<u>AFTER RECORDING RETURN TO</u>:
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DEVELOPMENT TRACT DECLARATION OF CONDOMINIUM REGIME FOR PARCEL 4 MASTER CONDOMINIUM

(A Master Condominium Located in Travis County, Texas)

Note: *This instrument establishes master condominium units. Master condominium units are subject to further re-subdivision into sub-units by subjecting the master condominium unit(s) to the terms and provisions of a subordinate condominium declaration. An owner who acquires a sub-unit will be subject to the terms and conditions of this instrument and the terms and conditions of the declaration establishing such owner's sub-unit.*

Declarant: **City of Pflugerville**

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DEVELOPMENT TRACT DECLARATION OF CONDOMINIUM REGIME FOR PARCEL 4 MASTER CONDOMINIUM

This Development Tract Declaration of Condominium Regime for Parcel 4 Master Condominium (the "**Master Declaration**") is made and established effective as of ______________________, 202____ by **City of Pflugerville** ("**Declarant**").

RECITALS:

A. The Declarant is the owner of that certain tract of land in Travis County, Texas, as more particularly described on Exhibit "A" attached hereto and incorporated herein, together with all Improvements thereon and all easements, rights, and appurtenances thereto (collectively, the "**Property**") and hereby submits the Property to the terms and provisions of this Master Declaration and the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code, for the purpose of creating the Parcel 4 Master Condominium.

B. Pursuant to that one certain Pflugerville Downtown East Notice of Applicability [*Condominium*], recorded in the Official Public Records of Travis County, Texas, the Property is subject to the terms and provisions of that certain Pflugerville Downtown East Master Covenant [*Commercial*], recorded as Document No. ________________________ in the Official Public Records of Travis County, Texas (the "**Master Covenant**").

C. The Master Covenant permits the Declarant to file Development Tract Declarations applicable to specific Development Tracts, as those terms are used and defined in the Master Covenant, which shall be in addition to the covenants, conditions, and restrictions of the Master Covenant.

A Development Tract is a portion of the Pflugerville Downtown East which has actually been made subject to the terms and provisions of the Master Covenant and a Development Tract Declaration. This Master Declaration constitutes a Development Tract Declaration under the Master Covenant. A Development Tract Declaration includes specific restrictions which apply to the Development Tract. In order to determine what restrictions apply to your Master Unit, you must consult the terms and provisions of the Master Covenant, the terms and provisions of any notice of applicability covering your Master Unit, and this Master Declaration.

D. Declarant intends for this Master Declaration to serve as one of the Development Tract Declarations permitted under the Master Covenant and desires to create upon the Property a condominium community and carry out a uniform plan for the improvement and development of the Property for the benefit of the present and future owners thereof.

E. Declarant desires to provide a mechanism for the preservation of the community and for the maintenance of common areas and, to that end, desires to subject the Property to the covenants, conditions, and restrictions set forth in this Master Declaration for the benefit of the

Property, and each owner thereof, which shall be in addition to the covenants, conditions, and restrictions set forth in the Master Covenant.

NOW, THEREFORE, it is hereby declared that the Property will be held, sold, conveyed, leased, occupied, used, insured, and encumbered with this Master Declaration, which will run with the Property and be binding upon all parties having right, title, or interest in or to the Property, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof.

ARTICLE 1

DEFINITIONS

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

1.1 "**Access Easement**" means the easement as more particularly described in Subsection 4.5.1 of this Master Declaration.

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

1.3 "**Additional Assessments**" means charges established and assessed by the Master Association pursuant to Section 8.2 of this Master Declaration.

1.4 "**Affiliate**" means any Person who controls, is controlled by, or is under common control with another Person.

1.5 "**Affiliate of Declarant**" is defined in Section 82.003(a)(1) of the Act.

1.6 "**Allocated Interests**" are the undivided interests of each Owner in the Common Elements, the Common Expenses and the votes in the Master Association allocated to each Master Unit as shown on Attachment 1 to this Master Declaration (except as Common Expenses may otherwise be allocated pursuant to the Allocation Document), as may be reallocated in accordance with the Reallocation Percentages pursuant to the provisions of this Master Declaration.

1.7 "**Allocation Document**" means the document entitled "Parcel 4 Master Condominium Maintenance and Expense Allocations" executed and Recorded by the Declarant and pursuant to the terms of Section 6.1.4, which upon execution and Recordation shall be incorporated herein by reference for all purposes. Notwithstanding anything in this Master Declaration to the contrary, the Declarant will have no obligation to establish an Allocation Document for the Regime.

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

1.9 “**Assessments**” means the Regular Assessments, Special Assessments and Additional Assessments and any interest thereon assessed in accordance with Article 8 of this Master Declaration.

1.10 “**Board**” means the Board of Directors of the Master Association.

1.11 “**Building**” means each building located on the Property in which one or more Master Units are located.

1.12 “**Bylaws**” mean the bylaws of the Master Association attached hereto as Attachment 2 to this Master Declaration, as amended from time to time.

1.13 “**Certificate**” means the Certificate of Formation of the Master Association filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time. The Certificate is attached as Attachment 3 to this Master Declaration.

1.14 “**Charges**” means any costs, expenses, dues, interest, fees, late fees, fines, collection costs, attorneys' fees and any other sums arising under the Documents due and payable to the Master Association or to an Owner from one or more Owners or a Tenant, other than Common Expenses.

1.15 “**Common Elements**” means all portions of the Property, **SAVE AND EXCEPT** the Master Units. All Common Elements are “General Common Elements” except if such Common Elements have been allocated as “Limited Common Elements” by this Master Declaration for the exclusive use of one or more but less than all of the Master Units.

1.16 “**Common Elements Easement**” means the easement as more particularly described in Subsection 4.5.2 of this Master Declaration.

1.17 “**Common Expenses**” means the expenses incurred or anticipated to be incurred by the Master Association for: (i) preserving and enhancing the Regime; (ii) replacement reserves for Common Elements maintained by the Master Association and property owned by the Master Association; (iii) reserves for the management, administration and operation of the Master Association; (iv) the administration and enforcement of the Documents; (v) the collection of any expense classified as a “Common Expense” under this Master Declaration or budgeted in accordance with the Allocation Document; and (vi) reasonably related to the purposes for which the Master Association was formed.

1.18 "**Construction Dispute**" means any claim, grievance or other dispute involving Declarant or any Affiliate of Declarant, including any construction company which has been engaged by the Declarant or an Affiliate of the Declarant to construct any Improvements, and arising out of or relating to the engineering, design or construction of the Property, including the interpretation or enforcement of any warranty.

1.19 "**County**" means Travis County, Texas.

1.20 "**Damaged Master Unit**" means one or more Master Units damaged or destroyed by fire or other casualty.

1.21 "**Damaged Sub-Unit**" means one or more Sub-Units damaged or destroyed by fire or other casualty.

1.22 "**Declarant**" means **City of Pflugerville**. Notwithstanding any provision in this Master Declaration to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively, or non-exclusively, any of Declarant's privileges, exemptions, rights and duties under this Master Declaration to any Person. Declarant may also, by Recorded written instrument, permit any other Person to participate, in whole, in part, exclusively, or non-exclusively, in any of Declarant's privileges, exemptions, rights and duties under this Master Declaration.

1.23 "**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 Regime owned by Declarant.

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

1.25 "**Development Right**" means a right or combination of rights hereby reserved by Declarant to: (i) add real property to the Regime; (ii) create Master Units, General Common Elements, or Limited Common Elements within the Regime; (iii) subdivide Master Units or convert Master Units into Common Elements, provided that Declarant is the Owner of the Master Unit; or (iv) withdraw real property from the Regime, provided that Declarant is the Owner of such real property.

1.26 "**Director**" means a member of the Board.

1.27 "**Dispute**" means any claim, grievance or other dispute, other than a Construction Dispute, arising out of or relating to: (i) any conflict or dispute arising between or among the Master Association and one or more Owners to the extent that such conflict or dispute relates to the Regime; (ii) 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 pursuant to the Documents; (iii) the rights, obligations and duties of any Owner or Declarant under the Documents; (iv) the authority of the Master Association, Declarant, or an Owner under any Legal

Requirement or under the Documents to: (a) require any Owner to take any action or not to take any action involving such Owner's Master Unit; or (b) alter, subtract from or add to the Common Elements or the Regime; or (v) the failure of the Master Association, in accordance with the Legal Requirements and the Documents to: (a) properly conduct elections, (b) give adequate notice of meetings or actions, (c) properly conduct meetings, or (d) allow inspection of the Master Association's 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 11 of this Master Declaration: (1) any suit by the Master Association, the Declarant, or an Owner to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve the ability to enforce the provisions of the Documents; (2) any action permitted under Article 8 of this Master Declaration in connection with the enforcement of any Owner's obligation to pay Assessments under this Master Declaration or collection of any past due or unpaid Assessments; (3) any suit between Owners that does not include Declarant or the Master Association and if such suit asserts a dispute that would constitute a cause of action independent of any of the Documents; (4) any disagreement that primarily involves title to any Master Unit or the Common Elements; or (5) 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 11 of this Master 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 11 of this Master Declaration.

1.28 "**Documents**" mean, individually or collectively as the case may be, this Master Declaration, the Plat and Plans, the Certificate, the Bylaws, the Rules, the Allocation Document, and the Act, as each may be amended from time to time. An appendix, attachment, schedule, or certification accompanying a Document is a part of that Document.

1.29 "**Easement**" means an easement described in Section 4.5 of this Master Declaration.

1.30 "**Environmental Laws**" means any federal, state or local law, statute, ordinance or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene or the environmental conditions on, under, or about the Property or the Improvements, including without limitation, the following, as now or hereafter amended: Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C.A. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613; Resource, Conservation and Recovery Act, 42 U.S.C.A. § 6901 et seq.; the Toxic Substances Control Act, 15 U.S.C.A. § 2601 et seq.; Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C.A. § 11001 et seq.; Clean Water Act, 33 U.S.C.A. § 1251 et seq.; Clean Air Act, 42 U.S.C.A. § 7401 et seq.; and any corresponding state laws or ordinances including, without limitation, the Texas Water Quality Control Act, Texas Water Code Chapter 26; Texas Solid Waste Disposal Act, Texas Health & Safety Code ("THSC") Chapter 361; Texas Clean Air Act, THSC Chapter 382; and regulations, rules, guidelines or standards promulgated pursuant to such laws, statutes and regulations, as such statutes, regulations, rules, guidelines and standards are amended from time to time.

1.31 "**General Common Elements**" means all portions of the Common Elements that are not Limited Common Elements.

1.32 "**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, or otherwise) whether now or hereafter in existence.

1.33 "**Governmental Impositions**" means all real estate and personal property taxes, assessments (including assessments levied pursuant to a public improvement district authorized pursuant to Chapter 372 of the Texas Local Government Code and assessments levied pursuant to a Texas Property Assessed Clean Energy program authorized pursuant to Chapter 399 of the Texas Local Government Code), 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 of this Master Declaration, may be assessed, levied or imposed upon the Regime or any Master Unit therein by any Governmental Authority.

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

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

1.36 "**Insurance Trustee**" means the Master Association acting in the capacity of a trustee in accordance with the provisions of Section 7.4 of this Master Declaration to negotiate losses under any property insurance policies required to be obtained by the Master Association in this Master Declaration.

1.37 "**Legal Requirements**" means 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 Regime, any Master Unit or the Property, including zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier, health and Environmental Laws.

1.38 "**Limited Common Elements**" means those portions of the Common Elements that are allocated by this Master Declaration and the Plat and Plans for the exclusive use of less than all of the Master Units.

1.39 "**Maintenance Standard**" means good repair in a first-class condition, including the operation, upkeep, repair and restoration, ordinary wear and tear excepted, to the extent necessary to maintain the Regime or a Master Unit in a condition reasonably suitable for its intended purpose.

1.40 "**Majority**" means more than half.

1.41 "**Manager**" means any professional manager or management company with whom the Master Association contracts for the day-to-day management of either or both of the Property or the administration of the Master Association and the Regime.

1.42 "**Master Association**" means Parcel 4 Condominium Community, Inc., a Texas non-profit corporation, or any successor entity.

1.43 "**Master Budget**" means the budget prepared by the Master Association that includes the anticipated Common Expenses and any Additional Assessments for the ensuing fiscal year.

1.44 "**Master Covenant Association**" means Pflugerville Downtown East Commercial Community, Inc., a Texas nonprofit corporation.

1.45 "**Master Declaration**" means this Development Tract Declaration of Condominium Regime for Pflugerville Downtown East Master Condominium and all amendments thereto.

1.46 "**Master Plan Documents**" means the Master Covenant; the Certificate of Formation of the Master Covenant Association, the bylaws of the Master Covenant Association, the Community Manual as defined and adopted pursuant to the Master Covenant, and the Pflugerville Downtown East Notice of Applicability [*Condominium*], recorded in the Official Public Records of Travis County, Texas.

1.47 "**Master Unit**" means the physical portion of the Property designated by this Master Declaration for separate ownership, the boundaries of which are shown on the Plat and Plans, and further described in Section 3.2 of this Master Declaration. All Improvements located within a Master Unit shall be considered part of the Master Unit.

1.48 "**Material Adverse Effect**" means any act, event, condition or circumstance that is reasonably likely to materially and adversely affect the business, operations, condition (financial or otherwise), or value of a Master Unit.

1.49 "**Member**" means a member of the Master Association, unless the context indicates that member means a member of the Board or a member of a committee of the Master Association.

1.50 "**Occupant**" means any Person, including any Owner, having a right to occupy or use all or any portion of a Master Unit for any period of time.

1.51 "**Owner**" means any Person (including Declarant) owning fee title to a Master Unit, or in the event a Master Unit, in its entirety, is subject to a ground lease, the leasehold interest under such ground lease, but excluding: (i) any Person having an interest in a Master Unit solely as security for an obligation; and (ii) a Sub-Unit Owner.

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

1.53 "**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.

1.54 "**Pflugerville Downtown East Commercial Reviewer**" means the architectural review authority created pursuant to the Master Covenant to establish architectural guidelines, to review and approve plans for the construction of Improvements upon the Property, and to carry out its duties as set forth in the Master Covenant.

1.55 "**Plat and Plans**" means the plat and plans attached hereto as Attachment 4 to this Master Declaration and made a part of this Master Declaration, including a survey plat of the Property and dimensional drawings that horizontally and vertically identify and describe the Master Units and the Common Elements.

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

1.57 "**Reallocation Percentage**" means the percentage of the undivided interest of each Owner in the Common Elements as set forth in a Recorded amendment to this Master Declaration (if applicable), determined in the same manner as the measurement used to establish the initial Allocated Interests set forth on Attachment 1 to this Master Declaration.

1.58 "**Record**", "**Recorded**", **"Recording**" or "**Recordation**" means to record or to be recorded in the Official Public Records of the County.

1.59 "**Regime**" means the Property, Master Units, Sub-Units (if established), General Common Elements, and Limited Common Elements that comprise the condominium regime established by this Master Declaration.

