fees, fines, collection costs, attorney’s fees, and any other amount due to the Association by an Owner or levied against a Condominium Unit by the Association.

“Association” means South Nolen Medical Condo Association, a Texas non-profit corporation, formed under the Texas Business Organizations Code for the purposes and possessing the rights, powers and authority set forth in the Governing Documents.

“Board of Directors” or “Board” means the board of directors of the Association named in the Certificate of Formation, and their successors as duly elected and qualified from time to time, pursuant to the terms and conditions of the Bylaws.

“Budget” means the budget prepared by the Association and delivered to each Owner that includes the anticipated Common Expenses for the ensuing year and a statement setting forth each Owner’s monthly share thereof.

“Building” means any structure located on the Land, including a Unit, as depicted in Exhibit “B”, attached hereto and incorporated herein for all purposes.

“Bylaws” means the bylaws of the Association initially adopted by the Board of Directors, as amended from time to time.

“Certificate of Formation” means the certificate of formation of the Association filed with the Secretary of State of Texas, as duly amended from time to time.

“City” means the Town of Southlake, Tarrant County, Texas.

“Common Elements” means all portions of the Condominium, including both the General Common Elements and the Limited Common Elements, but excluding only the Units.

“Common Elements Easement” means an easement more particularly described in Section 2.1 of this Declaration.

“Common Expenses” means all costs and expenses, including allocations to reserves (if any), payable by or financial liabilities of the Association pursuant to the Governing Documents or by a resolution duly adopted by the Board of Directors or the Owners, including, without limitation: (i) those insurance coverages as may be maintained by the Association as described in Section 5.3 of this Declaration; (ii) professional services for the Association, such as management, accounting and legal services; and (iii) such other costs and expenses as may be reasonably related to the proper maintenance, care, operation, management and administration of the Association and the General Common Elements.

“Condominium” means the form of real property, established by this Declaration with respect to the Property, in which portions of the Property are designated for individual ownership or occupancy and the remainder of the Property is designated for common ownership or occupancy solely by the Owners of such remainder, and as presently configured will contain a maximum of 4 Units that may be created.

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

“Condominium Unit” means a Unit, together with an undivided interest, appurtenant to the Unit, in and to the Common Elements.

“Declarant” means South Nolen Medical Investments, Ltd., a Texas limited partnership, whose address is 365 Miron Drive, Suite A, Southlake, Texas 76092, (“SNMI”), and any successors or assignees of the Declarant having the rights, powers, privileges, authority and obligations described in this Declaration, which such appointment of successors shall be evidenced by a written instrument filed for record in the Real Property Records of Tarrant County, Texas, assigning the rights, powers, privileges, authority and obligations of the Declarant hereunder.

“Declarant Control Period” means the period commencing on the date of this Declaration and continuing until one hundred twenty (120) days after the date upon which deeds to seventy-five percent (75%) of the Units that may be created have been conveyed to Unit Owners other than Declarant, as evidenced by the filing of such conveyances in the Real Property Records of Tarrant County, Texas.

“Declarant’s Mortgagee” means any Person that is the holder of any bona fide indebtedness which is the result of an arm’s length negotiation that is secured by a first lien or encumbrance upon any portion of the Condominium owned by the Declarant.

“Declaration” means this Declaration of Covenants, Conditions, and Restrictions for South Nolen Medical Condo Association and all amendments thereto, which shall be recorded in the Real Property Records of Tarrant County, Texas.

“Designee” means a Person acting at the request of another Person, including contractors, subcontractors, employees, agents, representatives and licensees.

“Development Rights” means a right or combination of rights reserved by the Declarant to: (i) add real property to the Condominium; (ii) create, relocate or properly designate Units, Suites or Common Elements within the Condominium and to make and record corrections to the Map to conform the Map to the actual location of the Units and or the proper designation of the elements of the Condominium as Units or Common Elements; (iii) convert Units into Suites, Suites into Units, Units into Common Elements, or Common Elements into Units; (iv) otherwise subdivide or combine Units within the Condominium; or (v) withdraw real property from the Condominium.

“Dispute” means any claim, grievance or other dispute, other than a Construction Dispute, arising out of or relating to: (i) the interpretation, application or enforcement of the Governing Documents; (ii) any conflict or dispute arising between or among two (2) or more Owners; (iii) the proper party to bear a maintenance cost or expense or a capital expenditure or the proper amount of the expense, fee or Assessment to be charged or collected; (iv) the rights, obligations and duties of any Owner under the Governing Documents; (v) the authority of the Association or Declarant under any Legal Requirement or under the Governing Documents to: (a) require any Owner to take any action or not to take any action involving such Owner’s Unit or (b) alter, subtract from or add to the Common Elements or the Condominium; or (vi) the failure of the Association, in accordance with Legal Requirements and the Governing Documents to: (a) properly conduct elections, (b) give adequate notice of meetings or actions, (c) properly conduct meetings, or (d) allow inspection of books or records. The following shall not be considered “Disputes” unless all parties shall otherwise agree to submit the matter to the dispute resolution provisions of Article XII of this Declaration: (i) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association’s ability to enforce the provisions of the Governing Document.; (ii) any suit between Owners that does not include Declarant or the Association if such suit asserts a dispute that would constitute a cause of action independent of any of the Governing Documents; (iii) any disagreement that primarily involves title or interest in or to any

Unit or the Common Elements; or (iv) any suit in which the applicable statute of limitations would expire within one hundred eighty (180) days of the giving of notice as provided in Article XII of this Declaration unless the Persons against whom the Dispute is made agree to toll the statute of limitations for a period of time necessary to comply with Article XII of this Declaration.

“Easements” means collectively those Easements described in Section 3.5 and Section 3.6 of this Declaration.

“First Lien Indebtedness” means any indebtedness secured by a first and prior lien or encumbrance upon a Condominium Unit.

“General Common Elements” means all portions of the Common Elements that are not Limited Common Elements.

“Governing Documents” means individually and collectively the Act, Declaration and any applicable supplemental Declaration, the Bylaws, the Certificate of Formation, the Regulations, and Board of Director resolutions, all as they may be amended.

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

“Governmental Impositions” means all real estate and personal property taxes, charges, assessments, standby fees, excises and levies and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time prior to or after the execution hereof, may be assessed, levied or imposed upon the Condominium or any Unit therein by any Governmental Authority.

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

“Individual Assessments” means the assessments levied by the Association against one (1) or more Owners pursuant to Section 6.2(b) of this Declaration.

“Initial CO” is defined in Section 2.2(b) below.

“Insurance Proceeds” means any and all proceeds the Association or an Owner is entitled to receive from an insurance company as a result of a casualty loss, including such proceeds in connection with a casualty loss to a Unit or the Common Elements.

“Insurance Trustee” means the trustee appointed to negotiate losses under any property insurance policies required to be obtained by the Association in this Declaration.

“Land” means that certain real property located in Tarrant County, Texas, and more particularly described in Exhibit “A-1”, attached to this Declaration and incorporated herein for all purposes, together with all and singular the rights and appurtenances pertaining thereto.

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

“Limited Common Elements” means those portions of the Common Elements that are now or later allocated by this Declaration and the Map for the exclusive use of one or more, but less than all of the Units.

“Manager” means any professional manager with whom the Association contracts for the day-to-day management of the Property and/or the administration of the Association and the Condominium.

“Map” means the plat and plans depicted on Exhibit “A-1” and Exhibit “B” attached hereto and made a part hereof, including, without limitation, a survey plat of the Land and general dimensional drawings that horizontally and vertically identify and describe the Units and the Common Elements (including, without limitation, the parking areas) in the Condominium; provided, however, that not all of the Improvements have been constructed on the Land as of the date hereof. Unless a Unit size and location differs upon its completion of construction from what is depicted in Exhibit “B” attached hereto, it shall not be necessary for Declarant to further amend the Declaration.

“Monthly Assessment” means the monthly assessment established pursuant to Section 6.1 of this Declaration by the Board of Directors to pay Common Expenses when due.

“Mortgagee” means any bank, savings and loan association, credit union, insurance company, mortgage corporation, or other institution that regularly makes mortgage loans, that is secured by a lien or encumbrance upon the Property and/or a Unit and which has provided the Association with written notice of its name, address and a description of the Unit encumbered thereby.

“Owner” means any Person (including Declarant) owning fee title to a Condominium Unit, but does not include any Person having an interest in a Condominium Unit solely as security for an obligation.

“Parking Easement” means an easement more particularly described in Section 3.5(c) of this Declaration.

“Past Due Rate” means the applicable maximum lawful rate of interest under Texas law, or if no such maximum exists, eighteen percent (18%) per annum.

“Permitted Uses” means those uses permitted by the Zoning Ordinance.

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

“Property” means the Land and the Improvements, including the Units and Common Elements.

“Regulations” means the rules and regulations of the Association initially adopted by the Board of Directors of the Association and relating to the appearance, use and occupancy of the Property, including exterior appearance, use and occupancy of the Units, as amended from time to time.

“Rents” means any and all rental or other income received by an Owner in connection with the leasing of that Owner’s Condominium Unit or the granting or licensing of a right to use all or any portion of such Unit.

“Reserved Parking License” means a license for the exclusive use of parking space(s) as more particularly described in Section 3.1(d) of this Declaration.

“Special Assessments” means special assessments established by the Board of Directors under the provisions of Section 6.2(a) of this Declaration from time to time as may be necessary or appropriate.

“Special Declarant Rights” means rights reserved for the benefit of the Declarant to: (i) complete Improvements shown on the Map; (ii) exercise any Development Right; (iii) maintain the sales, management and leasing offices and models described in Section 3.1(c) of this Declaration and use signs advertising the Units or the Condominium; (iv) use any Easement for the purpose of making improvements within the Condominium or the Property; and (v) appoint or remove any officer or board member of the Association during the Declarant Control Period.

“Suite(s)” means the subdivided physical portions of a Condominium Unit that may be designated for separate ownership and/or occupancy by the Declarant in the exercise of its Development Rights. For the purposes of this Declaration, a Suite will be equivalent to a Condominium Unit, and the owner of Suite will be an Owner (as defined herein) with a vote as provided in Sections 2.2(a) and 4.2 of this Declaration.

“Systems” means any fixtures, utilities, equipment, pipe lines, wires, computer cables and conduits, circuits, junction boxes, hangers, electronic devices and other systems used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, and audio and video signals.

“Systems Easement” means an easement more particularly described in Section 3.5(d) of this Declaration.

“Tenant” means any Person having the right to occupy a Unit (or Suite) pursuant to a lease granted by an Owner.

“Unimproved Unit” means the unconstructed Units currently part of the Condominium. The Unimproved Units at the date of this Condominium Declaration consist of Units 1-4 on the Map. An Unconstructed Unit as defined in the Unit definition below consists of the airspace within the boundaries of the Unit depicted on the Map. At such time as Improvements are constructed within the initial boundaries of the airspace Unit, the original airspace will be reconfigured into a Unit. Upon construction of a Unit, the Map shall be amended by an instrument recorded in the Real Property Records of Tarrant County, Texas, to reflect the location of the Unit only if such Unit’s location differs upon its completion from what is depicted on the Map. Otherwise, it shall not be necessary for the Declarant to amend the Declaration upon completion of construction of a Unit or Building.

“Unit” means a physical portion of the Condominium that is designated for separate ownership or occupancy which may be all or a portion of any Building, which may be made up of two or more Suites. The boundaries of a Unit constitute the exterior surfaces of the roof and exterior walls, with the center line of the party walls (if any) constituting the perimetric boundaries of the Units in that plane, and the undersurface of the bottom slab dividing the Unit itself from the underlying land. For purposes of clarity, a Unit’s foundation is a part of the Unit and is not a Common Element. Further, a Unit includes (i) everything within the exterior surfaces of the roof and exterior walls, such as, the perimeter walls, ceiling, windows, and doors (ii) the finish materials, fixtures and appliances contained in the Unit, and (iii) all Systems which exclusively serve such Unit, but excludes any Systems that serve more than one (1) Unit. Initially, each unconstructed Unit consists of the airspace within the boundaries of the Unit. At such time as Improvements are constructed within the initial boundaries of the airspace Unit, the original airspace will be reconfigured into a Unit. Upon construction of a Unit, the Map shall be amended by an instrument recorded in the Real Property Records of Tarrant County, Texas, to reflect the location of the Unit.

“Utility Easement” means an easement as more particularly described in Section 3.5(e) of this Declaration.

“Zoning Ordinance” means the zoning district of the City, as same may be amended from time to time, that is applicable to the Property.

ARTICLE II General Provisions

Section 2.1. Creation of Units; Map.

(a) By this Declaration, the Property is divided into fee simple estates comprising separately designated Units and such Units’ undivided interests in and to the Common Elements. Each Unit, together with such Unit’s undivided interest in the Common Elements, is for all purposes a separate parcel of and estate in real property. Accordingly, each such separate parcel of and estate in real property includes the Common Elements Easement, and such easement is hereby granted and conveyed to each Owner by Declarant. The separate parcels of and estates in real property designated hereby are created on the date of filing of this Declaration in the Real Property Records of Tarrant County, Texas, and continue until this Declaration is revoked or terminated in the manner herein provided.

(b) The Map now sets forth or, after amending same from time to time as Improvements are constructed as set out in Section 2.1 above, will set forth, inter alia, the following: (1) a general description and diagrammatic plan of the Condominium; (2) the location and dimensions of all real property subject or not subject to Declarant’s Development Rights and other Special Declarant Rights; (3) each Unit, its dimensions and Unit number, and, by identifying Unit number as applicable, the Limited Common Elements (if any) appurtenant to each Unit; and (4) such other information as is desirable or required pursuant to the Act, including a certification as to compliance with the Act. The measurements set forth on the Map as to each Unit are approximate values taken from plans and specifications for the Property and may not be precisely accurate as to any Unit due to variances in construction and interior floor plans. **DECLARANT SHALL NOT BE LIABLE TO ANY OWNER AS A RESULT OF ANY DISCREPANCIES IN ACTUAL MEASUREMENTS FROM THOSE SET FORTH ON THE MAP OR IN ANY CONDOMINIUM PURCHASE CONTRACT TO WHICH DECLARANT OR ANY OWNER IS OR WAS A PARTY, AND EACH OWNER, BY ACCEPTING**

A DEED TO A UNIT, WAIVES ANY SUCH CLAIM OR CAUSE OF ACTION. Upon completion of the construction of contemplated Improvements contemplated by Declarant, the Declarant (without the joinder of any Owner) shall, if necessary, file a supplemental declaration amending the Map to reflect the actual measurements for each Unit, and any other appropriate changes based upon completion of construction.

Section 2.2. Allocation of Interests in Common Elements and Common Expenses.

(a) The undivided interest of each Owner in and to the Common Elements and for the Common Expenses is allocated based on the square footage of the Unit in relation to the total square footage of all Units, which interest is adjusted from time to time as more Units may be created pursuant to this Declaration (i.e., if the Unit is 1,000 square feet and all Units, irrespective of the actual number of Units which are built at that time, total 10,000 square feet, then the Owner of that Unit shall have a 1/10th undivided interest in the Common Elements and liability for the of the Common Expenses). The fraction of the interest of each Owner in and to the Common Elements and for the Common Expenses is based on the square footage of the Unit, if and when created. As additional Units are created by the Declarant, or as Units are subdivided, the denominator of the fraction will be increased to equal the total amount of square footage of Units in the Condominium.

(b) As of the date hereof, the Improvements designated as Units 1-4 (the "Unimproved Units") on the Map have not been constructed. The square footage and dimensions of the Unimproved Units, as shown on the Map, are estimated amounts. Notwithstanding the foregoing, the Association shall use the estimated square footage of the Unimproved Units to calculate each Owner's undivided interest in and to the Common Elements and for the Common Expenses consistent with Section 2.2(a): provided, however, until the earlier of (i) one (1) year after conveyance of each Unimproved Unit from the Declarant to a third-party purchaser, or (ii) the construction of each Unimproved Unit is complete, as evidenced by issuance of the initial certificate of occupancy (the "Initial CO"), the Owners of each Unimproved Unit shall pay a Monthly Assessment, if any, which are applicable to the Unimproved Units, in an amount equal to one-fourth (1/4) of its allocated interest for the Common Expenses (based on its estimated square footage). Until the earlier of (i) one (1) year after conveyance of each Unimproved Unit from the Declarant to a third-party purchaser, or (ii) receipt of the Initial CO, the other Owners of existing Units, in addition to paying a Monthly Assessment in an amount equal to the respective Unit's allocated interest for the Common Expenses, shall also pay the respective Unit's allocated interest (such allocation is based on the square footage of the existing Unit in relation to the total square footage of all existing Units, which interest is adjusted from time to time as more Units may be constructed pursuant to this Declaration. *Example:* If the existing Unit is 1,000 square feet and all existing Units total 10,000 square feet, and all Units defined in the Declaration total 20,000 square feet, then the Owner of that Unit shall have a 1/10th undivided interest in the Common Elements and liability for 1/10th of the Common Expenses) of the remaining three-fourths (3/4) of the Unimproved Units allocated interest for the Common Expenses.

Upon issuance of the Initial CO, the Owners of each Unimproved Unit shall immediately notify the Association of same and provide the Association with the correct square footage and dimensions of their Unit. The Condominium Map shall then be amended to reflect the actual measurements for the Unimproved Units. Effective as of the date of the Initial CO, the Association shall promptly recalculate the allocation of each Owner's interest in and to the Common Elements and for the Common Expenses consistent with Section 2.2(a), and shall pro rate such Monthly Assessments accordingly.

If the date of the Initial CO or if the expiration date of the one (1) year anniversary of the conveyance of the Unimproved Unit from the Declarant to a third-party purchaser is other than the Monthly Assessment due date established by the Board of Directors, then the Monthly Assessments shall be prorated among the Owners in accordance with Section 2.2(a).

Section 2.3. Intentionally left blank and reserved for future use.

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

Section 2.5. Permissible Relationships: Description.

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

(b) **Description of Units.** Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of a Condominium Unit must legally describe such Condominium Unit by its identifying Unit number, followed by the words Condominium, with further reference to the location of the Property in Tarrant County, Texas, and to the recording data for this Declaration (including the Map and any amendments to the Declaration). Every such description is good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Condominium Unit, and any such description shall be construed to include all incidents of ownership relating to a Condominium Unit.

Section 2.6. Mortgage of Condominium Unit. From time to time, an Owner may mortgage or encumber its Unit by creating a lien or liens covering such Unit under the provisions of a mortgage or deed of trust, but any lien created thereby is subject to the terms and provisions of this Declaration, and any Mortgagee or other lien holder that acquires a Condominium Unit through judicial foreclosure, public sale or other means is subject to the terms and provisions of this Declaration, except as specifically provided to the contrary herein. An Owner that mortgages its Unit shall notify the Association, giving the name and address of the Owner's Mortgagee, and the Association shall maintain such information.

Section 2.7. Alteration of Unit Boundaries of Units. Owners of adjoining Units, if any, may not penetrate the partition between such adjoining Units.

ARTICLE III Uses, Reservations and Restrictions

Section 3.1. Permitted Use.

(a) Except as hereinafter provided with respect to Units owned by the Declarant, no Unit may be used or occupied for other than non-residential purposes or such other uses permitted by this Declaration (i.e., the Permitted Uses). Each Unit is also subject to limitations on use, occupancy,

architectural standards and such other matters set forth in Article XI, in the Regulations, and by the Association.

(b) Leases. Units may be leased; however: (i) such lease shall be in writing, shall state that it is subject in all respects to the provisions of the Governing Documents and shall provide that any failure by the Tenant thereunder to comply with the terms and provisions of the Governing Documents shall constitute a default under such lease, (ii) each lease shall be subject to leasing restrictions as set forth by the Association, (iii) an executed copy of each lease shall be submitted to the Association promptly following execution, and (iv) all leases shall be on forms approved by the Association. Each Owner shall be deemed to have appointed the Association its agent for purposes of enforcing against Tenant any default arising from violations of the Governing Documents. The foregoing provision shall not apply to Declarant, or to any Declarant Mortgagee in possession of a Unit as a result of foreclosure or any proceeding in lieu of foreclosure, during the period of such Declarant Mortgagee's possession.

(c) Declarant's Use of Units as Models. Notwithstanding anything to the contrary contained herein, at all times while the Declarant is the Owner of any Unit, the Declarant and the Person and agents appointed by it, has the right (but not the obligation) to maintain management offices, sales office, models, and other sales facilities at the Condominium in such numbers, size, and location as the Declarant may determine in its discretion.