1.60 "**Registered Mortgagee**" means any Person, including Declarant's Mortgagee, that is the holder, insurer or guarantor of Priority Lien Indebtedness upon a Master Unit and which has provided the Master Association with written notice of its name, address and a description of the Master Unit encumbered thereby and a statement that such indebtedness constitutes "Priority Lien Indebtedness" in accordance with this Master Declaration.

1.61 "**Regular Assessments**" means the recurring regular assessment collected to pay the Common Expenses established and assessed by the Master Association pursuant to Article 8 of this Master Declaration.

1.62 "**REC Unit**" means the Master Unit as more particularly described in Section 3.2 of this Master Declaration and shown on the Plat and Plans.

1.63 "**Retail Unit**" means the Master Unit as more particularly described in Section 3.2 of this Master Declaration and shown on the Plat and Plans.

1.64 "**Rules**" mean the rules and regulations of the Master Association adopted in accordance with the Documents or the Act. The Rules may be adopted by Declarant or the Board regulating the use of the Common Elements and may be modified from time to time by the action of a Majority of the Board, but no rule or modification to a rule will prohibit or unreasonably interfere with any use of a Master Unit if such use complies with the Legal Requirements.

1.65 "**Skin**" means the exterior surface of the Building(s) or the portions thereof, as applicable. All or a portion of the Skin may be designated in Section 3.2 of this Master Declaration or on the Plat and Plans as part of a Master Unit, Limited Common Elements assigned to one or more Master Units, or General Common Element.

1.66 "**Special Assessments**" means the non-recurring assessment collected, if any, to pay the Common Expenses relating to the proper maintenance, care, alteration, improvement, replacement, operation and management of the Regime and the administration of the Master Association, established and assessed pursuant to Article 8 of this Master Declaration.

1.67 "**Special Declarant Rights**" means rights reserved for the benefit of Declarant to: (i) complete the Improvements indicated on the Plat and Plans; (ii) exercise any Development Right; (iii) make the Regime a part of a larger condominium or planned community; (iv) maintain the sales and management and leasing offices and models described in Subsection 4.4.3 of this Master Declaration and use signs advertising the Master Units, Sub-Units or the Regime; and (v) use any Easement for the purpose of making improvements within the Regime or the Property.

1.68 "**Structure**" means all foundations, footings, columns, flat slabs, sheer walls, girders, support beams, post tension cables or rods and including any and all other structural components that support, uphold or are a part of the Building(s). All or a portion of the Structure may be designated in Section 3.2 of this Master Declaration or on the Plat and Plans as part of a Master Unit, Limited Common Elements assigned to one or more Master Units, or General Common Element.

1.69 "**Sub-Association**" means a nonprofit corporation formed under and pursuant to the TNCL created as a part of a Sub-Condominium to act on behalf of the Sub-Unit Owners.

1.70 “**Sub-Condominium**” means a condominium which may be formed by an Owner, pursuant to a Sub-Declaration, the name of which is to be determined by the Owner. The Sub-Declaration must designate a Sub-Association to act on behalf of all Sub-Unit Owners.

1.71 “**Sub-Declaration**” means an independent declaration of condominium regime Recorded to create a Sub-Condominium from one or more Master Units or a portion of one or more Master Units. Notwithstanding the foregoing, the Recording of a Sub-Declaration will not constitute a subdivision of the Property for zoning or regulatory purposes.

1.72 “**Sub-Unit**” means a portion of any Master Unit designated for separate ownership as created and identified in a Sub-Declaration for a Sub-Condominium executed by the Owner of such Master Unit and Recorded.

1.73 “**Sub-Unit Owner**” means any Person who holds fee simple title to a Sub-Unit, together with an undivided interest in the common elements of a Sub-Condominium, but excluding a Person having an interest in a Sub-Unit solely as security for an obligation.

1.74 “**Support Easement**” means an easement as more particularly described in Subsection 4.5.3 of this Master Declaration.

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

1.76 “**Systems Easement**” means an easement as more particularly described in Subsection 4.5.4 of this Master Declaration.

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

1.78 “**Tenant**” means any Person having the right to occupy a Master Unit or a portion of a Master Unit pursuant to a lease or other occupancy agreement granted by an Owner, or pursuant to a sublease.

1.79 “**TNCL**” means the Texas Nonprofit Corporation Law, as amended from time to time, currently codified as Chapter 22 of the Texas Business Organizations Code.

1.80 “**Utility Easement**” means the easement described in Subsection 4.5.5 of this Master Declaration.

ARTICLE 2

PROPERTY SUBJECT TO DOCUMENTS

2.1 Subject To Documents. The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements set forth in this Master Declaration, including rights reserved by the Declarant under this Master Declaration, which run with the Property, bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns.

2.2 Recorded Easements and Licenses. In addition to the terms, covenants, conditions, restrictions, liens, and easements contained in this Master Declaration, the Property is subject to all easements, licenses, leases, and encumbrances, including those described on Plat and Plans, and any easements, licenses, leases, and encumbrances shown or referenced on a Recorded plat, each of which is incorporated herein by reference. In addition, the Property and this Master Declaration will be subject to the Master Plan Documents. Each Owner, by accepting an interest in or title to a Master Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by such easements, licenses, leases, and encumbrances, including the Master Plan Documents.

ARTICLE 3

UNITS, COMMON ELEMENTS AND SUB-UNITS

3.1 Creation of Master Units; Plat and Plans.

3.1.1 The Master Units. The Property is hereby divided into fee simple estates composed of two (2) separately designated Master Units, being the Retail Unit and the REC Unit, and each such Master Unit's undivided interest in and to the Common Elements. The maximum number of Master Units which may be created in the Regime is four (4). Each Master Unit, together with such Master Unit's undivided interests in the Common Elements is for all purposes a separate parcel of and estate in real property. The separate parcels of and estates in real property designated hereby shall be created on the date this Master Declaration is Recorded, and shall continue until this Master Declaration is revoked or terminated in the manner provided in this Master Declaration.

3.1.2 The Plat and Plans. The Plat and Plans sets forth the following: (i) a general description and diagrammatic plan of the Regime; (ii) the location and dimension of all real property subject to the Development Rights; (iii) all major Improvements, including each Master Unit, showing its location within a Building and floor(s), if applicable; and (iv) 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 Plat and Plans as to each Master Unit are approximate values taken from the plans and specifications for the Property and may not be precisely accurate as to any Master Unit due to variances in construction, Building dimensions, and interior floor plans. NEITHER DECLARANT NOR ANY OWNER SHALL BE LIABLE TO ANY OTHER OWNER AS A RESULT OF ANY DISCREPANCIES IN ACTUAL MASTER UNIT MEASUREMENTS FROM THOSE SET FORTH ON THE PLAT AND PLANS, AND EACH OWNER, BY ACCEPTING A DEED TO A MASTER UNIT OR SUB-UNIT, WAIVES ANY SUCH CLAIM OR CAUSE OF ACTION. Upon completion of the construction of the Building(s) and Master Units, Declarant (without the joinder of any other Owner) may Record an amendment to this Master Declaration to modify and amend the Plat and Plans to reflect as-built conditions which amendment may include modifications to Attachment 1 attached to this Master Declaration to reflect the as-built condition of each Master Unit.

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

3.2.1 Retail Unit and REC Unit. The boundaries and identification of the Retail Unit and the REC Unit are shown on the Plat and Plans. The boundaries of each Master Unit are further described as follows:

(i) Vertical (Perimeter) Boundaries. The vertical or perimeter boundaries of each Master Unit are the vertical planes located on the lines showing the dimensions and location of each Master Unit as shown on the Plat and Plans. The vertical boundaries extend and connect to intersect the horizontal boundaries of the Master Unit as described in Subsection 3.2.1(ii).

(ii) Horizontal (Upper and Lower) Boundaries. The upper and lower boundaries of each Unit shall be horizontal planes extended to intersect the vertical boundaries of the Unit as described in Subsection 3.2.1(i). If a Unit comprises multiple floors or if portions of the same Unit are not contiguous, the horizontal boundary of each portion of the Unit is defined pursuant to this Subsection 3.2.1(ii) independently of the portion of the same Unit located on the same or a different floor. The horizontal interstitial spaces between Units not otherwise contained within another Unit are part of the General Common Elements, e.g., the area between the horizontal boundary of one Unit and the horizontal boundary of another Unit is part of the General Common Elements.

(iii) Elevations of Horizontal (Upper and Lower) Boundaries. The elevations of each horizontal plane described in Subsection 3.2.1(ii) are defined on the Plat and Plans.

(iv) Inclusive of Structure and Skin. Without limitation on the foregoing, each Master Unit will include the Structure and Skin which exclusively serves such Master Unit. All or any portion of the Structure and Skin which serves more than one (1) Master Unit, unless otherwise shown on the Plat and Plans, is part of the General Common Elements.

3.2.2 Additional Information to Interpret Master Unit Boundaries. Except as may be otherwise provided for herein, the Master Unit boundaries will include any and all attachments to, protrusions from and appurtenances attached to and exclusively serving such Master Unit (including the spaces located within any balconies intended to serve the Master Unit) and will exclude any portion of the Common Elements that may be located within such Master Unit's boundaries (as shown on the Plat and Plans). Additionally, to the extent that any Structure, Systems or Improvements exclusively serve or support a Master Unit, such items will be deemed a part of such Master Unit whether located within, outside, or below the Master Unit, and whether or not attached to or contiguous with the Master Unit. Unless otherwise designated as Limited Common Elements, elevator systems (including, but not limited to elevators, elevator shafts, elevator lobbies and all related mechanical and electrical systems) and stairs that serve a single Master Unit (including any part of any system or stairs located outside the boundaries of the Master Unit) will be deemed part of the Master Unit. Furthermore, if any chutes, flues, ducts, conduits, wires, pipes, chases or other apparatus lies partially within and partially outside of the designated boundaries of the Master Unit, any portion thereof which serve only that Master Unit will be deemed to be a part of that Master Unit, while any portions thereof which serve or may serve more than one Master Unit will be deemed as part of the General Common Elements unless otherwise designated as Limited Common Elements on the Plat and Plans.

In the event that there is a conflict between the boundaries of a Master Unit as described in this Subsection 3.2.3 and as shown on the Plat and Plans, then this Subsection 3.2.3 will control. It is the express intent of the Declarant that the property described as being part of each Master Unit will for all purposes herein be treated as and constitute a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Master Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Master Unit that has not been adequately described will be severed from the property deemed a part of the Master Unit (if the remainder of the Master Unit, excluding the severed portion thereof, constitutes a properly described "Unit" under the Act) and will thereafter be deemed to be Limited Common Elements reserved to the exclusive use of said Master Unit, subject to the rights and obligations of other Owners with respect to said property.

3.2.3 General Common Elements. As depicted on the Plat and Plans, the General Common Elements shall include all the Common Elements that are not Limited Common Elements.

3.2.4 Limited Common Elements. A Common Element not allocated by this Master Declaration or the Plat and Plans as a Limited Common Element may be so allocated only in accordance with the Act or the provisions of this Master Declaration. All costs associated with a Limited Common Element appurtenant to one (1) Master Unit shall be paid by the Owner of the Master Unit appurtenant to such Limited Common Element. All costs associated with a Limited Common Element appurtenant to more than one (1) but less than all of the Master Units shall be shared among the Owners of such Master Units in an amount based on the relative Allocated Interests assigned to each Owner's Master Unit to the total Allocated Interests assigned to each Master Unit appurtenant to such Limited Common Element.

3.3 Sub-Condominiums.

3.3.1 Creation of Sub-Units. Each Owner shall have the option and right to create a Sub-Condominium within the boundaries of such Master Unit. The creation of any Sub-Condominium will not modify any obligations, limitations, rights, benefits or burdens established in this Master Declaration, except as set forth in Subsection 3.3.2 of this Master Declaration.

3.3.2 Obligations of Sub-Units. Upon the Recording of a Sub-Declaration and the creation of Sub-Units thereunder, any and all obligations (including the obligations to pay Assessments), liabilities, limitations, and rights, benefits or burdens established in this Master Declaration and that are attributable to ownership of the Master Unit(s) described in the Sub-Declaration, will automatically be apportioned among the Sub-Units and/or the Sub-Association established by the Sub-Declaration. The rights and obligations allocated among Sub-Units and/or the Sub-Association will be determined based on the applicable Sub-Declaration, but in any event all rights and obligations allocated to the Master Unit will be apportioned to each Sub-Unit and/or the Sub-Association (as applicable) created by the Sub-Declaration. Rights or obligations allocated to Sub-Units will be based on formulas or allocations set forth in the Sub-Declaration creating such Sub-Unit. Upon the Recording of a Sub-Declaration, the Allocated Interests or any other allocated expenses hereunder which had previously been allocated to the Master Unit(s) described in the Sub-Declaration shall be allocated in accordance with the formulas or allocations established in such Sub-Declaration.

In the event a Master Unit is submitted to a Sub-Declaration, but not subdivided therein into Sub-Units, then the Owner of such Master Unit will retain any and all obligations (including the obligations to pay Assessments), liabilities, limitations, and rights, benefits or burdens established in this Master Declaration and that are attributable to ownership of such Master Unit.

Unless otherwise directed in writing by the Master Association, each Sub-Association will collect Assessments levied pursuant to this Master Declaration from the Sub-Units and any Master Unit (if such Master Unit has not been subdivided into Sub-Units) under that Sub-Association's jurisdiction. Each Sub-Association will promptly remit to the Master Association any and all Assessments so collected on its behalf. If a Sub-Association fails to timely collect any portion of the Assessments due from the owner of a Sub-Unit and/or Master Unit, then the Master Association may collect such Assessment allocated to the Sub-Unit and enforce its lien against such Sub-Unit and/or Master Unit without the joinder of the Sub-Association.

3.3.3 Sub-Association. The Sub-Declaration will require the formation of a Sub-Association to act on behalf of all Sub-Unit Owners. Upon the creation of a Sub-Condominium, the board of directors of any Sub-Association shall, at the organizational meeting of the board of directors of the Sub-Association, appoint one of its members as the sole representative of the Sub-Condominium as a member of the Master Association. The Master Association shall be required to deal only with such appointed representative, and if no member of the board of directors of a Sub-Association is appointed by the board of directors of the Sub-Association, neither the Sub-Condominium nor any Sub-Unit shall have any vote or ability to exercise any rights under this Master Declaration, including bringing legal action against the Master Association.