(d) Reserved Parking Licenses. The Declarant or the Board of Directors of the Association shall have the right in its or their discretion from time to time to grant to Unit Owners Reserved Parking Licenses in parking spaces located on the General Common Elements. Such reserved parking spaces shall be subject to such restrictions, reasonable charges and conditions on the use thereof as the Declarant or the Board of Directors of the Association may deem appropriate and as set forth in each Reserved Parking License. Such reserved parking spaces shall be maintained by the Association, or at the determination of the Declarant or the Board of Directors of the Association, by the Unit Owner having the exclusive right to use the reserved parking spaces as set forth in the Reserved Parking License agreement. The Unit Owner holding a Reserved Parking License agreement may assign such license agreement to any subsequent Owner of the Unit owned by said Unit Owner with the approval of the Declarant or the Board of Directors; or, in the alternative, with the approval of the Declarant or the Board of Directors, said Unit Owner may assign the license agreement to the Declarant or to the Board of Directors of the Association. A Reserved Parking License agreement shall not be assigned, transferred or leased except as provided for in this Section 3.1(d).

(e) In order to provide a diverse and successful community, Owners of Units will be restricted in the business use of the Units in accordance with the Governing Documents and all Legal Requirements, as they may change from time to time. Failure to comply with the restrictions as promulgated by the Association shall empower the Association to utilize its enforcement powers in accordance with the Governing Documents and all Legal Requirements, as they may change from time to time.

Section 3.2. Further Requirements of Use. Each Owner must maintain the Unit held by such Owner in a safe, clean and sanitary condition, and may not maintain at such Unit, nor permit such Unit or the Limited Common Elements appurtenant thereto, if any, to become, a public or private nuisance.

Section 3.3. Compliance with the Governing Documents. Each Owner, by accepting or possessing title to a Condominium Unit and any Tenant, by execution of lease or by occupancy of a Unit, shall automatically be deemed to have agreed to strictly comply with the provisions of the

Governing Documents and all Legal Requirements. A failure or refusal of an Owner or Tenant to so comply with the provisions of any such instrument, after written notice, shall constitute a "Dispute" (to the extent so included within the definition of "Dispute" set forth in Section 1.1 of this Declaration), that shall be resolved in accordance with Article XII of this Declaration. In addition, an Owner's voting rights in the Association and his, or his Tenant's, right to use and enjoy the General Common Elements may, by written notice, be suspended by the Association during the period of such noncompliance.

Section 3.4. Rights of the Declarant. The Declarant authorizes and reserves for the Declarant and its permitted transferees under the Act, the following rights:

(a) the Development Rights and the Special Declarant Rights, at all times while the Declarant or any of their Affiliate owns any Unit or any other real property interest in the Condominium;

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

(c) the right to include, in any instrument initially conveying a Condominium Unit, such additional reservations, exceptions and exclusions as it may deem consistent with and in the best interests of the Owners and the Association;

(d) the right, without the vote or consent of the Association or any other Owner, to: (i) make alterations, additions or improvements in, to and upon any Unit owned by Declarant or its Affiliates, whether structural or non-structural; and (ii) change the floor plan and layout of any Unit owned by Declarant or its Affiliates. However, in no event shall any such alteration, improvement or change interfere with any structural support of any Unit or the Common Elements or the provision of utility service to any Unit or the Common Elements. All work done in accordance with the provisions of this Section 3.4(d) shall be done in compliance with the Governing Documents and all applicable Legal Requirements; and

(e) for as long as Declarant or its Designees remain liable under any warranty, whether statutory, express or implied, for any act or omission of Declarant or its Designees in the development, construction, sale and marketing of any portion of the Condominium, the Declarant and its Designees, in the Declarant's sole discretion, from time to time, shall have the right to enter the Common Elements and the Units for the purpose of making necessary inspections, tests, repairs, improvements or replacements required for Declarant or its Designees to fulfill any of their warranty obligations, provided that no such entry into a Unit shall unreasonably interfere with the use of such Unit by its Owner. Failure of the Association or any Owner to provide such access may result in the appropriate warranty being nullified and of no further force or effect. NOTHING IN THIS SECTION 3.4(E) SHALL BE DEEMED OR CONSTRUED AS DECLARANT MAKING OR OFFERING ANY WARRANTY, ALL OF WHICH ARE DISCLAIMED. In addition to all other rights granted or reserved to Declarant in the Governing Documents, in order that the development of the Condominium may be undertaken and established as a fully operating development, the Declarant shall have the following rights and the Owners and the Association shall refrain from interfering with the Declarant's

activities in such regard: (i) the Declarant and its Designees shall have the right to conduct any activity or operations on or in connection with the Condominium that the Declarant determines to be necessary or advisable in connection with the completion of the development of the Condominium, including the right to alter its construction plans and designs as the Declarant deems advisable in the course of development or enlargement of any Improvements; (ii) the Declarant and its Designees shall have the right to erect, construct and maintain on any of the Property owned by Declarant or its Affiliates, such structures as may be reasonably necessary for the conduct of its or their business of completing said development and establishing the Condominium as a community and disposing of the same by sale, lease or otherwise; (iii) the Declarant and its Designees shall have the right to conduct on the Property its business of developing, subdividing, grading and constructing Improvements in the Condominium and of disposing of the Units thereon by sale, lease or otherwise; (iv) the Declarant shall have the right to determine in its sole discretion the nature of and the types of Improvements to be constructed as part of the Condominium; (v) the Declarant (without the joinder of any other Owner) shall have the right to file any amendments or any supplemental declarations to this Declaration, including, upon completion of the construction of the Improvements, an amendment, if necessary, to this Declaration, amending the Map to reflect the actual measurements for each Unit and any other changes based upon completion of construction; (vi) the Declarant and its Designees shall have the right to modify, change, re-configure, remove and otherwise alter any Improvements located on the Common Elements, except as prohibited or limited elsewhere by the Governing Documents; and (vii) the Declarant and its Designees shall have the right to enter upon the Property and operate thereon such vehicles and equipment as shall be necessary in the sole discretion of the Declarant or its Designees for such purposes. In general, the Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any manner with the Declarant's plans for construction, development, use, sale, lease or other disposition of all or any portion of the Property.

As of the effective date of this Declaration, Units 1-4 (the "Unimproved Unit") have not been constructed. Notwithstanding anything to the contrary contained in the Governing Documents, in the event the Declarant sells an Unimproved Unit to a third-party purchaser prior to construction of the Improvements thereon, the Declarant alone shall have the right to determine the nature of and type of structure(s) to be constructed at that Unimproved Unit. Neither the Association, nor any Owners shall have any right to review or approve any design plans and specifications of these Unimproved Units, such rights being reserved solely and exclusively to the Declarant. Nothing herein shall prohibit the Declarant from assigning this right to a third-party purchaser of an Unimproved Unit.

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

Section 3.5. Easements. Each Owner accepts a deed conveying title to a Unit subject to the Easements granted and reserved, as applicable, in this Section 3.5, which Easements (and all related rights and obligations related to such Easements arising on or after the date of any transfer) shall run with the Condominium.

(a) **Access Easement.** Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Access Easement over, on and across each Unit as may reasonably be necessary for its own benefit and for the benefit of each Owner and the Association, and its agents, employees and representatives as applicable (including the Manager and the Manager's agents and employees), as

may be reasonably necessary for: (i) the maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom; (ii) the use of a Unit and the Limited Common Elements appurtenant to such Unit by its Owner, provided no other reasonable means of access exists; (iii) the exercise by the Declarant of the Special Declarant Rights or the performance of any obligations of Declarant under the Governing Documents; (iv) the making of emergency repairs therein necessary to prevent damage to the General Common Elements or to any Unit; (v) the evacuation of all or any part of the Property in the event of an emergency and (vi) such other reasonable purposes as are deemed by the Association to be necessary for the performance of the obligations of the Association as described herein and in the Bylaws.

The Association, its agents, employees and representatives (including the Manager and the Manager's agent, and employees), may enter a Unit to the extent reasonably necessary in case of an emergency originating in or threatening the Unit or any other Unit whether or not the Owner or Tenant of such Unit is present at the time. The Person making such entry shall take reasonable precautions to protect such premises and any property contained therein from damage and theft. This right of entry may be exercised by all police officers, firefighters and other emergency personnel in the performance of their respective duties. In case of an emergency, the right of entry is immediate and if an Owner refuses to provide entry, such Owner is liable for the cost of repairs to the Unit or the Common Elements caused by the chosen method of access under such circumstances.

(b) **Common Elements Easement.** Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Common Elements Easement over, on and across the Common Elements for its own benefit and for the benefit of each Unit which is an intended beneficiary of such Common Element and the Association for ingress and egress from each Unit and for the use of the Common Elements.

(c) **Parking Easement.** Declarant hereby grants and reserves a perpetual, assignable and non-exclusive easement over, on and across the parking areas, as shown on the Map, for its own benefit and the benefit of the Association for the purposes of maintenance and repair relating to such areas.

(d) **Systems Easement.** Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Systems Easement over, on and across the Systems for its own benefit and for the benefit of each Owner and the Association for the use of and the connection to any portion of the Systems intended for such Owner's or the Association's use.

(e) **Utility Easement.** Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Utility Easement over, on and across the Common Elements for its own benefit and the benefit of utility companies supplying utility service to all or any part of the Condominium. The Declarant reserves prior to the termination of Declarant Control Period, and grants to the Association after the termination of Declarant Control Period, the right to grant easements for purpose of utilities over any and all of the Common Elements. The Declarant may record an easement agreement or easement relocation agreement in the Condominium Records, specifically locating or relocating any Utility Easement subsequent to the recordation of this Declaration, and each Owner, by acceptance of the deed to Unit, hereby grants Declarant an irrevocable power of attorney, coupled with an interest, with full power and authority to locate or relocate any Utility Easement.

(f) **Easements of Record.** The Property and all Units are subject to all easements and restrictions on use of record.

(g) **Miscellaneous.** None of the Easements granted or reserved in this Section 3.5 shall be used in a manner which materially adversely affects the structural integrity of the Improvements. Except as otherwise provided by this Section 3.5, notwithstanding the assignability of the Easements, no Easement may be assigned to any Person that is not a Tenant of the Unit that is benefitted by the respective Easement nor shall any Owner that is benefitted by an Easement grant a sub-easement or a license to any area covered by any Easement. Use and availability of any facilities or areas covered by the Easements are subject to the Regulations.