If a Master Unit is subdivided into Sub-Units, the Master Unit will be relieved and released of all rights and obligations assigned to such Master Unit under this Master Declaration. In the event that a Master Unit is submitted to a Sub-Declaration, but not subdivided therein into Sub-Units, then the Master Unit will in no event be relieved or released of any rights and obligations assigned to such Master Unit under this Master Declaration. Each Sub-Declaration which establishes Sub-Units thereunder must include the following provision:

> "Upon the recording of this [Sub-Declaration], all liabilities, costs, expenses, charges and assessments under the Master Declaration attributable to ownership of the [Master Unit] encumbered by this Sub-Declaration are hereby assigned and allocated to each [Sub-Unit] in accordance with the allocations and assignments set forth in this [Sub-Declaration]. The Owner of each [Sub-Unit] is obligated only for its proportionate share of such liabilities, costs, expenses (common or otherwise), charges and assessment as set forth in this Sub-Declaration. EACH OWNER OF A [SUB-UNIT] AGREES TO INDEMNIFY AND HOLD HARMLESS THE [SUB-UNIT DECLARANT] FROM SUCH OWNER'S SHARE OF ANY AND ALL LIABILITIES, COSTS, EXPENSES (COMMON OR OTHERWISE), CHARGES AND ASSESSMENTS ALLOCATED TO SUCH OWNER'S [SUB-UNIT] UNDER THE TERMS AND PROVISIONS OF [THIS SUB-DECLARATION]. This provision does not act to assign any rights retained by the "Declarant" as such term is defined in the Master Declaration or this [Sub-Declaration]".
>
> *[THE FOLLOWING PROVISION TO BE ADDED IF A MASTER UNIT IS MADE SUBJECT TO A SUB-DECLARATION -- WHETHER INITIALLY OR IF ADDED BY ANNEXING AMENDMENT -- BUT NOT FURTHER SUBDIVIDED THEREIN]:*

> "If a Master Unit is submitted to the terms and provisions of this [Sub-Declaration] but not subdivided into two or more [Sub-Units], such Master Unit will continue to be obligated for all liabilities, costs, expenses (common or otherwise), charges and assessments assigned to such Master Unit pursuant to the Master Declaration."

3.4 Allocated Interests and Votes. The Allocated Interests and votes in the Master Association assigned to each Master Unit is set forth on Attachment 1 to this Master Declaration, and is calculated as follows:

> (Surface area of the lower horizontal boundary of a Master Unit as defined in Subsection 3.2.1(ii))/(Total surface area of the lower horizontal boundary for all Master Units as defined in Subsection 3.2.1(ii)).

If a Master Unit comprises multiple floors, the calculation of the surface area of the Master Unit shall include each floor of the Master Unit.

The same formula will be used in the event the Allocated Interests and votes are reallocated as a result of any increase or decrease in the number of Master Units subject to this Master Declaration. In the event an amendment to this Master Declaration is Recorded which reallocates the Allocated Interests and votes as a result of any increase or decrease in the number of Master Units, the reallocation will be effective on the date such amendment is Recorded. As provided in Subsection 3.3.2 above, the Allocated Interests and votes assigned to a Master Unit will be re-allocated to Sub-Units in the event a Sub-Declaration is Recorded.

3.5 Inseparability of Master Units; No Partition. Except for: (a) the creation of one or more Sub-Units as permitted pursuant to this Master Declaration; (b) the granting of easements over and across portions of the Property in accordance with the terms and provisions of the Documents; (c) the leasing of all or any portion of a Master Unit; (d) the subdivision of Master Units by Declarant provided that the Declarant is the Owner of the subdivided Master Units; and (e) as otherwise permitted pursuant to this Master Declaration or the Legal Requirements, each Master Unit will be inseparable, and will be acquired, owned, conveyed, transferred, leased and encumbered only as an entirety. Unless otherwise permitted by this Section 3.5, in no event will an Owner bring or be entitled to maintain an action for the partition or division of a Master Unit or Common Elements. Any purported conveyance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements without the Master Unit to which such Common Elements are allocated is void ab initio, with the exception of the conveyance of any Sub-Unit in a Sub-Condominium in accordance with the terms and provisions of the Sub-Declaration establishing the Sub-Condominium, if and when same is created. The combination of Master Units will not affect the allocations with respect to the Master Units so combined or the voting rights pertinent to the combined Master Unit, which will be treated for all such purposes as separate Master Units. Provided that the Declarant is the Owner thereof, the Declarant may separate any Master Units it has combined, at its sole expense, into separate and distinct Master Units.

3.6 <u>Permissible Relationships; Description</u>.

3.6.1 <u>Ownership of Master Units</u>. A Master Unit may be acquired and held by one or more Persons in any form of ownership recognized by the Legal Requirements.

3.6.2 <u>Description of Master Units</u>. Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of all or a portion of a Master Unit shall legally describe such Master Unit as follows: "[insert Master Unit name] of Parcel 4 Master Condominium, located in Travis County, Texas," with further reference to the recording data for this Master Declaration (including the Plat and Plans and any Recorded amendments to this Master Declaration). Every such description shall be good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Master Unit, and any such description shall be construed to include all incidents of ownership relating to a Master Unit. Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of all or a portion of a Sub-Unit in any Sub-Condominium shall legally describe such Sub-Unit as follows: "Unit __ [insert appropriate Sub-Unit name], a Condominium located in the [insert Master Unit name] within Parcel 4 Master Condominium, located in Travis County, Texas."

3.7 <u>Mortgage of Master Unit</u>. An Owner shall be entitled from time to time to mortgage or encumber a Master Unit by creating a lien or liens covering a Master Unit under the provisions of a mortgage or deed of trust, but any lien created thereby shall be subject to the terms and provisions of this Master Declaration, and any mortgagee or other lienholder which acquires a Master Unit through judicial foreclosure, public sale or any other means shall be subject to the terms and provisions of this Master Declaration. An Owner that mortgages its Master Unit shall notify the Master Association, giving the name and address of said Owner's mortgagee, and the Master Association shall maintain such information.

ARTICLE 4

USES, RESERVATIONS AND RESTRICTIONS

4.1 <u>Uses of the Master Units</u>. All portions of a Master Unit shall be used only for such purposes that: (i) are in accordance with the Legal Requirements; and (ii) conform to the Documents. Each Owner shall have the right, without the vote or consent of the Master Association or any other Owner, to: (i) make alterations, additions or improvements in, to and upon any Master Units owned by such Owner or any Limited Common Elements appurtenant to one (1) Master Unit owned such Owner, whether structural or non-structural; and (ii) change the floor plan and layout of any Master Unit owned by such Owner, provided that in no event shall any such alteration, improvement or change interfere with any structural support of any other Master Unit, the General Common Elements, or any Limited Common Elements appurtenant to another Master Unit or the provision of utility service to any Master Unit, the General Common Elements or Limited Common Elements appurtenant to another Master Unit, unless otherwise agreed by the Owner of such Master Unit(s) or the Board, as applicable. All work done in accordance with the provisions of this Section 4.1 shall be done in compliance with the Documents and all applicable Legal Requirements

4.2 Leasing Restrictions. The leasing of Master Units will be governed by the following provisions:

4.2.1 Compliance with Documents. The Tenant will comply with all provisions of the Documents and will control the conduct of all Occupants of the leased Master Unit in order to ensure such compliance. The Owner will be responsible for all violations of the Documents by the Owner's Tenant and such Tenant's Occupants, notwithstanding the fact that the Tenant and/or Occupants of the Master Unit may be fully liable and may be sanctioned under the Documents for any such violation.

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

4.3 Compliance with the Documents. Each Owner, by accepting a deed conveying title to a Master Unit, any Sub-Unit Owner by accepting a deed conveying title to a Sub-Unit and any Tenant by execution of a lease or by occupancy of a Master Unit or a Sub-Unit shall automatically be deemed to have agreed to strictly comply with the provisions of the Documents and all the Legal Requirements. A failure or refusal of an Owner, a Sub-Unit Owner or a Tenant to so comply with provisions of Documents and all Legal Requirements, after written notice, shall constitute a Dispute (to the extent so included within the definition of "Dispute" set forth in Section 1.27 of this Master Declaration) that shall be resolved in accordance with Article 11 of this Master Declaration.

4.4 Rights of Declarant. The following rights are reserved by the Declarant at all times while Declarant or any Affiliate of Declarant owns any Master Unit or any other real property interest in the Regime including an easement interest:

4.4.1 Special Declarant Rights. Declarant hereby reserves the Special Declarant Rights;

4.4.2 Modification, Subdivision and Combination of Master Units. Declarant hereby reserves the right by Recording an amendment to this Master Declaration, to supplement or modify any Master Unit owned by the Declarant by adding additional facilities or deleting facilities, and/or to designate additional portions of the Regime as part of any Master Unit. Declarant hereby reserves the right by Recording an amendment to this Master Declaration, to subdivide or combine Master Units owned by the Declarant. No such addition or deletion to any such Master Unit or combination of Master Units shall affect the interest in the Common Elements, the share of Common Expenses or the voting rights appurtenant to the Master Units. Any Master Units which are combined shall be treated for all such purposes as separate Master Units. Declarant may separate any Master Units it has combined, at its sole expense, into separate and distinct Master Units. If a Master Unit is subdivided into additional Master Units, the interest in the Common Elements, the share of Common Expenses or the voting rights appurtenant to each resulting Master Units will be determined using the formulas set forth in Section 3.4 of this Master Declaration. Nothing in this Master Declaration shall obligate Declarant to add to the Regime or otherwise take any of the actions to which Declarant is entitled pursuant to this Subsection 4.4.2;

4.4.3 Model Units, Offices, and Signage. Declarant hereby reserves the right to maintain model units and sales, leasing or management offices, within any Master Unit or Sub-Unit in connection with the sale, leasing and/or management of such Master Unit or any Sub-Units therein, in such location as determined by Declarant. Declarant shall have the right to relocate such model unit and/or office from time to time. Declarant shall have the right to authorize placement, upon the Common Elements, of signs designating any such model unit or sales, leasing or management office, and advertising the sale or leasing of the Master Units (or any part thereof) or Sub-Units. Such signs may be placed in such locations and shall be of such size and character as Declarant may determine; provided, notwithstanding the foregoing, nothing contained in this Subsection 4.4.3 shall limit the use of any Master Unit permitted pursuant to the Legal Requirements;

4.4.4 Improvements to Master Units and Limited Common Elements. Declarant hereby reserves the right, without the vote or consent of the Master Association or any other Owner, to: (i) make alterations, additions or improvements in, to and upon any Master Units owned by Declarant or any Affiliate of Declarant or any Limited Common Elements appurtenant to one (1) Master Unit owned by Declarant or any Affiliate of Declarant, whether structural or non-structural; and (ii) change the floor plan and layout of any Master 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 other Master Unit, the General Common Elements, or any Limited Common Elements appurtenant to another Master Unit or the provision of utility service to any Master Unit, the General Common Elements or Limited Common Elements appurtenant to another Master Unit, unless otherwise agreed by the Owner of such Master Unit(s) or the Board, as applicable. All work done in accordance with the provisions of this Subsection 4.4.4 shall be done in compliance with the Documents and all applicable Legal Requirements;

4.4.5 Dedication of Roadways. Declarant hereby reserves the right, without the vote or consent of the Master Association or any other Owner, to dedicate roadways or streets located within the Property for public use. At Declarant's election, Declarant may Record a written instrument on Declarant's prescribed form to dedicate roadways or streets located within the Property for public use; and

4.4.6 Inspections and Repairs. Declarant hereby reserves 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 Regime, the right for itself and its Designees, in Declarant's sole discretion and from time to time, to enter the Common Elements and the Master Units for the purpose of making necessary inspections, tests, repairs, improvements or replacements required for Declarant or its Designees to fulfill any of its warranty obligations, provided that no such entry into a Master Unit shall unreasonably interfere with the use of such Master Unit by its Owner and Declarant shall coordinate with such Owner regarding timing for such entry. Failure of the Master 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 Subsection 4.4.6 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 Documents, in order that the development of the Regime may be undertaken and established as a fully operating mixed-use development, Declarant shall have the following rights, and the Owners, the Master Association, any Sub-Unit Owner and any Sub-Association shall refrain from interfering with Declarant's activities in such regard: (i) Declarant and its Designees shall have the right to conduct any activity or operations on or in connection with the Regime that Declarant determines to be necessary or advisable in connection with the completion of the development of the Regime, including the right to alter Declarant's construction plans and designs as Declarant deems advisable in the course of development or enlargement of any Improvements; (ii) Declarant and its Designees shall have the right to erect, construct and maintain on any of the Property owned by Declarant or its Affiliates, such structures as may be determined necessary by the Declarant for the conduct of Declarant's or its Affiliates' business of completing said development and the Regime and disposing of the same by sale, lease or otherwise; (iii) Declarant and its Designees shall have the right to conduct on the Property Declarant's business of developing, subdividing, grading and constructing Improvements in the Regime and of disposing of the Master Units (and any Sub-Units) thereon by sale, lease or otherwise; (iv) Declarant shall have the right to determine in Declarant's sole discretion the nature of and the types of Improvements to be constructed as part of the Regime; (v) Declarant shall have the right to Record amendments to this Master Declaration to effectuate or exercise any right reserved by the Declarant pursuant to the Documents; (vi) Declarant and its Designees shall have the right to modify, change, re-configure, remove and otherwise alter any Improvements located on the Common Elements, except as prohibited or limited elsewhere by the Documents or the Legal Requirements; and (vii) Declarant and its Designees shall have the right to enter upon the Property and operate thereon such vehicles and equipment as shall be necessary in the sole discretion of Declarant or its Designees for such purposes. In general, Declarant shall be exempt from all restrictions set forth in this Master Declaration to the extent such restrictions interfere in any manner with Declarant's plans for construction, development, use, sale, lease or other disposition of all or any portion of the Property.

The rights of Declarant under this Section 4.4 may be exercised as to different portions of the Property at different times. Declarant provides no assurance whether any right or rights under this Section 4.4 will be exercised, the portions of the Property as to which such rights may be exercised or as to the order of exercise of any of such rights. The exercise of any right or rights as to any portion of the Property does not obligate Declarant to exercise such right or rights in any other portion of the Property.

4.5 Easements. Each Owner accepts a deed conveying title to a Master Unit subject to the Easements granted and reserved, as applicable, in this Section 4.5, 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 Regime.

4.5.1 Access Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive easement (the "**Access Easement**") over, on, under and across each Master Unit as may reasonably be necessary for the benefit of the Declarant, the Owner of a Master Unit and its Tenants, and the Master Association, as applicable, for: (i) the maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom; (ii) the use of a Master Unit by its Owner or its Tenants, provided no other reasonable means of access exists; (iii) the exercise by Declarant of the Special Declarant Rights, any other rights reserved on behalf of the Declarant under this Master Declaration, or the performance of any obligations of Declarant under the Documents; (iv) the making of emergency repairs therein necessary to prevent damage to the Common Elements or to any Master 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 Master Association to be necessary for the performance of the obligations of the Master Association as described in the Documents; provided that no such entry into a Master Unit shall unreasonably interfere with the use of such Master Unit by its Owner, and the entering party shall coordinate with the Owner of such Master Unit regarding the timing for such entry (other than pursuant to clauses (iv) and (v) above)..

4.5.2 Common Elements Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive easement (the "**Common Elements Easement**") over, on, under and across the Common Elements for the benefit of the Owner of a Master Unit and the Master Association for ingress and egress to and from each Master Unit and for the use of the Common Elements. The Common Elements Easement in favor of the Master Association shall expressly include the right of the Master Association to utilize the Common Elements for: (i) the maintenance, repair or replacement of any of the Common Elements; and (ii) such other reasonable purposes as are deemed by the Master Association to be necessary for the performance of the obligations of the Master Association as described in the Documents.

4.5.3 Support Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive support easement (the "**Support Easement**") over, on, under and across any Structure, for the benefit of the Owner of a Master Unit to the extent such portion of the Structure provides support for any Master Unit.

4.5.4 Systems Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive easement (the "**Systems Easement**") over, on, under and across the Systems for the benefit of the Owner of a Master Unit and the Master Association for the use of and the connection to any portion of the Systems intended for such Owner's or the Master Association's use, except for any portion of the Systems that are intended to exclusively service a Master Unit.

4.5.5 Utility Easement. Declarant hereby reserves a perpetual, assignable and non-exclusive utility easement (the "**Utility Easement**") over, on, under and across the Common Elements for the benefit of utility companies supplying utility service to the Regime, and to permit Declarant to grant utility easements over and across the Common Elements for the benefit of the Regime. Declarant may Record an easement agreement or easement relocation agreement, specifically locating or relocating any Utility Easement subsequent to the Recordation of this Master Declaration, and each Owner, by acceptance of the deed to a Master 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. This provision is not intended to modify the terms and provisions of any easements granted to a utility company.

4.5.6 Easement to Inspect and Right To Correct. Declarant reserves for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors, the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any Systems, Structure, Improvement, or condition that may exist on any portion of the Property, including the Common Elements and Master Units, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right; provided that no such entry into a Master Unit shall unreasonably interfere with the use of such Master Unit by its Owner, and the entering party shall coordinate with the Owner of such Master Unit regarding the timing for such entry. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. This Section may not be construed to create a duty for Declarant or any third party, and may not be amended without the written and acknowledged consent of Declarant. In support of this reservation, each Owner, by accepting an interest in or title to a Master Unit, hereby grants to Declarant an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Elements and the Owner's Master Unit and all Improvements thereon for the purposes contained in this Section 4.5.6; provided that no such entry into a Master Unit shall unreasonably interfere with the use of such Master Unit by its Owner, and the entering party shall coordinate with the Owner of such Master Unit regarding the timing for such entry.

4.5.7 Miscellaneous. None of the Easements granted or reserved in this Section 4.5 shall be used in a manner which materially adversely affects the structural integrity of the Improvements.

4.6 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 Master Unit, a perpetual easement over, on, under and across such Master Unit for such encroachment and for the maintenance of the same is hereby granted and conveyed to the Master Association by each Owner at the time each Master 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 Master Unit encroaches upon the Common Elements, or upon any adjoining Master Unit, an irrevocable and perpetual easement for such encroachment and for the maintenance of the same over, on, under and across such Master Unit, or such portion of the Common Elements, as applicable, is hereby granted to the Owner of such Master Unit. Such encroachments and easements shall not be considered or determined to be encumbrances either upon a Master Unit or upon the Common Elements.

ARTICLE 5

MATTERS REGARDING THE MASTER ASSOCIATION

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

5.2 **Allocation of Votes in the Master Association**. The number of votes allocated to each Master Unit is set forth on Attachment 1 to this Master Declaration. Votes allocated to a Master Unit will be exercised by the Owner or collective Owners of the Master Unit to which the votes have been assigned. If a Master Unit is subdivided pursuant to the provisions of Section 3.3 of this Master Declaration, the Sub-Condominium shall have only the number of votes in the Master Association that the subdivided Master Unit was entitled to as a Member prior to the Master Unit being subdivided.

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

5.4 **Representation in the Master Covenant Association**. Only for purposes of voting and representation in the Master Covenant Association, the term “Owner” in the Master Covenant shall refer to the Master Association, with the Board, or its designee, entitled to exercise all voting rights and attend all meetings under the Master Plan Documents attributable to the Property.

ARTICLE 6

MAINTENANCE, ALTERATIONS, TAXES AND UTILITIES

6.1 Maintenance.

6.1.1 Maintenance of Master Units. Except as otherwise provided in the Documents, all maintenance, repairs and replacements of, in or to any Master Unit, ordinary or extraordinary, foreseen or unforeseen, including maintenance, repair and replacement of all Systems which are part of such Master Unit, shall be performed by the Owner of such Master Unit in accordance with the Maintenance Standard.

6.1.2 Maintenance of Common Elements. Except as otherwise provided in the Documents, all the Common Elements shall be maintained by the Master Association in accordance with the Maintenance Standard, the cost and expense of which shall constitute a Common Expense and shall be payable as may be set forth in this Master Declaration or in the Allocation Document in amounts for which an allocation is provided. The Master Association shall establish and maintain an adequate reserve fund for such purposes, to be funded by Regular Assessments rather than by a Special Assessment; provided, however, that the Master Association may require Special Assessments for such purposes, in accordance with Subsection 8.1.3 of this Master Declaration. Nothing in this Master Declaration shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Elements caused by the negligence or misconduct of an Owner, such Owner's Tenants, or Occupants of the Owner's Master Unit.

6.1.3 Maintenance of Easements. All maintenance, repairs and replacements of, in or to any Easement area established or reserved pursuant to Section 4.5 of this Master Declaration, ordinary or extraordinary, foreseen or unforeseen, including maintenance, repair and replacement of all Systems which are part of such Easement area, shall be performed by the Owner of such Master Unit, or Limited Common Element appurtenant thereto, in which the Easement area is located and in accordance with the Maintenance Standard, unless otherwise addressed herein or provided in the Allocation Document. If the Easement area is located in a General Common Element, then all maintenance, repairs and replacements of, in or to any Easement area, ordinary or extraordinary, foreseen or unforeseen, including maintenance, repair and replacement of all Systems which are part of such Easement area, unless otherwise provided in the Allocation Document, shall be performed by the Master Association and be a Common Expense.

6.1.4 Allocation Document. At Declarant's election, certain maintenance functions and expenses and the responsibility for capital expenditures may be assigned to specific Master Unit Owners or the Master Association and the expenses associated therewith (which may include Common Expenses as defined in this Master Declaration) may be allocated to Master Units in a manner other than by the Allocated Interests in an Allocation Document. Notwithstanding anything in this Master Declaration to the contrary, the Declarant may only establish an Allocation Document while the Declarant or an Affiliate of Declarant owns all Master Units in the Regime, unless Declarant obtains the consent of all of the other Owners in the Regime. A copy of any Allocation Document shall be maintained in the records of the Master Association and shall be binding upon all the Owners, Sub-Unit Owners, Tenants, Registered Mortgagees and any other party at any time having any interest in the Regime. The Owner identified in the Allocation Document as responsible for the particular maintenance function shall have the responsibility for performing such maintenance function in accordance with the Maintenance Standard and the other applicable Owners shall be responsible for their applicable cost percentage reflected in the Allocation Document as Additional Assessments. The Allocation Document may be amended or modified only upon the affirmative vote or consent of all affected Owners as to the responsibility to perform such work, and all Owners sharing the applicable cost, as to the cost sharing provisions set forth therein. Any Owner may request that the allocations specified in the Allocation Document be reviewed for the next succeeding fiscal year of the Master Association by giving written notice to the other Owners thirty (30) days prior to the beginning of the upcoming fiscal year, and the Owners shall in good faith determine whether adjustment to the allocations are appropriate. Regularly scheduled maintenance expenses may not, in the aggregate for work performed by any Owner, be incurred in excess of the aggregated budgeted amounts for such expenses without the consent of all of the Owners sharing the cost thereof, but the obligation of the Owners to pay for emergency or reasonably unforeseeable repairs shall not be affected by the budget.

6.1.5 Limitation of Liability. Neither the Master Association nor any officer, director, agent or employee of the Master Association shall be liable: (i) for injury or damage to any person or property caused by the elements or by the Owner or Occupant of any Master Unit, or any other Person, or resulting from any utility, rain, snow or ice which may leak or flow from or over any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Master Association is responsible to maintain hereunder; (ii) to any Owner or Sub-Unit Owner or Tenant or Occupant of any Master Unit or Sub-Unit for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements or (iii) to any Owner or Sub-Unit Owner or Tenant or Occupant of any Master Unit or Sub-Unit for any damage or injury caused in whole or in part by the failure of the Master Association or any officer, director, agent or employee of the Master Association to discharge its responsibilities under this Section 6.1.

6.2 Failure of Owner to Maintain Master Unit, General Common Elements, Limited Common Elements, or Easements. If the Master Association or any Owner fails or neglects to maintain, repair or clean its Master Unit or the area covered by the Easements as required by Section 6.1 or Section 4.6, respectively, of this Master Declaration, or any General Common Element or Limited Common Element required to be maintained by the Master Association or any Owner pursuant to the Documents, and such failure or neglect continues for ten (10) days after such Owner's or Master Association's receipt of written notice of such neglect or failure from the Master Association or another Owner, then the Master Association or notifying Owner may, but shall not be obligated to, enter the Master Unit, or upon the area covered by the Easement, General Common Element or Limited Common Element, as applicable, and take appropriate steps to perform, or cause to be performed, any maintenance, repair, cleaning and replacement in the manner required by this Master Declaration or the Allocation Document, as applicable. The defaulting Owner or the Master Association, as the case may be, shall, upon demand, reimburse the Master Association or the Owner making such repairs or maintenance, as applicable, for all costs and expenses incurred in the exercise of its rights under this Master Declaration.

6.3 **Disputes**. Any Dispute arising among the Owners as to the proper person to bear a maintenance cost or expense shall be resolved in accordance with the provisions of Article 11 of this Master Declaration.

6.4 **Additions, Alterations or Improvements by Owner**. Each Owner shall have the right to cause alterations, additions or improvements within such Owner's Master Unit without the approval of any Person, except as such approval is required pursuant to Section 4.4 of this Master Declaration. Notwithstanding the foregoing, no Owner shall: (a) make any addition, alteration or improvement to any Common Element; or (b) make any addition, alteration or improvement in or to any Master Unit that interferes with the structural support of any other Master Unit, the Common Elements or any portion of the Structure or System serving another Master Unit, unless otherwise allowed pursuant to the Documents. All work done in accordance with this Section 6.4 shall be done in compliance with all Legal Requirements and the Documents. THE OWNER MAKING OR CAUSING TO BE MADE SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS, AGREES, AND SHALL BE DEEMED TO HAVE AGREED, FOR SUCH OWNER, TO HOLD THE MASTER ASSOCIATION, THEIR OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, DECLARANT AND ALL OTHER OWNERS HARMLESS FROM AND TO INDEMNIFY THEM FOR ANY LIABILITY OR DAMAGE TO THE PROPERTY RESULTING FROM SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS.

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

6.6 **Utilities**. Each Owner shall be responsible for and shall pay all charges for gas, electricity, water and other utilities relating to such services used or consumed at or with respect to the occupancy of the Master Unit, to the extent such charges are separately metered by the respective utility companies. Any utility charges not so separately metered, and charges relating to such services used in connection with the use and maintenance of the Common Elements, shall constitute a Common Expense. Notwithstanding the forgoing provision, if the Master Units are sub-metered for consumption of a utility, the utility charges will be allocated as an Additional

Assessment to the Master Unit consuming such utility based on the sub-meter reading. If the Master Unit is not sub-metered, the Board may allocate the utility charges to the Master Unit by any conventional and reasonable method for similar types of properties. The levy of an Additional Assessment for utility charges may include administrative and processing fees, and an allocation of any other charges that are typically incurred in connection with utility allocation or sub-metering services. The Board may, from time to time, change the method of utility allocation, provided the same type of method or combination of methods is used for all Master Units.

ARTICLE 7

INSURANCE

7.1 Requirements. All insurance coverage required to be obtained pursuant to this Article 7 or purchased at the election of an Owner or the Master Association shall:

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

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

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

7.2 Insurance by the Master Association. The Master Association shall obtain and maintain: (i) the insurance coverage in such amounts and against such risks as the Master Association is required to obtain pursuant to Attachment 5 of this Master Declaration, provided, however, that with respect to property insurance on the insurable Common Elements prior to completion of construction of the initial Improvements, such insurance coverage may be satisfied by the Builder's Risk policy of the Person constructing such Improvements so long as such policy otherwise satisfies the property insurance coverage required pursuant to the Act and the Master Association and each Owner is named as loss payees under such policy; (ii) at the expense of the requesting Owner, such other insurance (or additional coverage) as such Owner shall reasonably request; and (iii) at the expense of the Owner incurring such Priority Lien Indebtedness, such other insurance (or additional coverage) as such Owner's Registered Mortgagee shall require. The Master Association shall carry such other or additional insurance in such amounts and against such risks as the Master Association shall reasonably deem necessary with respect to the Common Elements or operation of the Master Association. In addition, each insurance policy maintained by the Master Association shall provide that: (a) each Owner is named as an insured under such policies with respect to liability arising out of the Owner's ownership of an undivided interest in the Common Elements or membership in the Master Association; (b) no action or omission by any Owner (or any Sub-Unit Owner), unless validly exercised on behalf of the Master

Association, will void the policy or be a condition to recovery under the policy; (c) such policy is primary insurance if at the time of a loss under the policy any Owner (or Sub-Unit Owner) has other insurance covering the same property covered by the policy; and (d) the insurer waives its right to subrogation under the policy against any Owner, Tenant or Occupant of a Master Unit (or Sub-Unit), unless it can be shown that the act with intent to cause the loss of the Owner, Tenant or Occupant of a Master Unit (or Sub-Unit) was the cause of the loss. Unless otherwise provided in the Allocation Document, the premiums for all insurance coverages maintained by the Master Association pursuant to this Section 7.2 shall constitute a Common Expense, and shall be payable by the Master Association.

7.3 Insurance on Master Units. Each Owner will be obligated to obtain and maintain at all times insurance (i) covering those portions of the Owner's Master Unit to the extent not insured by policies maintained by the Master Association as may be reasonably determined by the Board from time to time; and (ii) in the amount and against such risks as an Owner is required to obtain pursuant to Attachment 5 of this Master Declaration. Upon request by the Board, the Owner will furnish a copy of such insurance policy or policies to the Master Association. In the event that any such Owner fails to obtain insurance as required by this Section, the Master Association may purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner as an Additional Assessment.

7.4 Master Association as Insurance Trustee for the Owners. By acceptance of a deed to a Master Unit, each Owner shall be deemed to have irrevocably appointed the Master Association as the Insurance Trustee. All property insurance policies required to be obtained by the Master Association as described in this Article 7 shall be issued in the name of the Master Association as Insurance Trustee for the Regime. Loss payable provisions shall be in favor of the Insurance Trustee as a trustee for the Master Association. All insurance proceeds payable to an Owner shall be distributed by the Master Association in accordance with the terms and provisions of any mortgage by and between the Owner and such Owner's Registered Mortgagee. The Insurance Trustee shall not be liable for the payment of premiums, nor the renewal or sufficiency of policies, except those policies required to be purchased and maintained by the Master Association pursuant to this Article 7. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust to be distributed in accordance with this Article 7.

7.5 Other Insurance Requirements.

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

7.5.2 Neither the Master 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 Registered Mortgagee or become a lien against the Regime; (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 Master Association, Owners or Registered Mortgagees from collecting the Insurance Proceeds.

7.5.3 The insurance purchased by the Master Association and the other Owners pursuant to this Article 7 shall not cover claims against any other Owner or its Designees due to accidents occurring within that other Master Unit, or casualty, theft or loss to the contents of that other Master Unit.