Section 3.6. Encroachments. If, as a result of the original construction, reconstruction, repair, shifting, settlement or other circumstance, any portion of the Common Elements encroaches upon a Unit, a perpetual easement over, on and across such Unit for such encroachment and for the maintenance of the same is hereby granted and conveyed to the Association by each Owner at the time each Condominium Unit is conveyed to the Owner. If as a result of the original construction, reconstruction, repair, shifting, settlement or other circumstance any portion of a Unit encroaches upon the Common Elements, or upon any adjoining Unit, an irrevocable and perpetual easement for such encroachment and for the maintenance of the same over, on and across such Unit, or such portion of the Common Elements, as applicable, is hereby granted to the Owner of such Unit. Such encroachments and easements shall not be considered or determined to be encumbrances either upon a Unit or upon the Common Elements.

Section 3.7. Mechanic's Liens; Indemnification. No labor or services performed or materials furnished and incorporated in an Owner's Unit or any Common Element shall be the basis for the filing of a lien against the Unit of any other Owner not expressly consenting to or requesting the same or against the Common Elements. EACH OWNER (TO THE EXTENT ARISING THROUGH SUCH OWNER) SHALL INDEMNIFY AND HOLD HARMLESS EACH OF THE OTHER OWNERS AND THE ASSOCIATION FROM AND AGAINST ALL LIABILITIES AND OBLIGATIONS ARISING FROM THE CLAIM OF ANY MECHANIC'S LIEN AGAINST THE UNIT OF SUCH OWNER, THE UNIT OF SUCH OTHER OWNERS AND/OR THE COMMON ELEMENTS.

Section 3.8. Owner's Construction. If the Association designates a developer for construction of buildings on the Units, an Owner of a Unit who is not using the Association's designated developer to construct the building thereon, shall have only 180 calendar days from acquiring the Unit to commence construction of the building. Failure to comply with this deadline shall empower the Association shall empower the Association to utilize its enforcement powers in accordance with the Association's bylaws, rules and regulations, or by law, as they may change from time to time.

Section 3.9. Subject to Matters of Record. All Owners and the Units are subject to the restrictions and requirements of record in the Real Property Records of Tarrant County, Texas.

ARTICLE IV

Matters Regarding the Association

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

Section 4.2. Allocation of Votes in the Association. Each Owner is automatically a member of the Association, and possesses a vote with respect to each Condominium Unit owned by such Owner equal in weight to such Owner's undivided interest in and to the Common Elements and Common Expenses as set forth in Section 2.2 above. The formula for allocating votes to Units to be created or that are subdivided is the same as the formula for the interest in Common Elements and Common Expenses set forth in Section 2.2.

As of the date hereof, Units 1-4 (the "Unimproved Unit") are not constructed. The square footage and dimensions of these Unimproved Units, as shown on the Map, are estimated amounts. Notwithstanding the foregoing, the Owner of each Unimproved Unit shall possess a vote equal in weight to the estimated square footage of the Unimproved Unit. Upon issuance of the Initial CO, (i) the Map shall be amended pursuant to the procedures outlined in Section 2.2(b) above, and (ii) the weight of each Owner's vote shall be re-calculated as provided herein.

Section 4.3. Suspending Voting Rights. All voting rights of an Owner may be suspended during any period that such Owner is delinquent in the payment of any Assessment or is otherwise in default under the terms of the Governing Documents. Following an Owner's cure of any such delinquency or default in full, its voting rights shall be completely reinstated twenty-four (24) hours after such cure is affected. Any manner described herein as requiring approval by a stated percentage or a majority of the Owners means a stated percentage or a majority of the allocated votes held by those Owners who are then eligible to vote.

ARTICLE V

Maintenance, Recurring Expenses, Alterations, Insurance, Taxes, Utilities, And Monuments and Signs

Section 5.1. Maintenance and Recurring Expenses.

(a) **Maintenance of Units.** Each Owner must maintain and repair, at the Owner's sole cost and expense, its respective Unit (including, without limitation, the structural components of the Owner's Unit, the exterior surface of the roof, exterior walls, foundation, all Systems that serve only or are a part of the Owner's Unit, fixtures and appliances therein contained, all Unit doors and windows and the replacement thereof, including, but not limited to, hardware and glass) and any Limited Common Elements that serve only that Unit. No Owner shall be required to directly pay the cost and expense of repairs to the General Common Elements unless necessitated by the willful or negligent misuse thereof by the Owner or the occupants or the invitees of such Unit, in which event such costs and expenses shall constitute the sole obligation of such Owner. Any maintenance and repair work done by or at the instance of an Owner must be done in a good and workmanlike manner using materials of equal or better quality than the materials removed, and must be done in such a manner as not to impair the structural soundness or integrity or to alter the exterior appearance of any Building, Unit or Limited Common Element.

(b) **Maintenance of General Common Elements.** Except as provided elsewhere in the Governing Documents, all General Common Elements shall be maintained by the Association, the cost and expense of which constitutes a Common Expense payable by the Association. The Association must maintain in good condition and repair the General Common Elements, and may establish and maintain an adequate reserve fund for such purposes, to be funded by Monthly Assessments rather than by an extraordinary Special Assessment. Subject to the provisions of Section 5.3(d) of this Declaration,

nothing herein relieves any Owner from liability or responsibility for damage to the General Common Elements caused by the negligence or misconduct of an Owner or an Owner's occupants or invitees.

(c) Maintenance of Limited Common Elements, Limited Common Elements that serve one (1) or more Units are to be maintained and repaired by the Owners whose Units are served by such Limited Common Elements and the expense of same will be shared equally by such Owners. If Owners obligated under the preceding sentence fail to discharge their maintenance and repair obligations hereunder or if the Association deems that emergency repairs are necessary, the Association is entitled (but not obligated) to cause such work to be done, and the cost and expense thereof constitutes a lien upon each such Owner's Unit which lien may be enforced in the same method as is provided for the enforcement of assessment liens pursuant to the provisions of Section 6.4 of this Declaration.

(d) Failure of Owner to Maintain Unit. If an Owner fails to commence to discharge the Owner's maintenance obligations hereunder within ten (10) days of receipt of written notice from the Association (and diligently pursue same until completion), or if the Association deems that emergency repairs are necessary, the Association is entitled (but not obligated) to cause such work to be done, and the cost and expense thereof constitutes a lien upon such Owner's Unit which lien may be enforced in the same method as is provided for the enforcement of assessment liens pursuant to the provisions of Section 6.4 of this Declaration. Damage to the exterior of any Unit resulting from such maintenance, repair and replacement activities, whether by reason of an emergency or otherwise, constitutes a Common Expense and is payable by the Association; provided, however, that if such maintenance, repairs or replacements are the result of the misuse or negligence of an Owner, then such Owner is liable for all such damage.

Section 5.2. Alterations. No Owner (other than Declarant) shall: (i) make any addition, alteration or improvement in its Unit, to the extent either visible from any other Unit, the Common Elements or the exterior of the Building, whether structural or non-structural; (ii) make any addition, alteration or improvement to any Common Element; (iii) change the floor plan and layout of such Owner's Unit; or (iv) make any material changes to the configuration or size of any Unit, without the prior written approval of the Association, in its sole and absolute discretion. However, in no event shall any such alteration, improvement or change interfere with any structural support of any Unit, the Common Elements or any System serving another Unit. All work done in accordance with this Section 5.2 shall be done in compliance with the plans approved by the Association, all Legal Requirements and the Governing Documents. THE OWNER, MAKING OR CAUSING TO BE MADE SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS, AGREES, AND SHALL BE DEEMED TO HAVE AGREED, FOR SUCH OWNER, TO HOLD DECLARANT, THE ASSOCIATION, AND ALL OTHER OWNERS HARMLESS FROM AND TO INDEMNIFY THEM FOR ANY LIABILITY OR DAMAGE TO THE PROPERTY RESULTING FROM SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS. ANY OWNER SUBMITTING PLANS HEREUNDER, BY DISSEMINATION OF THE SAME, AND ANY OWNER, BY ACQUIRING TITLE TO THE SAME, AGREES NOT TO SEEK DAMAGES FROM THE ASSOCIATION, ARISING OUT OF THEIR REVIEW OF ANY PLANS HEREUNDER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE ASSOCIATION SHALL NOT BE RESPONSIBLE FOR REVIEWING, NOR SHALL ITS REVIEW OF ANY PLANS BE DEEMED APPROVAL OF ANY PLANS FROM THE STANDPOINT OF THE STRUCTURAL SAFETY, SOUNDNESS, WORKMANSHIP, MATERIALS, USEFULNESS, CONFORMITY WITH BUILDING OR OTHER CODES OR INDUSTRY STANDARDS, OR COMPLIANCE WITH THE GOVERNING DOCUMENTS AND ALL LEGAL REQUIREMENTS. FURTHER, EACH OWNER AGREES TO INDEMNIFY AND HOLD THE ASSOCIATION AND ITS RESPECTIVE OFFICERS AND EMPLOYEES

HARMLESS FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, DAMAGES, EXPENSES OR LIABILITIES WHATSOEVER, ARISING AS A RESULT OF THE REVIEW OF ANY PLANS HEREUNDER.

Section 5.3. Insurance.

(a) Beginning with the first conveyance of a Unit to an Owner other than Declarant, the Association must obtain and maintain, as a Common Expense, commercial general liability insurance in a form similar to the coverage outlined in 82.111 of the Act, but only to the extent reasonably available, and such additional coverage as the Association deems appropriate.

(b) Insurance policies must provide that;

- (i) each Owner is an insured person under such policies with respect to liability arising out of the Owner's ownership of an undivided interest in the Common Elements or membership in the Association;
- (ii) insurance trust agreements will be recognized;
- (iii) the insurer waives its right to subrogation under the policies against individual Owners;
- (iv) the coverage of the policy is not prejudiced by any act or omission of an individual Owner to the extent that such act or omission is not within the collective control of all Owners;
- (v) such policy is primary insurance if at the time of a loss under the policy any Owner has other insurance covering the same property covered by the policy;
- (vi) no action or omission by any Owner, unless validly exercised on behalf of the Association, will void the policy or be a condition to recovery under the policy;
- (vii) the policy may not be canceled, nor may renewal be refused, except after thirty (30) days prior written notice to the Association; and
- (viii) they will not lapse, be canceled or modified except after fifteen (15) days' prior written notice to the Association and to each Mortgagee listed as such in such insurance policy.

(c) The Board of Directors has the express authority on behalf of the Association, to name as insured an authorized representative, including any trustee (or successor thereto) with whom the Association has entered into any insurance trust agreement, who has exclusive authority to negotiate losses under any policy providing the commercial general liability insurance required to be provided herein.

(d) By acceptance of a deed to a Condominium Unit, an Owner irrevocably appoints the Association (which appointment is a power coupled with an interest), together with any insurance trustee, successor trustee or authorized representative designated by the Association, as such Owner's attorney-in-fact for the purpose of purchasing and maintaining the insurance required hereunder as

well as for submission of and adjustment of any claim for loss, the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of documents, and the performance of all other acts necessary to accomplish such purpose, and the Association or such trustee, successor trustee or authorized representative must receive, hold or otherwise properly dispose of any proceeds of insurance in trust for the Owners and the Mortgagees as their interests may appear. Any proceeds paid under such policy must be disbursed first for the repair or restoration of any damaged General Common Elements, and no Owner or Mortgagee or other lienholder may receive payment of any portion of such proceeds unless a surplus remains after complete restoration or the Condominium has been terminated.

(e) The Association may obtain and maintain such additional insurance coverages hereunder as the Board of Directors may deem necessary or appropriate. The premiums for all insurance coverages maintained by the Association pursuant to this Section 5.3 are a Common Expense and are payable by the Association.

(f) To the extent not covered by insurance purchased by the Association, an Owner shall obtain and maintain, at such Owner's sole cost and expense, the following: (i) property insurance on the Unit (including, without limitation, coverage of the structural components of the Owner's Unit, the exterior surface of the roof, exterior walls, foundation, all Systems that serve only or are a part of the Owner's Unit, fixtures and appliances therein contained, all Unit doors and windows and the replacement thereof, including, but not limited to, hardware and glass), and any Limited Common Elements that serve only that Unit, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage, in total amount of the full replacement value of the replacement cost or actual cash value of the insured property as of the effective date and at each renewal date of the policy; (ii) insurance covering all improvements to its Unit and all personal property located thereat or constituting a part thereof; and (iii) sufficient liability insurance coverage to cover any acts or omissions by Unit Owner, its servants, employees, agents, tenants, invitees, and licensees for damage done to other Units. Each Owner shall submit proof of such insurance coverage within ten (10) business days of the Association's written request for documentation of coverage. Nothing herein prohibits an Owner, at his sole cost and expense, from obtaining and maintaining such further and supplementary insurance coverages as he may deem necessary or appropriate.

(g) Any portion of the Unit and Limited Common Elements appurtenant to such Unit for which insurance is required that is damaged or destroyed must be promptly repaired or replaced by the respective Owner (e.g., in the event of a casualty to a Unit) unless the Condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or the Owners holding at least eighty percent (80%) of the allocated votes (including those Owners whose Units or assigned Limited Common Elements will not be rebuilt or repaired) vote not to rebuild. A vote not to rebuild will not increase an insurer's liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the Insurance Proceeds and reserves is an individual Unit Owner's expense. The Insurance Proceeds attributable to Units and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were assigned, or to their Mortgagees, as their interests may appear. If the Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated as if the Unit had been condemned, and the Association must prepare, execute, and record an amendment to this Declaration reflecting such reallocation.

(h) The Association shall not be liable for failure to obtain any insurance coverage required by this Declaration or for any loss or damage resulting from such failure, if such failure is because such coverage is not reasonably available.

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

Section 5.4. Taxes. Declarant must give written notice to the appropriate taxing authorities of the creation of the Condominium established hereby, and each Condominium Unit is subject to separate assessment and taxation. Each Owner is responsible for paying when due all taxes, assessments and other Governmental Impositions lawfully levied or assessed with respect to such Owner's Condominium Unit. Any taxes, assessments or other Governmental Impositions fully levied or assessed with respect to the Property not separately billed to the Owners constitutes a Common Expense and is payable by the Association.

Section 5.5. Utilities. Each Owner is responsible for and must pay all charges for gas, electricity, water and other utilities relating to such services used or consumed at or with respect to the occupancy of the Owner's Unit, to the extent such charges are separately metered by the respective utility companies. Any utility charges not separately metered and charges relating to such services used in connection with the use and maintenance of the General Common Elements, constitute a Common Expense and are payable by the Association.

Section 5.6. Monuments and Signs.

(a) Until expiration of the Declarant Control Period, (i) no sign or monument may be constructed or placed on the Property or the Improvements without the express written consent of the Declarant, which consent may be withheld in the Declarant's sole and absolute discretion, and (ii) the Declarant shall have the sole control and authority of all monuments and signs on the Property, including, without limitation, their design, location and the names placed on the monuments and signs (e.g., the allocation of signage space to any Units).

(b) Upon expiration of the Declarant Control Period, (i) no sign or advertising devise may be constructed or placed on the Property or the Improvements without the express written consent of the Board of Directors, which consent may not be unreasonably withheld, and (ii) the Board of Directors shall have the sole control and authority of all monuments and signs on the Property, including, without limitation, their design, location and the names placed on the monument signs (e.g., the allocation of signage space to any Unit).

(c) Notwithstanding anything to the contrary, the costs of maintaining, repairing and providing utility service (if any) to the any sign or monument shall be borne by the Association as a Common Expense.

ARTICLE VI

Assessments

Section 6.1. Monthly Assessments by Association; Budget. The Association has the right, power, authority and obligation to establish a regular Monthly Assessment for payment of Common Expenses and such Special Assessments as provided for in this Declaration.

(a) **Common Expenses.** The Association has the right, power, authority and obligation to establish a regular Monthly Assessment sufficient in the judgment of the Board of Directors to pay all Common Expenses when due and to maintain an adequate reserve fund for such purposes. Such Monthly Assessments so established are payable by the Owners on a date established by the Board of Directors, and are applicable to the payment of Common Expenses for which the Association is responsible, including, without limitation, charges relating to maintenance and repair of elements of the Property not the responsibility of the Owners, care of the General Common Elements, public liability and other insurance coverages required or permitted to be maintained by the Association, Government Impositions not separately levied and assessed, utilities relating to the General Common Elements or not separately metered, professional services, such as management, accounting and legal, and such other costs and expenses as may reasonably relate to the proper maintenance, care, operation and management of the Property, and the administration of the Association and the Condominium established hereby, including an adequate reserve fund for the periodic maintenance, repair and replacement of the General Common Elements. No consent or approval of the Owners is required for the establishment of the Monthly Assessments. Collection of Monthly Assessments, as to each Owner, begins upon the acquisition by such Owner of title to his Condominium Unit. Until the Declarant Control Period terminates, Association reserve funds may be used to pay operating expenses of the Condominium.

(b) **Budget for the Common Expense.** Before the commencement of each fiscal year of the Association, the Board of Directors must prepare and deliver to each of the Owners a Budget setting forth the anticipated Common Expenses for the ensuing year. The Budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred and accompanied by a statement setting forth each Owner's monthly share thereof and the date as of which such Monthly Assessment commences to be payable. No further communication is necessary to establish the amount of each Owner's obligation regarding the Monthly Assessment payable hereunder, and the failure of the Board of Directors to timely deliver the Budget shall in no event excuse or relieve an Owner from the payment of the Monthly Assessment contemplated hereby, in which case, each Owner shall continue to pay to the Association an amount equal to such Owner's Monthly Assessment as established pursuant to the most recent Budget delivered to the Owners. Any budget prepared and delivered to the Owners as hereby contemplated may be amended as and to the extent reasonably necessary, and the amount of an Owner's Monthly Assessment changed to correspond therewith.

Section 6.2. Special Assessments and Individual Assessments.

(a) **Special Assessments.** In addition to the Monthly Assessments contemplated by Section 6.1, the Association has the right, power and authority to establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Board of Directors to pay non-recurring Common Expenses relating to the maintenance, care, alteration, improvement, replacement, operation and management of the Property, and the administration of the Association and the Condominium

established hereby. Except as contemplated by Article VII, no consent or approval of the Owners is required for the establishment of a Special Assessment as contemplated by this Section 6.2(a).

(b) **Individual Assessments.** In addition to Monthly Assessments and Special Assessments contemplated in this Declaration, the Association shall possess the right, power and authority to establish or levy Individual Assessments in accordance with the provisions of this Declaration against individual Owners or an Owner's Unit for charges properly borne solely by one (1) or more but less than all of the Owners, such as (without limitation) charges for additional services, damages, or fines or fees. The establishment or levying of Individual Assessments shall be determined by the Board of Directors. Individual Assessments shall be the personal obligation of the Owner against whom the Individual Assessment is assessed, and shall constitute a lien against the Unit in the same manner and with the same consequences as the Monthly Assessment and any duly authorized Special Assessment.

Section 6.3. Obligation to Pay Assessments. Each Owner is personally obligated to pay such Owner's share (i.e., in accordance with his undivided interest in the Common Elements and for the Common Expenses as set forth in Section 2.2 above) of all Assessments duly established pursuant to this Declaration to the Association. Unpaid Assessments due as of the date of the conveyance or transfer of a Condominium Unit are not a personal obligation of the new Owner (other than such new Owner's pro rata share of any reallocation thereof); however, the former Owner remains personally liable for such unpaid Assessment. No Owner is entitled to exempt himself from liability for his obligation to pay such Assessments by waiver of the use and enjoyment of the Common Elements, by an abandonment of his Unit or by any other action whatsoever. Any Assessment not paid within five (5) days of the date due incurs interest at the Past Due Rate, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of competent jurisdiction sitting in Tarrant County, Texas. The Board of Directors has the responsibility to collect any such delinquent Assessment, the existence of which must be made known by written notice delivered to the defaulting Owner and, where required, the Owner's Mortgagee.

Section 6.4. Lien to Secure Payment of Assessments. Declarant hereby reserve and assign to the Association a lien, pursuant to the provisions of Section 82.113 of the Act, against each Condominium Unit, the Rents, if any, payable to the Owner and Insurance Proceeds to which an Owner may be entitled, to secure the payment of all Assessments, which lien constitutes a lien and encumbrance, in favor of the Association, upon such Owner's Condominium Unit, the Rents, and any Insurance Proceeds. The liens established herein are prior and superior to all other liens and encumbrances subsequently created upon such Condominium Unit, Rents and Insurance Proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of First Lien Indebtedness (provided such lien was recorded prior to the date on which the Assessment became delinquent) and the liens for unpaid taxes, assessments and other Governmental impositions. The liens and encumbrances created herein may be enforced by any means available at law or in equity, including, without limitation, a non-judicial foreclosure sale of the Condominium Unit of a defaulting Owner; such sale to be conducted in the manner set forth in the Texas Property Code Section 51.002 (as now written or as hereafter amended). The Owner of each Condominium Unit, by acquisition of such Condominium Unit grants to the Association a power of sale in connection with the Association's liens. By written resolution, the Board of Directors may appoint, from time to time, an officer, agent, trustee or attorney of the Association to exercise the power of sale on behalf of the Association. The Association may bid for and purchase the Condominium Unit, as a Common Expense, at any such foreclosure sale. The foreclosure by a Mortgagee of a Condominium Unit to satisfy First Lien

Indebtedness extinguishes the subordinate lien for Assessments payable prior to the date of such foreclosure sale.