7.5.4 Each Owner, their Tenants and their respective Designees waive any claim they might have against the other Owners, their Tenants and their respective Designees, the members of the Board, any Manager or the Master Association, and the members of the Board, any Manager or the Master Association waive any claim they might have against an Owner, their Tenants and their respective Designees, for: (i) any damage to or theft, destruction, loss or loss of use of any property; or (ii) any damage due to personal or bodily injury, to the extent the same is insured against under any insurance policy of the types described in this Master Declaration that covers the Property, such Owner's, Tenant's, or the Master Association's fixtures, personal property, improvements, or business, or is required to be insured against under the terms of this Master Declaration, REGARDLESS OF WHETHER THE NEGLIGENCE OF THE OTHER OWNER, ITS TENANTS, OR THEIR RESPECTIVE DESIGNEES, ANY MEMBER OF THE BOARD, ANY MANAGER OR THE MASTER ASSOCIATION (AS APPLICABLE) CAUSED SUCH: (1) DAMAGE TO OR THEFT, DESTRUCTION, LOSS OR LOSS OF USE OF, ANY PROPERTY OR INCONVENIENCE; OR (2) DAMAGE TO THE PERSON OR PERSONS DESCRIBED IN THIS SUBSECTION 7.5.4. Each Owner shall cause its respective insurance carrier to endorse all applicable policies waiving each such carrier's rights of recovery under subrogation or otherwise against the other Owners, their Tenants and their respective Designees, the members of the Board, any Manager and the Master Association and the members of the Board, any Manager and the Master Association shall cause their respective insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the Owners, their Tenants and their respective Designees.

ARTICLE 8

ASSESSMENTS

8.1 Regular and Special Assessments by the Master Association. The Master Association shall possess the right, power, authority and obligation to establish and assess a Regular Assessment for payment of the Common Expenses, Special Assessments and Additional Assessments as provided for in this Master Declaration as follows:

8.1.1 Common Expenses. The Master Association shall establish Regular Assessments sufficient in the judgment of the Master Association to pay all Common Expenses when due and to maintain an adequate reserve fund for such purposes. Regular Assessments will be apportioned among the Master Units in accordance with the Allocated Interests of the Owners or the Allocation Document, as applicable. Regular Assessments are due annually, with monthly installments of the total annual Regular Assessments to be paid on the fifteenth calendar day of each month or on such other date or frequency as the Board may designate in its sole and absolute discretion.

8.1.2 Budget for Common Expenses. Prior to the commencement of each fiscal year of the Master Association, the Master Association shall prepare and deliver to each of the Owners a Master Budget. Such Master Budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred in the upcoming fiscal year, shall include Additional Assessments set forth on budgets prepared therefor by other Owners and received by the Master Association, and shall be accompanied by a statement setting forth each Owner's monthly share thereof and the date as of which such Regular Assessment commences to be payable. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Regular Assessment payable hereunder, and the failure of the Master Association to timely deliver such Master Budget shall not excuse or relieve an Owner from the payment of the Regular Assessments contemplated hereby, in which case, each Owner shall continue to pay to the Master Association an amount equal to such Owner's Regular Assessment as established pursuant to the most recent Master Budget delivered to the Owners. Any Master Budget prepared and delivered to the Owners as contemplated in this Article 8 may be amended as and to the extent reasonably necessary, and the amount of an Owner's Regular Assessment changed to correspond therewith.

8.1.3 Special Assessments by Master Association. In addition to the Regular Assessments contemplated by Subsection 8.1.1, the Master Association shall establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Master Association to pay non-recurring Common Expenses relating to the proper maintenance, care, alteration, improvement, replacement, operation and management of the Regime and the administration of the Master Association. Special Assessments will be apportioned among the Master Units in accordance with the Allocated Interests of the Owners or the Allocation Document, as applicable.

8.2 Additional Assessments. The Master Association shall establish Additional Assessments sufficient in the Owner's reasonable judgment to pay Charges due to an Owner or the Master Association for the ensuing year. Additional Assessments so established shall be payable by the applicable Owners on the fifteenth day of each calendar month to the Master Association, which will in turn deliver the same to the Owner which incurred such Charges. Prior to the commencement of each fiscal year of the Master Association, each Owner shall prepare and deliver to the Master Association a budget setting forth the anticipated Charges it will incur for the ensuing year. Such budget shall be incorporated into the Master Budget and shall be in sufficient detail so as to inform each applicable Owner of the nature and extent of the Charges anticipated to be incurred, and shall be accompanied by a statement setting forth each applicable Owner's monthly share thereof and the date of commencement of payment of such Additional Assessments. If further Additional Assessments are established by the Master Association authorized by provisions of this Master Declaration, in addition to those set forth in the Master Budget, the Master Association shall give the Owners notice thereof and such Additional Assessments shall be immediately due and payable to the Master Association. No further communication shall be necessary to establish the amount of an Owner's obligation regarding the Additional Assessments payable hereunder, and the failure of any Owner to timely deliver such budget to the Master Association or the failure of the Master Association to timely deliver the Master Budget to an Owner shall in no event excuse or relieve an Owner from the payment of the Additional Assessments contemplated hereby, in which case, an Owner shall pay to the Master Association an amount equal to such Owner's Additional Assessments as established pursuant to the most recent Master Budget delivered to such Owner. In addition to the Additional Assessments established in this Section 8.2, each Owner shall possess the right, power and authority to cause the Master Association to establish an Assessment, from time to time, for one-time or non-recurring Additional Assessments due to such Owner from another Owner.

8.3 Obligation to Pay Assessments. Each Owner shall be personally obligated to pay the Owner's share of all Assessments duly established pursuant to this Master Declaration to the Master Association. Unpaid Assessments due as of the date of the conveyance or transfer of a Master Unit shall not constitute a personal obligation of the new Owner (other than the new Owner's pro rata share of any reallocation thereof); however, the former Owner shall continue to be personally liable for such unpaid Assessment and the lien for such unpaid Assessment shall continue to attach to such Master Unit. No Owner shall be entitled to exemption from liability for the Owner's obligation to pay such Assessments by waiver of the use and enjoyment of the Common Elements or the facilities as to which any Additional Assessments relate, by an abandonment of the Master Unit or by any other action or otherwise. Any Assessment not paid within five (5) days of the date due shall bear interest at the Past Due Rate, and shall be recoverable by the Master Association, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of competent jurisdiction sitting in the County. It shall be the responsibility of the Master Association to collect any such delinquent Assessment, the existence of which shall be made known by written notice delivered to the defaulting Owner and, where requested, the Owner's Registered Mortgagee.

8.4 Lien to Secure Payment of Assessments. Declarant hereby reserves and assigns to the Master Association a lien, pursuant to the provisions of the Act, against each Master Unit and the Insurance Proceeds to which an Owner may be entitled to secure the payment of all Assessments, which lien shall be and constitute a lien and encumbrance, in favor of the Master Association, upon such Master Unit and any Insurance Proceeds. The liens established in this Master Declaration shall be prior and superior to all other liens and encumbrances subsequently created upon such Master Unit and Insurance Proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of Priority Lien Indebtedness (provided such lien was Recorded prior to the date on which the Assessment became delinquent), the liens for Governmental Impositions and assessments levied pursuant to the Master Plan Documents. The liens and encumbrances created in this Master Declaration may be enforced by any means available at law or in equity, including a non-judicial foreclosure sale of the Master Unit of a defaulting Owner; such sale to be conducted in the manner set forth in Texas Property Code

Section 51.002 (as now written or as hereafter amended). Each Owner, by acquisition of a Master Unit, and each Sub-Unit Owner, by acquisition of a Sub-Unit Owner's Sub-Unit, grants to the Master Association a power of sale in connection with the Master Association's liens. By written resolution, the Master Association may appoint, from time to time, an officer, agent, trustee or attorney of the Master Association to exercise the power of sale on behalf of the Master Association. The Master Association may bid for and purchase the Master Unit at any such foreclosure sale, and the purchase price (including any Priority Lien Indebtedness) in excess of outstanding Assessments shall be a Common Expense. Payment of proceeds resulting from such foreclosure sale to be applied toward outstanding Assessments shall be in the following order of priority: first, Assessments owing to the Master Association including all costs, expenses and attorneys' fees relating to the foreclosure; and second, Assessments owing to the Owners levying Additional Assessments. The foreclosure of a lien encumbering a Master Unit in order to satisfy the Priority Lien Indebtedness will extinguish the subordinate lien for any Assessments which became payable prior to the date of such foreclosure sale, provided that in no event shall a defaulting Owner be relieved from liability incurred for past Assessments. In connection with enforcement of lien rights with respect to any Master Unit that is subdivided pursuant to the provisions of Section 3.3 of this Master Declaration, the Master Association hereby grants a license (which will be set forth in any Sub-Declaration) to the Sub-Association to collect a pro rata (or otherwise allocated) portion of Assessments from each Sub-Unit Owner, and the Sub-Association shall remit such collections to the Master Association. If a Sub-Association fails to timely collect any portion of the Assessments due from a Sub-Unit Owner, then after the Master Association gives thirty (30) days' notice to the Sub-Association, the license to the Sub-Association to collect any portion of the Assessments from a Sub-Unit Owner shall terminate, and the Master Association may enforce its lien as against the applicable Sub-Unit without the joinder of the Sub-Association.

8.5 **Commencement of Obligation to Pay Assessments**. Each Owner shall be obligated to commence payment of all Assessments on the date a Master Unit is conveyed to the Owner. If the date a Master Unit is conveyed to an Owner is other than the first day of a month, then such Owner shall be obligated to pay only a pro rata share of the Assessment against such Master Unit based on the number of days during such month that the Owner will hold title to the Master Unit. Prior to the commencement of the obligation to pay the initial Regular Assessment, Declarant shall pay all the Common Expenses of the Regime (excluding portions thereof allocable to reserves and less Assessments payable by the other Owners); provided, however, nothing contained in this Master Declaration shall prevent Declarant from collecting from the purchaser of a Master Unit at closing a prorated share of any expenses, such as Governmental Impositions or insurance premiums, to the extent that Declarant prepaid such expenses on behalf of the Master Unit being purchased.

8.6 **Notice of Default**. If an Owner defaults in the Owner's monetary obligations to the Master Association, the Master Association may notify other lienholders of the default and the Master Association's intent to foreclose its lien. The Master Association shall notify any holder of a Recorded lien or duly perfected mechanic's lien against a Master Unit which has given the

Master Association a written request for notification of the Owner's monetary default or the Master Association's intent to foreclose its lien.

8.7 **Alternative Actions**. Nothing contained in this Master Declaration shall prohibit the Master 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.

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

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

8.10 **Other Assessments**. Each Master Unit is subject to the terms and provisions of the Master Plan Documents, and accordingly, each Owner will also be a mandatory member of the Master Covenant Association and be required to pay assessments to the Master Covenant Association in accordance with the Master Plan Documents (the "**Master Covenant Assessments**"). Unless the Master Covenant Association elects otherwise (which election may be made at any time), the Master Association will collect all Master Covenant Assessments and promptly remit all Master Covenant Assessments collected from Owners to the Master Covenant Association. If the Master Association fails to timely collect any portion of the Master Covenant Assessments due from the Owners, then the Master Covenant Association may collect such Master Covenant Assessments allocated to a Master Unit on its own behalf and enforce its lien against the Master Unit without joinder of the Master Association. The Master Association's right to collect Master Covenant Assessments on behalf of the Master Covenant Association is a license from the Master Covenant Association which may be revoked by written instrument at any time, and from time to time, at the sole and absolute discretion of the Master Covenant Association.

ARTICLE 9

LOSS AND OBSOLESCENCE

9.1 **Loss or Damage**. The following provisions shall govern if the Common Elements or any part thereof, are damaged or destroyed by fire or other casualty: (i) prompt written notice of any substantial damage or destruction shall be given by (a) the affected Owner or Owners to the Master Association; and (b) the Master Association to all of the Registered Mortgagees; (ii) the Master Association shall promptly proceed with the full restoration and repair of such damage or destruction (which shall begin no later than within one hundred and eighty days after such damage or destruction) unless (a) the Regime is terminated; (b) repair or replacement would be illegal under any Legal Requirement; or (c) the Owners holding not less than one hundred percent (100%) of the votes in the Master Association, including each Owner of a Master Unit to which a Limited Common Element that will not be rebuilt or repaired is assigned, vote not to rebuild; (iii) the amount by which such restoration and repair costs exceed collectible Insurance Proceeds shall be and constitute a Special Assessment payable by the Owners within sixty (60) days of the date notice of such Special Assessment is delivered to each Owner; and (iv) any excess Insurance Proceeds remaining after such restoration and repair, or any insurance or sales proceeds available absent such restoration and repair, shall be received and held in trust by the Insurance Trustee in separate accounts for each Owner, as their interests may appear (with any proceeds attributable to Limited Common Elements allocated among the Owners of the Master Units to which such Limited Common Elements were assigned in this Master Declaration and any other proceeds allocated in accordance with the Allocated Interests of the Owners), and distributed as follows: first, to the payment of any Governmental Impositions in favor of any assessing entity having authority with respect to the Common Elements or such Master Unit; second, to the payment of the balance of the Priority Lien Indebtedness of such Owner; third, to the payment of any delinquent Assessment with respect to such Master Unit; and the balance, if any, to each Owner entitled thereto.

9.2 **Damaged Master Units**. The following provisions shall govern in relation to a Damaged Master Unit: (i) prompt written notice of any substantial damage or destruction shall be given by the Owner of the Damaged Master Unit to the Master Association and the Registered Mortgagee of the Damaged Master Unit; (ii) after receipt of the collectible Insurance Proceeds, the Owner of the Damaged Master Unit shall promptly proceed with the full restoration and repair of such damage or destruction unless: (a) the Regime is terminated; or (b) repair or replacement would be illegal under any Legal Requirement; or (c) the Owners holding not less than one hundred percent (100%) of the votes in the Master Association, including the Owner of the Damaged Master Unit, vote not to rebuild; and (iii) except as otherwise provided in Section 9.8 of this Master Declaration, the Owner of each Damaged Master Unit shall pay all costs of such restoration, repair and replacement or rebuilding in excess of the net proceeds of the collectible Insurance Proceeds. In the event that a Damaged Master Unit is not fully restored or repaired pursuant to Section 9.2(ii)(a-c) above (a "**Non-Restored Unit**"), the Owner of the Non-Restored Unit shall, at its sole cost and expense, undertake any and all demolition and restoration of the Non-Restored Unit necessary to ensure that the other Master Units in the Regime and the Common Elements appurtenant thereto (the "**Non-Affected Units**") can be used for the intended use by the Owner(s) of the Non-Affected Units and the Non-Affected Units are structurally sound, operable and substantially the same in quality of materials and aesthetic character as that which existed prior to such casualty.

9.3 Damaged Sub-Units. The following provisions shall govern in the event of a Damaged Sub-Unit: (i) prompt written notice of any substantial damage or destruction shall be given by each Sub-Unit Owner of a Damaged Sub-Unit to the Sub-Association and the Registered Mortgagee of the Damaged Sub-Unit; (ii) the Owner of a Damaged Sub-Unit shall promptly proceed with the full restoration and repair of such damage or destruction unless: (a) the Sub-Condominium is terminated; (b) repair or replacement would be illegal under any Legal Requirement; or (c) the Sub-Unit Owners holding at least one hundred percent (100%) of the votes in the Sub-Association, including the Sub-Unit Owner of the Damaged Sub-Unit, and Owners holding not less than one hundred percent (100%) of the votes in the Master Association, vote not to rebuild; and (iii) the Sub-Unit Owner of each Damaged Sub-Unit shall pay all costs of such restoration, repair and replacement or rebuilding in excess of the net proceeds of the collectible Insurance Proceeds.