Section 6.5. Commencement of Obligation to Pay Assessments.

(a) The obligation to pay Assessments for each Unit begins on the date established by the Board of Directors during the month and year in which the Declarant first conveys a Unit (improved or unimproved), to an Owner. Each Owner (other than Declarant) is obligated to begin paying all Assessments against his Unit on the date the Unit is conveyed to the Owner. If such date is other than the date established by the Board of Directors, then the Owner is obligated to pay only a pro rata share of the Assessment against such Unit based on the number of days during such month that the Owner will hold title to the Unit.

(b) Before the commencement of the initial Monthly Assessment, Declarant must pay all Common Expenses of the Condominium; provided, however, nothing contained herein prevents Declarant from collecting from the purchaser of a Unit at closing any expenses, such as Governmental Impositions, taxes or insurance premiums that Declarant may have prepaid on behalf of the Unit being purchased.

(c) After the initial Assessment by the Association, the Assessments must be made monthly and must be based on a budget adopted at least annually by the Association. The Association's reserves, if any, may not be used to pay Common Expenses until the end of the Declarant Control Period.

Section 6.6. Intentionally Deleted.

Section 6.7. Notice of Default. If an Owner defaults in the Owner's monetary obligations to the Association, the Association may notify other lien holders of the default and the Association's intent to foreclose its lien. The Association must notify any holder of a recorded lien or duly perfected mechanic's lien against a Condominium Unit who has given the Association a written request for notification of the Owner's monetary default or the Association's intent to foreclose its lien.

Section 6.8. Alternative Actions. Nothing contained in this Declaration prohibits the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

**ARTICLE VII
Loss**

Section 7.1. Loss or Damage to General Common Elements. The following provisions govern if the General Common Elements, or any part thereof, is damaged or destroyed by fire or other casualty:

(a) The Association must proceed within a reasonable time with the full restoration and repair of such damage or destruction and the amount by which such restoration and repair costs exceed collectible Insurance Proceeds (if there are any Insurance Proceeds) is a Special Assessment payable by the Owners within thirty (30) days of the date notice of such Special Assessment is delivered to them by the Association;

(b) Any excess Insurance Proceeds remaining after such restoration and repair, or any insurance and/or sales proceeds available absent such restoration and repair, may be received and held in trust by the Association in separate accounts for each Owner according to each Owner's individual interest in the Common Elements and Common Expenses as set forth in Section 2.2 above, and be applied, without contribution from one such account to another, as follows:

- (i) first, to the payment of any taxes and Special Assessment liens or other Governmental Impositions in favor of any assessing entity having authority with respect to such Owner's Condominium Unit;
- (ii) second, to the payment of the balance of the First Lien Indebtedness of such Owner;
- (iii) third, to the payment of any delinquent Assessment with respect to such Owner's Condominium Unit; and
- (iv) the balance, if any, to such Owner or such other parties entitled thereto.

(c) Notwithstanding the foregoing, nothing in this Section 7.1 obligates the Association to obtain and maintain a casualty insurance policy covering the General Common Elements. The Association may obtain and maintain such insurance coverage if the Board of Directors deems it necessary and appropriate.

Section 7.2. Loss or Damage to Units or Limited Common Elements. If a Unit or the Limited Common Elements appurtenant to such Unit (if any), or any part thereof, is damaged or destroyed by fire or other casualty, the Unit Owner must proceed within a reasonable time with the full restoration and repair of such damage or destruction and the amount by which such restoration and repair costs exceed collectible Insurance Proceeds (if any) is the individual Unit Owner's expense.

Section 7.3. Matters Relating to Restoration and Repairs. Any restoration and repair work undertaken by the Association or Owner pursuant to Section 7.1 or Section 7.2 is to be performed in a good and workmanlike manner with a view to restoring the Improvements to a condition similar to that existing prior to such damage or destruction. All such restoration and repair work, whether done by the Association or an Owner, must be affected in a manner so as to observe all Unit boundaries existing prior to such damage or destruction.

Section 7.4. Association as Attorney-in-Fact. Each Owner, by acceptance or possession of title to a Condominium Unit, hereby irrevocably makes, constitutes and appoints the Association, and each and every of its successors in interest hereunder, as his true and lawful attorney-in-fact, for and in his name, place and stead, upon the damage or destruction of the Property or any part thereof, or upon any determination by the Owners made pursuant to this Article VII, to take any and all actions, and to execute and deliver any and all instruments, as the Board of Directors may, in their sole and absolute discretion, deem necessary or advisable to effect the intents and purposes of this Article VII, hereby giving and granting unto the Association full power and authority to do and perform all and every act whatsoever requisite or necessary to be done in and about the Property as fully, to all intents and purposes, as an Owner might or could do, hereby ratifying and confirming whatsoever the Association may do by virtue hereof. This Section 7.4 authorizes the Association, in the name and on behalf of all Owners, to do and perform all actions necessary or appropriate to effect the intent and purposes of this Article VII including, without limitation, the power and authority to make and settle

claims under any insurance policies maintained by the Association, contract for and with respect to restoration and repair work, contract for and with respect to replacements and improvements to the General Common Elements, and to execute and deliver all instruments necessary or incidental to any such actions.

ARTICLE VIII Condemnation

Section 8.1. General Provisions. If all or any part of the Property is taken or threatened to be taken by eminent domain or by action in the nature of eminent domain (whether permanent or temporary) the Board of Directors and each Owner whose Unit is affected may participate in proceedings incident thereto at their respective expense. The Board of Directors must give such notice as it receives of the existence of such proceeding to all such Owners and to all Mortgagees of such Owners. The expense of participation in such proceedings by the Board of Directors is a Common Expense. The Board of Directors is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Board of Directors in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

Section 8.2. Taking of Units. If a Unit or a part thereof is taken by eminent domain or sale or other transfer in lieu thereof and an Owner vacates and abandons a Unit by virtue of such taking, the Owner and any Mortgagee of that Owner is entitled to the award for such taking, including the award for the value of such Owner's interest in the Common Elements, whether or not such Common Element interest is acquired, and after payment thereof, such Owner and his Mortgagee are divested of all interest in the Property. A remnant of a Unit remaining after part of a Unit is taken is a Common Element. If any repair or rebuilding of the remaining Units is required as a result of such taking, the Owners whose Units are affected by the taking must determine by the affirmative vote or written consent of such Owners owning a majority interest in the affected Units either to rebuild or repair the affected Units or to take such other action as such Owners may deem appropriate. If no repair or rebuilding is required or undertaken, the remaining portion of the Units must be resurveyed, if necessary, and the Declaration amended to reflect the new dimensions of the affected Units. If one or more entire Units are taken, the Declaration must be amended to readjust the allocated interests of the Owners in accordance with the formula described in Section 22, and such amendment duly recorded.

Section 8.3. Taking of Common Elements. If an action in eminent domain is brought to condemn a portion of the Common Elements together with or apart from any Unit, the Board of Directors, in addition to the general powers set out herein, has the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking of Common Elements only, all damages and awards must be determined for such taking as a whole and not for any Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards are to be held by the Board of Directors, acting as trustee for each Owner, or his Mortgagee or Mortgagees, as their interests appear, in proportion to such Owner's percentage interest in the Common Elements except that the portion of any such award attributable to the condemnation of a Limited Common Element must be allocated among the Owners of the Units served by such Limited Common Elements, as such Owner's interests existed in the Limited Common Elements condemned. The Board of Directors may, if it deems advisable, call a meeting of the Owners, at which meeting the Owners may, by a majority vote, decide whether to replace or restore as far as possible the Common Elements taken or damaged. If it is determined that such Common Elements

should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Map attached hereto must be duly amended by instrument executed by the Board of Directors on behalf of the Owners and duly recorded.

Section 8.4. Payment of Awards and Damages. Any damages or awards provided in this Article to be paid to or for the account of any Owner by the Board of Directors, acting as trustee, must be applied first to the payment of any taxes or assessments by governmental authorities past due and unpaid with respect to that Unit; secondly, to amounts due under any mortgage instruments duly perfected; thirdly, to the payment of any Assessments charged to or made against the Unit and unpaid; and finally to the Owner.

ARTICLE IX Declarant Control Period

Section 9.1. Initial Directors. The initial Board of Directors are named in the Certificate of Formation.

Section 9.2. Duration of Declarant Control Period.

(a) Except as is provided in Section 9.2(b), the Declarant shall have the right to appoint and remove the officers and directors during the Declarant Control Period. If the Declarant voluntarily surrenders the right to appoint and remove the officers and directors prior to the termination of the Declarant Control Period, the Declarant may require that specified actions of the Association or the Board of Directors be subject to the Declarant approval until the expiration of the Declarant Control Period.

(b) Not later than one hundred twenty (120) days after Declarant has conveyed to Owners other than Declarant title to fifty percent (50%) of the Units, an election must be held by the Association, pursuant to the Bylaws, for the election of not less than one-third (1/3) of the directors by Owners other than Declarant.

(c) At least thirty (30) days prior to the termination of the Declarant Control Period, the Association shall elect at least three (3) directors pursuant to the Bylaws, such terms to commence as of the date on which the Declarant Control Period terminates.

ARTICLE X Party Walls

In the event any Unit is subdivided into two (2) or more separate Units, each wall that is shared by more than one (1) Unit shall constitute a party wall. To the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply. No alterations may be made to any party wall other than non-structural alterations to the interior surfaces of such walls (i.e., the surfaces of such walls facing the interior of a Unit); provided, however, that under no circumstances shall any alterations or attachments be made to any party wall surface that would create or result in the creation of any in-the-wall speakers, intercoms or other sound systems of any type or function, or any in-the-wall alarms, whether as part of a security system or otherwise, or any other device, item, component or system designed for the creation or emission of sound. In no event may the partition between Units be penetrated.

ARTICLE XI
Restrictive Covenants

Section 11.1. Imposition of Restrictions. The restrictions, covenants, and conditions in Section 11.2 are imposed on the Property for the purpose of carrying out a general plan of development and maintenance for continuity and conformity with the intended master plan of the Property, and are covenants running with the land.

Section 11.2. Restrictive Covenants. Each Owner's ownership, use, and enjoyment of its Unit are subject to the following restrictions, covenants, and conditions:

(a) No improper, unlawful, noxious or offensive act or activity is allowed upon any Units or Common Elements, nor shall anything be done to which may be or become an annoyance or nuisance to Owners. An improper, noxious or offensive act or activity is determined in the sole discretion of the Board of Directors.

(b) No Unit shall be used for any purpose or business which is considered dangerous or unsafe, or which constitutes a nuisance, or is noxious or offensive by reason of the emission of dust, odor, gas, smoke, fumes or noise. A noxious or offensive emission is determined in the sole discretion of the Board of Directors.

(c) Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive drapes or curtains) or placed on the outside walls of a Building or otherwise outside of a Unit, or any part thereof, unless authorized by the Board of Directors, which authorization may not be unreasonably withheld. Further, no Owner may alter or paint in a different color any portion of the exterior of any Unit or Common Element without the written consent of the Board of Directors, which consent may not be unreasonably withheld.

(d) No pole mast, antenna, radio, television, satellite dish or other aerial may be erected or maintained on any of the Improvements except as approved by the Board of Directors, which approval may not be unreasonably withheld.

(e) No signs or advertising devices may be erected or maintained on any of the Improvements unless the Board of Directors has approved such sign, which approval may be withheld, in the Board's sole discretion.

(f) No landscaping may be planted on the Property without the prior written consent of the Board of Directors.

(g) No bird, reptile, or animal of any kind shall be raised, bred, treated, or kept in a Unit. Assistance dogs and comfort dogs will be permitted for those persons requiring the same.

(h) No Owner shall locate a trash dumpster or operate a trash facility on the premises surrounding or within an Owner's Unit, unless approved by the Board of Directors. The Association shall, as a Common Expense, provide for the use and benefit of at least one (1) one trash dumpster on the Property.

(i) No Unit shall be used for residential purposes.

(j) A Unit, Limited Common Element, or any portion of any Unit or Limited Common Element that is exposed to the public view must be maintained by the respective Owner in a neat and orderly fashion. If this restriction is not complied with, the Board of Directors may cause this maintenance to be done at the expense of the respective Owner.

(k) Except as designated by the Board of Directors, no portion of the Land may be used for the dumping or storage of rubbish, trash, or debris.

(l) No drilling, oil development operations, oil refining, quarrying or mining operations of any kind are permitted upon the Land, nor are oil wells, tanks, tunnels, mineral excavations or shafts permitted upon the Land. No derrick or other similar structure may be erected, maintained or permitted upon the Land.

(m) No residence of a temporary character, shop or trailer is permitted on the Property (except as otherwise reserved as a right by Declarant). Moreover, no boat, trailer, mobile home, camper, boat trailer or similar wheeled vehicle may be stored or parked on the Property (except temporarily, not to exceed twenty-four (24) hours and except as otherwise reserved as a right by Declarant).

(n) No vehicle of any size that transports inflammatory or explosive or hazardous cargo may be kept on the Property at any time.

(o) All Owners shall at all times keep their respective Units, the Building, Improvements, and appurtenances in a safe, clean, wholesome condition and comply in all respects with all government, health, and fire policy requirements and regulations, and any Owner will remove at his own expense any rubbish of any character whatsoever which may accumulate on said premises, and in the event any Owner fails to comply with any or all of the aforesaid specifications and/or requirements, then Declarant and/or the Association shall have the right, privilege and license to enter upon the premises and make any and all corrections or improvements that may be necessary to meet such standards and Owner is obligated to pay such charges incurred.

(p) No Owner may erect any awnings, screening, or other similar facilities on or outside a Unit without the prior written consent of the Board of Directors, which consent may not be unreasonably withheld. No Owner shall replace an exterior door to its Unit without the prior approval of the Board of Directors as to the type and color of such door, which approval may not be unreasonably withheld.

(q) The invalidation of anyone of the restrictions herein set forth or the failure to enforce any of said restrictions at the time of its violation shall in no event affect any of the other restrictions nor be deemed a waiver of the right to enforce the same thereafter.

(r) Declarant hereby expressly reserves the right and privilege to alter, change, or amend any or all of the above-mentioned covenants, conditions or requirements at any time during their existence.

(s) Activities by Declarant during the Declarant Control Period that are carried out in the regular pursuit of construction, maintenance and sales within the Property are specifically exempted from the provisions of this Section 11.2.

(t) All uses shall comply with the Zoning Ordinance. Under no circumstances shall a sexually oriented business (as defined in the applicable City zoning ordinance), massage parlor, or any establishment which offers entertainment or services which includes nude or partially dressed male or female persons be allowed to operate on the Property.

(u) Each covenant and condition contained in this Section shall remain in effect for a period of 50 years from and after the date of the recording of this Declaration. However, at any time prior to such date, the Declarant may, in its sole discretion, amend, extend, rescind, revise, restate this Declaration in whole or in part during the Declarant Control Period and thereafter the Owners, in accordance with Section 4.2 herein, by a majority vote, may by written declaration, signed, acknowledged by them, and duly recorded in the Real Property Records of Tarrant County, Texas, may amend, extend, rescind, revise, restate this Declaration in whole or in part, and these rights by the then Owners shall exist as long as the Owners, by a majority vote, affirmatively vote

(v) If any paragraph or part thereof of this instrument shall be invalid, illegal or inoperative for any reason, the remaining parts so far as possible and reasonable shall be effective and fully operative.

(w) These restrictions and covenants are made for the benefit of any and all Persons who may now own, or who may hereafter own property in the Condominium. Except as may be required under Article XII of this Declaration, such Persons are specifically given the right to enforce these restrictions and covenants by injunction or other lawful procedure, and to recover damages resulting from any violation thereof.

(x) In order to provide a diverse and successful community, Owners of Units will be restricted in the business use of the Units in accordance with the Governing Documents of the Association and all Legal Requirements, as they may change from time to time. Failure to comply with the restrictions as promulgated by the Association shall empower the Association to utilize its enforcement powers in accordance with the Governing Documents of the Association and all Legal Requirements, as they may change from time to time.

(y) The failure of the Declarant or Association to enforce or seek redress for violation of or to insist upon the performance of any provision of this Declaration shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

ARTICLE XII

Resolution of Disputes and Construction Disputes

Section 12.1. Mediation. All Disputes, except those relating to equitable remedies, which are not resolved within fifteen (15) days after same have arisen (unless such greater time is provided elsewhere in the Governing Documents) shall be submitted for, or determined by, non-binding mediation. Mediation of any Dispute shall be initiated by any Owner making a written demand therefor to the other Owner or Owners involved in such Dispute and the Association; provided, however, if the Association is a party to any such Dispute the Association shall have the right to elect not to be governed by the provisions of this Article XII by giving to the Owner or Owners, within ten (10) days after the Association's receipt from such Owner or Owners of a demand for mediation of a Dispute, written notice of the Association's election not to be governed by the provisions of this Article XII and to instead exercise the Association's remedies at law or in equity. With respect to such mediation, the parties shall, within ten (10) days after delivery of such written notice to the Association, agree upon

a mediator who is: (i) a reputable person actively engaged in the commercial real estate industry for a continuous period of not less than ten (10) years and (ii) is in no way affiliated, or has had material business dealings with any Owner or any member of the Association. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by JAMS in Dallas, Texas. Such mediation shall occur within thirty (30) days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in the Dallas/Fort Worth, Texas area or location selected by the JAMS mediator. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Dispute is not resolved pursuant to such mediation, the provisions of Section 12.2 of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration under this Article XII.

Section 12.2. Final Offer Arbitration. If the parties are unable to resolve any Dispute at mediation the parties shall submit their Dispute to binding arbitration, no later than thirty (30) calendar days after the parties have reached an impasse at mediation. The parties agree to select a single impartial arbitrator from a list taken from JAMS of commercial arbitrators or the like, and if they cannot agree on an arbitrator, each party shall select a person and those two (2) so selected shall then select the single impartial arbitrator who shall thereafter serve as arbitrator with respect to the Dispute. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its most reasonable position to the arbitrator and the arbitrator shall select one (1) of those two (2) positions. The arbitrator shall have no discretion to select or award a position other than to select one (1) of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current Rules for Commercial Mediation and Arbitration, or the like, promulgated by JAMS shall apply. The decision of the arbitrator shall be rendered no later than ten (10) days from the initiation of the arbitration procedure. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award. The party or parties whose position is not selected or awarded shall be responsible for all attorneys' fees, costs and expenses (incurred in connection with the mediation and arbitration of a Dispute under this Article XII) of the party whose position is selected or awarded for the arbitration of the Dispute under this Article XII.

Section 12.3. Construction Disputes.

(a) **Mediation Required Prior to Arbitration.** Any Construction Dispute not resolved within fifteen (15) days after same has arisen shall be submitted for, or determined by, non-binding mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by any party. Mediation of any Construction Dispute shall be initiated by any party making a written demand therefor to all other parties involved in such Construction Dispute. Any mediation shall be governed by the Construction Industry Mediation Rules of JAMS or the like in effect at the time the Construction Dispute arises. With respect to such mediation, the parties shall, within fifteen (15) days after demand is filed agree upon a mediator who is: (i) a reputable person actively engaged in the construction industry or a lawyer experienced in the practice of construction law for a continuous period of not less than ten (10) years and (ii) is in no way affiliated, or has had material business dealings with any Owner, any member of the Association, or any other party involved in the mediation. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by JAMS office in Dallas, Texas. Such mediation shall occur within thirty (30) days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in Dallas/Fort Worth, Texas area or in the event the parties cannot agree within 5 days, then at the location selected by the arbitrator. The costs of such mediation services shall be shared equally (but each party shall bear

the cost of their own travel and attorneys' fees); provided, however, that if the Construction Dispute is not resolved pursuant to such mediation, the provisions of Section 12.3(d) of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation, arbitration or litigation under this Article XII.