9.4 Obsolescence of General Common Elements. If the Owners holding not less than one hundred percent (100%) of the Allocated Interests shall vote, at a meeting of the Master Association duly called for purposes of considering same, that the General Common Elements are obsolete, the Master Association shall promptly proceed with the necessary replacements and improvements thereto pursuant to a budget established for such purpose, and the cost thereof shall be and constitute a Special Assessment payable by all the Owners within sixty (60) days of the date notice of such Special Assessment is delivered to each Owner.

9.5 Obsolescence of Limited Common Elements. For Limited Common Elements appurtenant to less than all Master Units, Owners of all of the Allocated Interests of such Master Units may vote at a meeting of the Master Association duly called for purposes of considering same, that such Limited Common Elements are obsolete, and in such event the Master Association shall promptly proceed with the necessary replacements and improvements thereto pursuant to a budget established for such purpose, and the cost thereof shall be and constitute a Special Assessment payable by the Owners of such Master Units appurtenant to such Master Units, within sixty (60) days of the date notice of such Special Assessment is delivered to each Owner.

9.6 Obsolescence of the Property. If the Owners holding not less than one hundred percent (100%) of the votes in the Master Association, at a meeting of the Master Association duly called for purposes of considering same, determine that the Property is obsolete, the Master Association, after first obtaining the written consent of sixty-seven percent (67%) of the Registered Mortgagees, shall promptly proceed with the sale thereof in its entirety. Any proceeds from such sale shall be received, held and applied for and on account of the Owners as provided in the Act.

9.7 The Master Association as Attorney-in-Fact. Each Owner, by acceptance of a deed to a Master Unit, hereby irrevocably makes, constitutes and appoints the Master Association, and each and every one of its successors in interest hereunder, as the Owner's true and lawful attorney-in-fact, for and in the Owner's name, place and stead, upon the damage or destruction of the Property, or any part thereof, or upon any determination by the Owners made pursuant to this Article 9, to take any and all actions, and to execute and deliver any and all instruments, as the Master Association may, in its sole and absolute discretion, deem necessary or advisable to effect the intents and purposes of this Article 9, hereby giving and granting unto the Master Association full power and authority to do and perform all and every act whatsoever requisite or necessary to be done in and about the premises as fully, to all intents and purposes, as an Owner might or could do, hereby ratifying and confirming whatsoever the Master Association may do by virtue of the provisions of this Master Declaration. The Master Association is hereby authorized, in the name and on behalf of all the Owners, to do and perform all actions necessary or appropriate to effect the intent and purposes of this Article 9, including the power and authority to make and settle claims under any insurance policies maintained by the Master Association, contract for and with respect to restoration and repair work, contract for and with respect to replacements and improvements to the Common Elements (to the extent authorized as contemplated by Section 9.4 or Section 9.5), to contract for and with respect to a sale of the Property (to the extent contemplated by Section 9.6) and to execute and deliver all instruments necessary or incidental to any such actions.

9.8 Matters Relating to Restoration and Repairs. Any restoration and repair work undertaken by the Master Association or an Owner pursuant to this Article 9 shall be performed in a good and workmanlike manner in order to restore the Improvements to a condition similar to that existing prior to such damage or destruction; provided, however, that in no event shall the Master Association be responsible for restoring, repairing or replacing any Improvements to a Master Unit made by an Owner, or the contents located in such Master Unit. All such restoration and repair work, whether done by the Master Association or an Owner, shall be effected in a manner so as to observe all vertical and horizontal Master Unit boundaries existing prior to such damage or destruction. If an Owner or the Owners decide to rebuild or repair any Master Unit in excess of its full replacement cost, such Owner or Owners shall be responsible for any such costs exceeding the full replacement value of such Master Unit; provided, however, that if the Owners holding not less than one hundred percent (100%) of the Allocated Interests shall vote to incur such expenses, such additional expenses, to the extent they exceed the replacement value of such Master Unit, shall constitute a Special Assessment.

ARTICLE 10

CONDEMNATION

10.1 General Provisions. If all or any part of the Property is subject to a Taking, the Master Association and each Owner affected thereby shall be entitled to participate in proceedings incident thereto at their respective expense. The Master Association shall give notice of such proceeding, as it receives such notice, to all the Owners and to all the Registered Mortgagees which have requested such notice; provided, however, that the failure of the Master Association to give such notice shall not prejudice the right of any Registered Mortgagee to participate in such proceedings. The expense of participation in such proceedings by the Master Association shall be a Common Expense. The Master Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Master Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. Any restoration or repair of the Property following a partial Taking shall be performed in accordance with the provisions of this Master Declaration and shall follow, as nearly as possible, the original plans and specifications for the Property, unless otherwise approved by all the Registered Mortgagees.

10.2 Taking of All or Substantially All of One Master Unit. If a Master Unit (or a substantial part thereof such that the remnant may not practically or lawfully be used for any purpose permitted by this Master Declaration) is subject to a Taking, the Owner and any Registered Mortgagee of such Owner shall be entitled to the award for such Taking, including the award for the value of such Owner's interest in the Common Elements, whether or not such Common Element interest is acquired, and, after payment thereof, such Owner and any Registered Mortgagee of such Owner shall be divested of all interest in the Property. In such event, the condemned Master Unit's entire Allocated Interests shall be automatically reallocated to the remaining Master Units in proportion to the respective Allocated Interests of those Master Units before the Taking, unless the decree relating to the Taking provides otherwise. A remnant of a Master Unit remaining after part of a Master Unit is the subject of a Taking described in this Section 10.2 shall be a Common Element. If any repair or rebuilding of the remaining portions of the Property is required as a result of such Taking, the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners holding not less than one hundred percent (100%) of the votes in the Master Association either to rebuild or repair the Property or to take such other action as such remaining Owners may deem appropriate. If no repair or rebuilding shall be required, or if none is undertaken, the remaining portion of the Property shall be resurveyed, if necessary, and this Master Declaration shall be amended to reflect such Taking. This Master Declaration shall in all circumstances be amended to reflect the reallocated Allocated Interests following the Taking.

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

10.4 Taking of Common Elements. If an action is brought to effect a Taking of all or any portion of the Common Elements together with or apart from any Master Unit, the Board, in addition to the general powers set out in this Master Declaration, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding unless the action involves a material portion of the Common Elements, in which case the agreement of all the Owners shall be required. With respect to any such Taking of the Common Elements only, all damages and awards shall be determined for such Taking as a whole and not for any Owner's interest therein. After the damages or awards for a Taking of the Common Elements are determined, such damages or awards shall be held by the Master Association, acting as trustee for each Owner, and their Registered Mortgagees, as their interests shall appear, and any amounts not used for repair or restoration of the remaining Common Elements shall be divided among the Owners in proportion to each Owner's Allocated Interests before the Taking, except that such portion of any such award attributable to the condemnation of a Limited Common Element shall be divided among the Owners of the Master Units served by such Limited Common Elements, as such Owners' interests existed in the Limited Common Elements condemned. The Owners shall determine by the affirmative vote or written consent of the Owners holding not less than one hundred percent (100%) of the votes in the Master Association either to rebuild or repair the remaining Common Elements or to take such other action as the Owners may deem appropriate. If it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Master Declaration and the Plat and Plans attached hereto shall be duly amended by instrument executed by the Board on behalf of the Owners and Recorded.

10.5 <u>Taking of Several Master Units</u>. If an eminent domain proceeding results in the Taking of all or part of multiple Master Units, then the damage and awards for such Taking shall be determined and paid for each Master Unit as described in <u>Section 10.2</u> and <u>Section 10.3</u> of this Master Declaration, and the following shall apply: (i) the Master Association shall determine which of the Master Units damaged by such Taking may be practically and lawfully used for any purpose permitted by this Master Declaration, taking into account the nature of the Property and the reduced size of each Master Unit so damaged; (ii) if the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners holding not less than one hundred percent (100%) of the votes in the Master Association, with the written consent of sixty-seven percent (67%) of the Registered Mortgagees, that it is not reasonably practicable to operate the undamaged Master Units and the Damaged Master Units which can be practically and lawfully used for any purpose permitted by this Master Declaration as a mixed-use condominium project in the manner provided in this Master Declaration, then the Property shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interests by all the remaining Owners, as tenants-in-common, in the percentage of the Allocated Interests of each Owner (after reallocation in accordance with the procedures described in <u>Section 10.2</u> and <u>Section 10.3</u> of this Master Declaration); and (iii) if the Regime is not so terminated, then the damages and awards made with respect to each Master Unit which can be practically and lawfully used for any purpose permitted by this Master Declaration shall be applied to repair and reconstruct such Master Unit as provided in <u>Section 10.3</u> of this Master Declaration. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed pro rata against the Owners of those Master Units which are being repaired or reconstructed. With respect to those Master Units which may not be practically or lawfully used for any purpose permitted by this Master Declaration, after payment of the award, such Owner and any Registered Mortgagee of such Owner shall be divested of all interest in the Property and the condemned Master Unit's entire Allocated Interests shall be automatically reallocated to the remaining Master Units in proportion to the respective Allocated Interests of those Master Units before the Taking, unless the decree relating to the Taking provides otherwise. A remnant of a Master Unit remaining after part of a Master Unit is the subject of a Taking, if the remnant of such Master Unit cannot be practically or lawfully used for any purpose permitted by this Master Declaration, shall be a Common Element. If any repair or rebuilding of the remaining portions of the Property (other than Master Units which can be practically and lawfully used for any purpose permitted by this Master Declaration) is required as a result of such Taking, the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners holding not less than one hundred percent (100%) of the votes in the Master Association either to rebuild or repair the Property or to take such other action as such remaining Owners may deem appropriate. If no repair or rebuilding shall be required, or if none is undertaken, the remaining portion of the Property shall be resurveyed, if necessary, and this Master Declaration shall be amended to reflect such Taking. This Master Declaration shall in all circumstances be amended to reflect the re-allocated Allocated Interests following the Taking.

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

10.7 **Payment of Awards and Damages**. Any damages or awards provided in this Article 10 to be paid to or for the account of any Owner by the Master Association, acting as trustee, shall be applied first to the payment of any Governmental Impositions past due and unpaid with respect to that Master Unit; second, to any Priority Lien Indebtedness on that Master Unit; third, to the payment of any Assessments charged to or made against the Master Unit and unpaid; and finally to the Owner.

10.8 **Sub-Unit Condemnation**. The term "Master Unit" as used in this Article 10 shall also refer to any Sub-Unit (or portion thereof) subject to a Taking in the same manner as applicable to the Taking of a Master Unit (or part thereof) except that with respect to any such Sub-Unit (or portion thereof): (i) with respect to Section 10.2, Section 10.4, and Section 10.5, the required vote shall be not less than one hundred percent (100%) of the votes in the Sub-Association; (ii) any requirement or percentage of voting shall refer to a vote by the Sub-Unit Owners based upon the votes in such Sub-Association (or based upon Allocated Interests if there is no Sub-Association); (iii) the term "Property" shall refer to the Sub-Condominium; (iv) references to the Master Association shall be deemed to refer to the Sub-Association (if any); and (v) any re-allocation of the Allocated Interests shall be made in accordance with the Reallocation Percentage applicable to the Sub-Condominium which shall be equal to the Allocated Interests of the Master Unit that was subdivided to create the applicable Sub-Condominium.

ARTICLE 11

RESOLUTION OF DISPUTES AND CONSTRUCTION DISPUTES

11.1 Disputes.

11.1.1 Mediation. All Disputes, except those relating to equitable remedies, which are not resolved within thirty (30) days after same have arisen (unless such greater time is provided elsewhere in the Documents) shall be submitted for, or determined by, non-binding mediation as a condition precedent to the arbitration required by this Article 11. 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 Master Association. With respect to such mediation, the parties shall, within ten (10) days after delivery of such written notice to the Master 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 not an Affiliate of, or has had material business dealings with any Owner or any member of the Master Association. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the American Arbitration Association office in San Antonio, 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 Pflugerville, Texas. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Dispute is not resolved pursuant to such mediation, the provisions of Subsection 11.3.1 of this Master Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration under this Article 11.

11.1.2 Final Offer Arbitration. If the parties reach an impasse at mediation, as determined by the mediator in the mediator's sole and absolute discretion, and are unable to resolve any Dispute within thirty (30) days of such mediation session, the Dispute shall be submitted to mandatory, binding arbitration, which may be initiated by either party (as the exclusive remedy with respect to a Dispute under this Master Declaration) by making a written demand therefor to the other parties involved in such Dispute no later than forty-five (45) days after the mediator declares that the parties have reached an impasse at mediation or the mediation otherwise fails. The parties agree to select a single impartial arbitrator from a list taken from the American Arbitration Association of commercial arbitrators within fifteen (15) days of submitting the Dispute to arbitration, and if they cannot agree on an arbitrator, each party shall select a person and those two so selected shall then select the single impartial arbitrator who shall thereafter serve as arbitrator with respect to the Dispute. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its most reasonable position to the arbitrator and the arbitrator shall select one of those two positions. The arbitrator shall have no discretion to select or award a position other than to select one of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current Rules for Commercial Mediation and Arbitration promulgated by the American Arbitration Association shall apply. The decision of the arbitrator shall be rendered no later than ten (10) days from the initiation of the arbitration procedure.

11.2 Construction Disputes.

11.2.1 Mediation. Any Construction Dispute not resolved within thirty (30) days after same has arisen shall be submitted for, or determined by, non-binding mediation as a condition precedent to arbitration. Mediation of any Construction Dispute shall be initiated by any party making a written demand therefore to all other parties involved in such Construction Dispute. Any mediation shall be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect at the time the Construction Dispute arises. With respect to such mediation, the parties shall, within 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 years; and (ii) not an Affiliate of, or has had material business dealings with any Owner, any member of the Master Association, or any other party, including Declarant or an Affiliate of Declarant, 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 the American Arbitration Association 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 Pflugerville, Texas. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Construction Dispute is not resolved pursuant to such mediation, the provisions of Subsection 11.3.1 of this Master Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration under this Article 11.

11.2.2 Arbitration. If the parties reach an impasse at mediation, as determined by the mediator in the mediator's sole and absolute discretion, and are unable to resolve any Construction Dispute within thirty (30) days of such mediation session, any party to the Construction Dispute may initiate binding arbitration (as the exclusive remedy with respect to a Construction Dispute under this Master Declaration) by making a written demand therefor to the other parties involved in such Construction Dispute no later than forty-five (45) days after the mediator declares that the parties have reached an impasse at mediation or the mediation otherwise fails. The parties agree that the arbitration shall be governed by the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. The parties agree to select a single impartial arbitrator within fifteen (15) days of submitting the Construction Dispute to arbitration. 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 $500,000, in which case a panel of three arbitrators shall be used.

If the amount in controversy exceeds $500,000 and the parties cannot mutually agree upon three panel members, the parties shall be required to obtain a list of proposed neutral parties through the American Arbitration Association office in the locality where the Property is located. The parties shall then proceed with the selection of panel members in accordance with the American Arbitration Association Construction Industry Arbitration Rules. Any arbitrator utilized, whether appointed or agreed, must: (i) be a reputable Person actively engaged in the construction industry or as a lawyer experienced in the practice of construction law for a continuous period of not less than ten years; and (ii) not be an Affiliate of, or have had material business dealings with any Owner, any member of the Master Association, or any other party, including Declarant or an Affiliate of Declarant, involved in the arbitration. The arbitrator shall establish reasonable procedures and requirements for the production of relevant documents and require the exchange of information concerning witnesses to be called. The parties shall be entitled to discover all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the arbitration and the parties may use all methods of discovery available under the Texas Rules of Civil Procedure and shall be governed thereby. There shall be a prehearing meeting between the parties at which the arbitrator shall make and set schedules for discovery and hearings consistent with their powers as set forth herein. The Texas Rules of Evidence shall be applied by the arbitrator but liberally construed to allow for the admission of admissible evidence that is helpful in resolving the controversy. Rulings on the admission of evidence made by the arbitrator at the hearing shall be final and not subject to any appeal. At the time of the award, the arbitrator shall prepare and provide to the parties a reasoned, detailed, award with an explanation of the facts and legal principles supporting the award.

11.3 General.

11.3.1 Procedure and Award. In no event shall a Dispute or a Construction Dispute be initiated after the date when institution of legal or equitable proceedings based on such Dispute or Construction Dispute would be barred by the applicable statute of limitations. With respect to any Construction Dispute, 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 arbitration of a Dispute, 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 11) of the party whose position is selected or awarded for the arbitration of the Dispute under this Article 11. In any arbitration of a Construction Dispute, the arbitrator(s) 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 and/or arbitration of such Construction Dispute under this Article 11. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award.

11.3.2 Consolidation. A Construction Dispute may be consolidated with similar proceedings and resolved pursuant to the dispute resolution procedures contained in this Article 11 to include participation of the contractors, design professionals or any other person or entity if such proceedings involve common issues of law or fact.

11.3.3 Sole Remedy. With respect to any Dispute or Construction Dispute it is agreed that the dispute resolution provisions of this Article 11 shall be the sole remedy of the parties involved in such Dispute or Construction Dispute. Notwithstanding any other provisions of this Master 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 an 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 an agreement or consent to arbitration with any Person not named or described in this Master Declaration; provided that any arbitration proceeding initiated under the terms of Section 11.2 of this Master 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. Except to the extent permitted by Applicable Law, any award of the arbitrator shall be final, binding and non-appealable upon the parties involved in the Dispute or Construction Dispute and judgment thereon may be entered by any court having jurisdiction.

11.3.4 Sub-Unit Representation. The Sub-Association (or other designated representative of the Sub-Condominium) shall be the sole representative on behalf of all Sub-Units within a Sub-Condominium in any proceeding with respect to any Dispute or Construction Dispute pursuant to this Article 11. The Sub-Association may not initiate the mediation or arbitration of any Construction Dispute without the prior written approval of not less than one hundred percent (100%) of the Sub-Unit Owners. In addition, prior to initiating any mediation or arbitration of a Construction Dispute, the Sub-Association must levy a special assessment under the Sub-Declaration against all Sub-Unit Owners to fund the estimated costs of such proceedings, and may not use the annual operating income or reserve funds of the Sub-Association to fund such costs.

ARTICLE 12

MISCELLANEOUS

12.1 Revocation or Termination of Master Declaration. Except as provided in Section 10.6 of this Master Declaration, this Master Declaration may be revoked or the Regime established hereby may be terminated only by an instrument in writing, duly approved, executed and acknowledged by those Owners holding not less than eighty percent (80%) of the votes in the Master Association, with the written consent of sixty-seven percent (67%) of the Registered Mortgagees. Any such instrument of revocation or termination shall be duly Recorded. If the Property is to be sold upon termination, the agreement effecting such termination shall also set forth the terms of such sale and comply with the provisions of the Act.

12.2 **Amendment to Master Declaration**. This Master Declaration may be amended at a meeting of the Owners at which the amendment is approved by those Owners holding eighty percent (80%) of the votes in the Master Association, with the written consent of not less than sixty-seven percent (67%) of the Registered Mortgagees. Such amendment shall be evidenced by a written instrument executed and acknowledged by an officer of the Master Association on behalf of the consenting Owners and by the consenting Registered Mortgagees and Recorded. Any such amendment so effected shall be binding upon all of the Owners; provided, however, that except as permitted or required by the Act, no such amendment shall: (i) change the boundaries of a Master Unit; (ii) prohibit the leasing of any Master Unit; (iii) change the Allocated Interests of a Master Unit; or (iv) change the use restrictions on a Master Unit unless, with respect to the matters described in Subsections 12.2(i)-(iv) of this Master Declaration, such amendment has been consented to by the Owner and the Registered Mortgagee of all affected Master Units. No such amendment shall become effective unless approved by Declarant if Declarant still owns one or more Master Units and the amendment would, in Declarant's reasonable determination: (a) increase or otherwise modify Declarant's obligations; (b) reduce or modify any Special Declarant Rights; or (c) materially inhibit or delay Declarant's ability to complete the Improvements or to convey any portion of the Property owned by Declarant.

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

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

(i) this Master Declaration;

(ii) the Allocation Document;

(iii) the Certificate;

(iv) the Bylaws; and

(v) the Rules.

Each Master Unit Owner and any Sub-Unit Owner acknowledges that such Master Unit Owner and Sub-Unit Owner have been given the opportunity to review the documents listed in Subsections 12.4(i)-(v) of this Master Declaration, and have had the opportunity to confer with counsel in connection with the purchase of a Master Unit or Sub-Unit as applicable. The provisions of the Documents embody the entire final documentation to which the Master Units, the Master Unit Owners, any Sub-Units and any Sub-Unit Owners will be subject in relation to the Regime and supersede any and all agreements, representations and understandings, whether written or oral, between the Declarant and the Master Unit Owners.

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

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

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

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

12.9 Governing Law. THIS MASTER DECLARATION AND THE BYLAWS, THE CERTIFICATE OF FORMATION, AND THE RULES SHALL BE GOVERNED BY THE LAWS OF

THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE REGIME SHALL BE IN TRAVIS COUNTY, TEXAS.

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

12.11 **Estoppel Certificates**. Each Owner, from time to time but no more often than twice each calendar year, shall have the right to require the Master Association (as to all items listed in this Section 12.11) and the other Owners (as to Subsections 12.11(iii), (iv), (v) and (vi)) to deliver to the requesting Owner a written statement addressed to the requesting Owner and its Registered Mortgagee or purchaser of its Master Unit, as applicable, without payment of any fee or cost certifying: (i) this Master Declaration is unmodified and in full force and effect (or if modified that this Master Declaration as so modified is in full force and effect); (ii) this Master Declaration attached to the certificate is a true and correct copy of this Master Declaration and all amendments hereto; (iii) the date through which all Assessments have been paid by the Owner requested to provide the certificate and by the Owner requesting such certificate; (iv) to the knowledge of the certifying party, neither the certifying party nor the requesting party is in default of any of its obligations under this Master Declaration (or if the certifying party knows the certifying party or requesting party to be in default, specifying the defaults and the remaining cure period, if any); (v) the certifying party holds no existing liens against the requesting party's Master Unit; and (vi) such other matters as are reasonably requested by the requesting Owner.

12.12 **Integration into Master Plan Development**. The Regime is subject to all terms, conditions and restrictions set forth in the Master Plan Documents. The Master Plan Documents may be amended in accordance with the terms and provisions thereof, from time to time, and such amendments shall be binding and enforceable against all Owners.

ARTICLE 13

REGISTERED MORTGAGEE PROTECTION PROVISIONS

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

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

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

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

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

(v) sixty (60) days notice prior to the Master Association instituting any foreclosure action on any Master Unit; and

(vi) thirty (30) days notice prior to the effective date of (i) any proposed material amendment to this Master Declaration or the Plat and Plans; (ii) any termination of an agreement for professional management of the Property following any decision of the Owners to assume self-management of the Property; and (iii) any proposed termination of the Regime.

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

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

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

13.5 **Unpaid Assessments**. Each Person holding a mortgage secured by any Priority Lien Indebtedness encumbering any Master Unit, which Person obtains title to such Master Unit pursuant to judicial foreclosure, or the powers provided in such mortgage, or a deed in lieu of foreclosure, shall take title to such Master Unit free and clear of any claims for unpaid Assessments against such Master Unit to the extent the mortgage was Recorded prior to the date on which the Assessments became delinquent and as otherwise set forth in Article 8 of this Master Declaration or the Act.

13.6 **Books and Records**. All Registered Mortgagees, upon written request, shall have the right to: (a) examine the books and records of the Master Association, including current copies of this Master Declaration, the Bylaws and the Rules and financial statements, during normal business hours; (b) require the Master Association to submit an annual audited financial statement for the preceding fiscal year within one-hundred twenty (120) days of the end of the Master Association's fiscal year, if one is available, or have one prepared at the expense of the requesting Person if such statement is not otherwise prepared by the Master Association; (c) receive written notice of all meetings of the Owners; and (d) designate in writing a representative to attend all such meetings.

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

13.8 **<u>Required Percentage</u>**. Any required percentage of Registered Mortgagees in this Master Declaration shall mean and refer to such percentage of the face amount of the indebtedness held by such Registered Mortgagees and not the number of such Registered Mortgagees, unless otherwise required by the Act.

<u>List of Attachments</u>:
Attachment 1 – Allocated Interests and Votes
Attachment 2 – Bylaws
Attachment 3 – Certificate
Attachment 4 – Plat and Plans
Attachment 5 – Insurance Requirements

[SIGNATURE PAGE FOLLOWS]

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

DECLARANT:

City of Pflugerville

By: ____________________________________
Printed Name: ______________________________
Title: ____________________________________

THE STATE OF TEXAS §

COUNTY OF __________ §

This instrument was acknowledged before me this ____ day of ______________, 20___ by ______________________, the ______________________ of City of Pflugerville, on behalf of said limited liability company.

(SEAL)

____
Notary Public Signature

CONSENT OF MORTGAGEE

The undersigned, being the sole owner and holder of the lien created by a Deed of Trust recorded as Document No. ___________ in the Official Public Records of Travis County, Texas (the "**Lien**"), securing a note of even date therewith, executes this Master Declaration solely for the purposes of (i) evidencing its consent to this Master Declaration, and (ii) subordinating the Lien to the Master Declaration, both on the condition that the Lien shall remain superior to the Assessment Lien in all events. The undersigned makes no representation or warranty, express or implied, of any nature whatsoever, to any Owner with respect to any Unit or the effect of the terms and provisions of this Regime.

____

By: ____
Printed Name: ________________________________
Title: _______________________________________

THE STATE OF _________ §

COUNTY OF ___________ §

This instrument was acknowledged before me on _____________________________, 20____, by ____________________________, _______________ of _________________________, a _____ _____________________, on behalf of said entity.

(seal)

____
Notary Public Signature

EXHIBIT "A"

Property

[TO BE ATTACHED]

ATTACHMENT 1
Allocated Interests and Votes

MASTER UNIT	ALLOCATED INTERESTS	VOTES
Retail Unit	8.81%	8.81
REC Unit	91.19%	91.19
TOTAL	**100%**	**100**

ATTACHMENT 2

PARCEL 4 CONDOMINIUM COMMUNITY, INC.
BYLAWS

1.1. **Property**. These Bylaws of Parcel 4 Condominium Community, Inc. provide for the governance of the condominium regime known as Parcel 4 Master Condominium, established on certain real property in Travis County, Texas (the "**Property**"), as more particularly described in that certain Development Tract Declaration of Condominium Regime for Parcel 4 Master Condominium, recorded or to be recorded in the Official Public Records of Travis County, Texas (the "**Master Declaration**").

1.2. **Parties to Bylaws**. All present or future Owners of Master Units and all other Persons who use or occupy the Property in any manner are subject to these Bylaws, the Master Declaration, and the other Documents as defined in the Master Declaration. The mere acquisition or occupancy of a Master Unit will signify that these Bylaws are accepted, ratified, and will be strictly followed.

1.3. **Definitions**. Words and phrases defined in the Master Declaration have the same meanings when used in these Bylaws. Article 1 of the Master Declaration is incorporated herein by reference.

1.4. **Nonprofit Purpose**. The Master Association is organized to be a nonprofit corporation.

1.5. **General Powers and Duties**. The Master Association, acting through the Board, has the powers and duties necessary for the administration of the affairs of the Master Association and for the operation and maintenance of the Property as may be required or permitted by the Documents and Applicable Law. The Master Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Documents.

ARTICLE 2
BOARD OF DIRECTORS

The affairs of the Master Association shall be governed by the Board. The initial directors shall be four (4) in number and shall be those directors named in the Certificate of Formation. The Directors shall be appointed in accordance with *Section 2.1* below.

2.1. **Governance**. The Board will consist of four (4) Board members. The Owner of each Master Unit shall be entitled to appoint two (2) duly authorized agent or representative as a Director. If Declarant elects to form a Sub-Association upon the creation of a Sub-Condominium, the board of directors of any Sub-Association shall appoint the Directors which would otherwise be appointed by the Owner of a Master Unit if the Master Unit was not submitted to a Sub-

Condominium. In the event a Master Unit is subdivided into additional Master Units, the Owners of the Master Units resulting from such resubdivision will elect the Directors originally assigned to the Master Unit based on the number of votes allocated to each Master Unit resulting from the resubdivision as determined in accordance with the Master Declaration. In the event that an additional Master Unit is created, but not through the resubdivision of a Master Unit (a "**New Master Unit**"), then the number of Directors on the Board shall be increased by one (1) and the Owner of the New Master Unit shall appoint one (1) duly authorized agent or representative as a Director.

2.2. **Removal of Directors**.

2.2.1. Removal by Members. Only the Owner entitled to appoint a particular Board member in accordance with *Section 2.1* above may remove that Board member.

2.2.2. Removal by Directors. A Director may not be removed by the officers or by the remaining Directors unless approved by the Owner(s) entitled to appoint the Director to be removed in accordance with *Section 2.1* above.

2.3. **Meetings of the Board**.

2.3.1. Regular Meetings of the Board. Regular meetings of the Board may be held at a time and place that the Board determines, from time to time, but at least one (1) such meeting must be held annually. Notice of regular meetings of the Board will be given to each Director, personally or by telephone, written, or electronic communication, at least three (3) days prior to the date of the meeting.

2.3.2. Special Meetings of the Board. Special meetings of the Board may be called by the president or, if the president is absent or refuses to act, by the secretary, or by any three (3) Directors. At least three (3) days' notice will be given to each Director, personally or by telephone, written, or electronic communication, which notice must state the place, time, and purpose of the meeting.

2.3.3. Emergency Meetings. In case of an emergency, the Board may convene a meeting after making a diligent attempt to notify each Director by any practical method.