(b) Arbitration. Any Construction Dispute not resolved by mediation as described in Section 12.3(a) of this Declaration shall be resolved by arbitration or litigation, which determination shall be made by Declarant, in Declarant's sole and absolute discretion. If a litigation proceeding has been brought against the Declarant, any election for arbitration shall be made by such Declarant filing a motion to compel arbitration in the litigation proceeding. If an arbitration proceeding has been brought against the Declarant, any election for litigation shall be made by such Declarant giving written notice of such election to the parties involved in the Construction Dispute and the arbitration proceeding, in which case all further action in the arbitration proceeding shall cease and the party bringing such action shall be obligated to commence the appropriate litigation proceeding. Declarant shall make such election no later than thirty (30) days after (1) the parties have reached an impasse at mediation and (ii) citation has been served on Declarant in a litigation proceeding or written notice has been delivered to Declarant initiating the arbitration proceeding. If Declarant elects for such Construction Dispute to be resolved by litigation, the parties hereby agree that the judge shall be the fact finder in any such litigation. EACH OWNER, BY ACCEPTANCE OF A DEED TO ITS UNIT, ON BEHALF OF ITSELF, ITS TENANTS, THE ASSOCIATION AND ALL PARTIES CLAIMING BY, THROUGH OR UNDER IT, IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY CONSTRUCTION DISPUTE.

(c) Arbitration. If Declarant elects that a Construction Dispute be resolved by arbitration such arbitration shall be governed by the Construction Industry Arbitration Rules of JAMS currently in effect, unless the parties mutually agree otherwise. With respect to the arbitration, the parties shall, within fifteen (15) days after receipt of Declarant's notice of arbitration referenced in Section 12.3(b) of this Declaration or within fifteen (15) days after entry of an order compelling arbitration, agree upon an arbitrator. If the parties cannot agree upon an arbitrator, a demand for arbitration shall be filed in writing with the American Arbitration Association at the office in the County where the Property is located with copies to all parties. Arbitration shall be conducted with a single arbitrator unless the claim, demand, or amount in controversy exceeds \$750,000, in which case a panel of three (3) arbitrators shall be used. If the amount in controversy exceeds \$750,000 and the parties cannot mutually agree upon three (3) panel members, the parties shall be required to obtain a list of proposed neutral parties through the JAMS office in Dallas, Texas. The parties shall then proceed with the selection of panel members in accordance with the JAMS Rules. Any arbitrator(s) utilized, whether appointed or agreed, must be (i) reputable person(s) actively engaged in the construction industry or as a lawyer experienced in the practice of construction law for a continuous period of not less than ten (10) years, and (ii) are in no way affiliated, or have or had material business dealings with any Owner, any member of the Association, or any other party involved in the arbitration. The arbitrator shall establish reasonable procedures and requirements for the production of relevant documents and require the exchange of information concerning witnesses to be called. The parties shall be entitled to discover all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the arbitration and the parties may use all methods of discovery available under the Texas Rules of Civil Procedure and shall be governed thereby. There shall be a prehearing meeting between the parties at which the arbitrator shall make and set schedules for discovery and hearings consistent with their powers as set forth herein. The Texas Rules of Evidence shall be applied by the arbitrator but liberally construed to allow for the admission of admissible evidence that is helpful in resolving the controversy. Rulings on the admission of evidence made by the arbitrator at the hearing shall be final and not subject

to any appeal. At the time of the award, the arbitrator shall prepare and provide to the parties' findings of fact and conclusions of law supporting the award.

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

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

Section 12.4. General. With respect to any Dispute or Construction Dispute, it is agreed that the dispute resolution provisions of this Article XII shall be the sole remedy of the parties involved in such Dispute or Construction Dispute. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties shall be specifically enforceable under prevailing arbitration law in any court having jurisdiction thereof. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any dispute, claim, controversy or matter that does not constitute a Dispute or Construction Dispute, as applicable. The foregoing agreement to arbitrate any Dispute or Construction Dispute shall not constitute any agreement or consent to arbitration with any Person not named or described in this Declaration; provided that any arbitration proceeding initiated under the terms of Section 12.2 of this Declaration may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Dispute or Construction Dispute, as applicable, and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrator shall be final and binding upon the parties involved in the Dispute or Construction Dispute and such Mortgagees and non-appealable judgment thereon may be entered by any court having jurisdiction.

ARTICLE XIII Miscellaneous

Section 13.1. Termination of Condominium. The Condominium established hereby may be terminated or revoked, but only by an instrument in writing, duly approved, executed and acknowledged by those Owners holding ninety percent (90%) or more of the votes allocated by this Declaration. Any such instrument of revocation or termination must be duly filed of record in Tarrant

County, Texas. If the Property is to be sold upon termination, the agreement effecting such termination must also set forth the terms of such sale and comply with the provisions of the Act.

Section 13.2. Amendment to Declaration. This Declaration may be amended at a meeting of the Owners at which the amendment is approved by those Owners holding sixty-seven percent (67%) or more of the allocated votes. Such amendment shall be evidenced by a written instrument executed and acknowledged by an officer of the Association on behalf of the consenting Owners and filed of record in Tarrant County, Texas. Any such amendment so effected is binding upon all of the Owners; provided, however, that except as permitted or required by the Act, no such amendment shall cause the alteration or destruction of all or a portion of a Unit or of a Limited Common Element unless such amendment has been consented to by the Owner of the Unit that is to be altered or destroyed or by the Owner of a Unit to which the Limited Common Element that is to be altered or destroyed is appurtenant. Notwithstanding the foregoing, no such amendment shall, without the written consent of the Declarant, (a) modify, alter, abridge or delete any (i) provision of this Declaration that benefits the Declarant; (ii) rights, obligations, privileges, easements, protections, or defenses of the Declarant, including, without limitation, any Development Rights or Special Declarant Rights; or (iii) rights of the Owners or the Association in relationship to the Declarant; or (b) materially inhibit or delay the Declarant's ability to convey any portion of the Property owned by Declarant. The Board of Directors or the Declarant, if Declarant owns a Unit that has never been occupied, may without a vote of the Owners or approval of the Association amend this Declaration in any manner necessary to meet the requirements of any Mortgagee, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the Veteran Administration. Any required percentage of Mortgagees in this Declaration shall mean and refer to such percentage of the face amount of the indebtedness held by such Mortgagees and not the number of such Mortgagees.

Section 13.3. Partial Invalidity. If any provision of the Governing Documents shall be determined by an arbitration panel or a court of competent jurisdiction to be invalid or unenforceable, such determination does not impair or affect the validity or enforceability of the remainder of such instruments.

Section 13.4. Conflicts. If any of the provisions of the Governing Documents are in conflict with the provisions of the Act or the Texas Business Organizations Code, the provisions of this Declaration control. If a conflict exists between the provisions of this Declaration and the Bylaws, the provisions of this Declaration control.

Section 13.5. Recitals, Captions, Exhibits. The recitals at the beginning of this Declaration are incorporated in and made part of this Declaration, for all purposes. Captions used in the various articles and sections of this Declaration are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. All exhibits are incorporated in and made a part of this Declaration for all purposes.

Section 13.6. Usury. The terms of this Declaration and the Bylaws must at all times comply with the usury laws of the State of Texas. If such laws are ever revised, repealed, or judicially interpreted so as to render usurious any amount called for hereunder or under the Bylaws or contracted for, charged or received in connection with any amounts due hereunder or under the Bylaws, or if the Association's exercise of any provisions hereof or of the Bylaws results in any party having paid any interest in excess of that permitted by applicable law, then it is the Association's and/or Declarant's express intent that all excess amounts theretofore collected by the Association be credited on the principal balance of any, indebtedness (or, if the indebtedness has been paid in full, refunded to the

payor), and the provisions of this Declaration and the Bylaws immediately be deemed reformed and the amounts thereafter collected be reduced, without the necessity of execution of any new document, so as to comply with then applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder.

Section 13.7. Use of Number and Gender. Whenever used herein, and unless the context otherwise provides, the singular number includes the plural, the plural number includes the singular, and the use of any gender includes all genders.

Section 13.8. GOVERNING LAW. THE GOVERNING DOCUMENTS ARE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE CONDOMINIUM IS IN TARRANT COUNTY, TEXAS.

Section 13.9. Notices. All notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered as properly given if (i) mailed by first class United States mail; postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery or an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee, or (iv) by prepaid telegram, telex, or electronic mail to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the address of Declarant and the Association shall be as set forth below, the address of each Owner shall be the address of the Unit and the address of each Mortgagee shall be the address provided to the Association; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the Association in the manner set forth herein:

South Nolen Medical Condo Association
365 Miron Drive, Suite A
Southlake, Texas 76092

South Nolen Medical Investments, Ltd.
365 Miron Drive, Suite A
Southlake, Texas 76092

Section 13.10. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of Declarant hereunder, or any part of them, may be assigned and transferred by Declarant by a recorded instrument, in writing, without notice to the Association.

*[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.
SIGNATURE PAGES TO FOLLOW.]*

IN WITNESS WHEREOF, Declarant and Association have duly executed this Declaration to be effective as of the day and year first above written, although not necessarily signed on such date, and the Association and the undersigned Mortgagee consent to all terms and conditions of this Declaration.

South Nolen Medical Investments, Ltd.

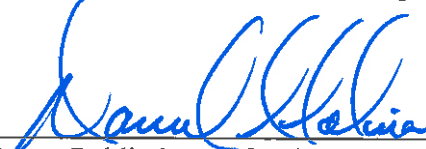
By: SNMI Enterprise, LLC, its general partner

By: 
James C. Lancaster, President

THE STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me by James C. Lancaster, President of SNMI Enterprise, LLC, as general partner of South Nolen Medical Investments, Ltd., personally known to me on June 6, 2019.



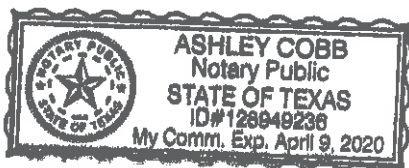

Notary Public in and for the State of Texas

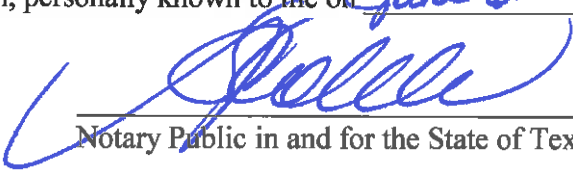
South Nolen Medical Condo Association

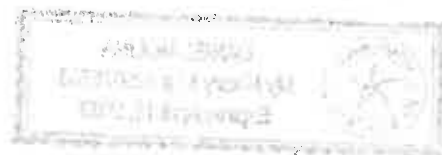
By: 
Daniel Molina, President and Secretary

THE STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me by Daniel Molina, President and Secretary of South Nolen Medical Condo Association, personally known to me on June 6th, 2019.




Notary Public in and for the State of Texas



Handwritten text, possibly "Jan 1950".

Handwritten signature or scribble.