2.3.4. Conduct of Meetings. The president presides over meetings of the Board and the secretary keeps, or causes to be kept, a record of resolutions adopted by the Board and a record of transactions and proceedings occurring at meetings. When not in conflict with law or the Documents, the then current edition of Robert's Rules of Order governs the conduct of the meetings of the Board.

2.3.5. Quorum. At meetings of the Board, a Majority of Directors constitutes a quorum for the transaction of business and the acts of Majority of the Directors are the acts of the Board. If less than a quorum is present at a meeting of the Board, the Directors present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business (including any voting matters) that may have been transacted at the meeting as originally called may be transacted without further notice. Directors may not participate by proxy at meetings of the Board.

2.3.6. Open Meetings. Regular and special meetings of the Board are open to Members of the Master Association, subject to the following provisions to the extent permitted or required by the Act:

i. No audio or video recording of the meeting may be made, except by the Board or with the Board's prior express consent.

ii. Members who are not Directors may not participate in Board deliberations under any circumstances, and may not participate in Board discussions unless the Board expressly so authorizes at the meeting.

iii. The Board may adjourn any meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Master Association is or may become involved, and orders of business of a similar or sensitive nature. The nature of business to be considered in executive session will first be announced in open session.

iv. The Board may prohibit attendance by non-Members, including representatives, proxies, agents, and attorneys of Members.

v. The Board may prohibit attendance by any Member who disrupts meetings or interferes with the conduct of Board business.

vi. The Board may but is not required to publish to Members the time, date, and place of Board meetings, but will provide the information if requested in writing by a Member on a meeting by meeting basis.

2.3.7. Telephone Meetings. Members of the Board or any committee of the Master Association may participate in and hold meetings of the Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

2.3.8. Action without a Meeting. Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote. This Section does not apply to actions that require meetings under the Act.

2.3.9. Deadlock. If the Board is required to take an action under the Documents or Applicable Law and there is a deadlock among the directors, the deadlock may be submitted by a director to arbitration, which shall be resolved by one (1) arbitrator in Pflugerville, Texas in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "**AAA**"). The decision reached by the arbitrator shall be final and binding and the costs of such arbitration shall be paid by the Association.

2.4. **Liabilities and Standard of Care**. In performing their duties, the Directors are required to exercise certain standards of care and are subject to certain liabilities, including but not limited to the following provisions of State law: Sections 82.103(a) and (f) of the Act, and Sections 3.102, 3.105, 22.221, 22.223, 22.224, 22.225, 22.226, 22.227 and 22.230 of the Texas Business Organizations Code.

2.5. **Powers and Duties**. The Board has all the powers and duties necessary for the administration of the Master Association and for the operation and maintenance of the Property. The Board may do all acts and things except those which, by law or the Documents, are reserved to the Members and may not be delegated to the Board. Without prejudice to the general and specific powers and duties set forth in laws or the Documents, or powers and duties as may hereafter be imposed on the Board by resolution of the Master Association, the powers and duties of the Board include, but are not limited to, the following:

2.5.1. Appointment of Committees. The Board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the Board with its responsibilities. The resolution may establish the purposes and powers of the committee created, provide for the appointment of a chair and committee Members, and may provide for reports, termination, and other administrative matters deemed appropriate by the Board. Members of committees will be appointed from among the Owners and Occupants.

2.5.2. Manager. The Board may employ a manager or managing agent for the Master Association, at a compensation established by the Board, to perform duties and services authorized by the Board.

2.6. **Fidelity Bonds**. Any person handling or responsible for Master Association funds, including officers, agents, and employees of the Master Association, must furnish adequate fidelity bonds. The premiums on the bonds may be a Common Expense of the Master Association.

ARTICLE 3
OFFICERS

3.1. **Designation**. The principal officers of the Master Association are the president, the secretary, and the treasurer. The Board may appoint one (1) or more vice-presidents and other officers and assistant officers as it deems necessary. The president and secretary must be

Directors. Other officers may, but need not, be Members or Directors. Any two (2) offices may be held by the same person, except the offices of president and secretary. If an officer is absent or unable to act, the Board may appoint a Director to perform the duties of that officer and to act in place of that officer, on an interim basis.

3.2. **Election of Officers**. The officers are elected every two (2) years by the Directors and hold office at the pleasure of the Board. Except for resignation or removal, officers hold office until their respective successors have been designated by the Board.

3.3. **Removal and Resignation of Officers**. The Directors, by unanimous consent, may remove any officer, with or without cause, at any regular meeting of the Board or at any special meeting of the Board called for that purpose. A successor may be elected at any regular or special meeting of the Board called for that purpose. An officer may resign at any time by giving written notice to the Board. Unless the notice of resignation states otherwise, it is effective when received by the Board and does not require acceptance by the Board. The resignation or removal of an officer who is also a Director does not constitute resignation or removal from the Board.

3.4. **Standard of Care**. In performing their duties, the officers are required to exercise the standards of care provided by Sections 82.103(a) and (f) of the Act and by Section 3.105 of the Texas Business Organizations Code.

3.5. **Description of Principal Offices**.

3.5.1. President. As the chief executive officer of the Master Association, the president: (i) presides at all meetings of the Master Association and of the Board; (ii) has all the general powers and duties which are usually vested in the office of president of a corporation organized under the laws of the State of Texas; (iii) has general supervision, direction, and control of the business of the Master Association, subject to the control of the Board; and (iv) sees that all orders and resolutions of the Board are carried into effect.

3.5.2. Secretary. The secretary: (i) keeps the minutes of all meetings of the Board and of the Master Association; (ii) has charge of such books, papers, and records as the Board may direct; (iii) maintains a record of the names and addresses of the Members for the mailing of notices; and (iv) in general, performs all duties incident to the office of secretary.

3.5.3. Treasurer. The treasurer: (i) is responsible for Master Association funds; (ii) keeps full and accurate financial records and books of account showing all receipts and disbursements; (iii) prepares all required financial data and tax returns; (iv) deposits all monies or other valuable effects in the name of the Master Association in depositories as may from time to time be designated by the Board; (v) prepares the annual Master Budget and supplemental budgets of the Master Association; (vi) reviews the accounts of the managing agent on a monthly basis in the event a managing agent is responsible for collecting and disbursing Master Association funds; and (vii) performs all the duties incident to the office of treasurer.

3.6. **Authorized Agents**. Except when the Documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Master Association. In the absence of Board designation, the president and the secretary are the only persons authorized to execute instruments on behalf of the Master Association.

ARTICLE 4
MEETINGS OF THE MASTER ASSOCIATION

4.1. **Annual Meeting**. An annual meeting of the Master Association will be held once during each twelve (12) month period on a date and at a time determined by the Board. At each annual meeting the Members may appoint Directors in accordance with these Bylaws. The Members may also transact such other business of the Master Association as may properly come before them.

4.2. **Special Meetings**. It is the duty of the president to call a special meeting of the Master Association if directed to do so by written demand of Owners representing at least one hundred percent (100%) of the voting interests in the Master Association. The meeting must be held within thirty (30) days after receipt of the written demand. The notice of any special meeting must state the time, place, and purpose of the meeting. No business, except the purpose stated in the notice of the meeting, may be transacted at a special meeting.

4.3. **Place of Meetings**. Meetings of the Master Association may be held at the Property or at a suitable place convenient to the Members, as determined by the Board.

4.4. **Notice of Meetings**. At the direction of the Board, written notice of meetings of the Master Association will be given to an Owner of each Master Unit at least ten (10) days but not more than sixty (60) days prior to the meeting. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board.

4.5. **Voting Members List**. The Board will prepare and make available a list of the Master Association's voting Members in accordance with Section 22.158(b) of the Texas Business Organizations Code.

4.6. **Quorum**. At any meeting of the Master Association, the presence in person or by proxy of Members representing at least a Majority of the voting interests in the Master Association constitutes a quorum. Members at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of Members constituting a quorum.

4.7. **Lack of Quorum**. If a quorum is not present at any meeting of the Master Association for which proper notice was given, Members representing at least a Majority of the votes present at the meeting, although not constituting a quorum, may vote to recess the meeting for not more than twenty-four (24) hours in order to attain a quorum, provided the place of the meeting remains as stated in the notice.

4.8. **Votes**. The vote of Members representing a Majority of the votes cast at any meeting at which a quorum is present binds all Members for all purposes, except when a higher percentage is required by these Bylaws, the Master Declaration, or by law. Cumulative voting is prohibited.

4.8.1. Co-Owned Master Units. If a Master Unit is owned by more than one Member, the vote appurtenant to that Master Unit is cast in accordance with Section 82.110(a) of Act, which is summarized as follows. If only one of the multiple Owners of a Master Unit is present at a meeting of the Master Association, that person may cast the vote allocated to that Master Unit. If more than one of the multiple Owners is present, the vote allocated to that Master Unit may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple Owners casts the vote allocated to a Master Unit and none of the other Owners makes prompt protest to the person presiding over the meeting.

4.8.2. Entity-Owned Master Units. If a Master Unit is owned by a corporation, the vote appurtenant to that Master Unit may be cast by any officer of the corporation in the absence of the corporation's written appointment of a specific person to exercise its vote. The vote of a partnership may be cast by any general partner in the absence of the partners' written appointment of a specific person. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

4.9. **Proxies**. Votes may be cast in person or by written proxy at any meeting of the Master Association. To be valid, each proxy must: (i) be signed and dated by a Member or such Member's attorney-in-fact; (ii) identify the Master Unit to which the vote is appurtenant; (iii) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the secretary, to the person presiding over the Master Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates eleven (11) months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Master Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless: (a) the proxy has been acknowledged or sworn to by the Member, before and certified by an officer authorized to take acknowledgments and oaths; or (b) the Master Association receives the original proxy within five (5) days after the vote.

4.10. **Conduct of Meetings**. The president, or any person designated by the Board, presides over meetings of the Master Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order governs the conduct of meetings of the Master Association when not in conflict with the Documents. Votes should be tallied by Members appointed by the person presiding over the meeting.

4.11. **Order Of Business**. Unless the notice of meeting states otherwise, or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Master Association is as follows:

- Determine votes present by roll call or check-in procedure
- Announcement of quorum
- Proof of notice of meeting
- Approval of minutes of preceding meeting
- Reports of Officers (if any)
- Unfinished or old business
- New business

4.12. **Adjournment of Meeting**. At any meeting of the Master Association, a Majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place.

4.13. **Action without Meeting**. Subject to Board approval, any action which may be taken by a vote of the Members at a meeting of the Master Association may also be taken without a meeting by written consents. The Board may permit Members to vote by any method allowed by Sections 22.160(b), (c) and (d) of the Texas Business Organizations Code, which may include hand delivery, mail, fax, email, or any combination of these. Written consents by Members representing at least eighty percent (80%) of the votes in the Master Association, or such other percentage as may be required by the Documents, constitutes approval by written consent. This Section may not be used to avoid the requirement of an annual meeting and does not apply to the election of Directors.

4.14. **Telephone Meetings**. Members of the Master Association may participate in and hold meetings of the Master Association by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE 5
MASTER ASSOCIATION RECORDS

5.1. **Records**. The Master Association will keep the records required by Section 82.114(a) of the Act.

5.2. **Inspection of Books and Records**. Books and records of the Master Association will be made available for inspection and copying pursuant to Section 82.114(b) of the Act and Sections 3.151, 3.153 and 22.351 of the Texas Business Organizations Code.

5.3. **Resale Certificates**. Any officer may prepare or cause to be prepared, certify, and execute resale certificates in accordance with Section 82.157 of the Act. The Master Association may charge a reasonable fee for preparing resale certificates. The Master Association may refuse to furnish resale certificates until the fee is paid. Any unpaid fees may be assessed against the Master Unit for which the certificate is furnished.

ARTICLE 6
NOTICES

6.1. **Co-Owners**. If a Master Unit is owned by more than one person, notice to one co-Owner is deemed notice to all co-Owners.

6.2. **Delivery of Notices**. Any written notice required or permitted by these Bylaws may be given personally, by mail, by fax, or by any other method permitted by Texas law. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the Member at the address shown on the Master Association's records. If transmitted by fax, the notice is deemed delivered on successful transmission of the facsimile.

6.3. **Waiver of Notice**. Whenever a notice is required to be given to an Owner, Member, or Director, a written waiver of the notice, signed by the person entitled to the notice, whether before or after the time stated in the notice, is equivalent to giving the notice. Attendance by a Member or Director at any meeting of the Master Association or Board, respectively, constitutes a waiver of notice by the Member or Director of the time, place, and purpose of the meeting. If all Members or Directors are present at any meeting of the Master Association or Board, respectively, no notice is required and any business may be transacted at the meeting.

ARTICLE 7
AMENDMENTS TO BYLAWS

7.1. **Authority**. These Bylaws may be amended by a Majority of the members of the Board.

7.2. **Proposals**. The Master Association will provide to each Owner a detailed description, if not exact wording, of any proposed amendment. The description will be included in the notice of any annual or special meeting of the Master Association where a proposed amendment is to be considered.

7.3. **Effective**. To be effective, each amendment must be in writing, must recite the recording data for the Bylaws, and must be Recorded.

ARTICLE 8
GENERAL PROVISIONS

8.1. **Compensation**. A Director, officer, Member, or Occupant may not receive any pecuniary profit from the operation of the Master Association, and no funds or assets of the Master Association may be paid as a salary or as compensation to, or be distributed to, or inure to the benefit of a Director, officer, Member, or Occupant. Nevertheless:

i. Reasonable compensation may be paid to a Director, officer, Member, or Occupant for services rendered to the Master Association in other capacities.

ii. A Director, officer, Member, or Occupant may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Master Association in connection with the administration of the affairs of the Master Association, provided the expense has been approved by the Board.

iii. The Board may budget and use Master Association funds to purchase awards, certificates, a celebratory meal, or other customary tokens or demonstrations of appreciation for volunteer activities.

iv. This provision does not apply to distributions to Owners permitted or required by the Master Declaration or the Act.

8.2. **Conflicting Provisions**. If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, the conflicting Bylaws provision is null and void, but all other provisions of these Bylaws remain in full force and effect. In the case of any conflict between the Certificate of the Master Association and these Bylaws, the Certificate controls. In the case of any conflict between the Master Declaration and these Bylaws, the Master Declaration controls.

8.3. **Severability**. Whenever possible, each provision of these Bylaws will be interpreted in a manner as to be effective and valid. Invalidation of any provision of these Bylaws, by judgment or court order, does not affect any other provision which remains in full force and effect.

8.4. **Construction**. The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and may not be construed as defining or modifying the text to which they refer.

The singular is construed to include the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.

8.5. **Fiscal Year**. The fiscal year of the Master Association will be set by resolution of the Board, and is subject to change from time to time as the Board determines. In the absence of a resolution by the Board, the fiscal year is the calendar year.

8.6. **Waiver**. No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

8.7. **Indemnification**. To the fullest extent permitted by applicable law, the Master Association will indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a Director, officer, committee member, employee, servant, or agent of the Master Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court that such person: (i) acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interests of the Master Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner reasonably believed to be in, or not opposed to, the best interests of the Master Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.

8.8. **Preparer**. These Bylaws were prepared by Robert D. Burton, Esq., Winstead, PC, 600 W 5th Street., Suite 900, Austin, Texas 78701.

ATTACHMENT 3

CERTIFICATE OF FORMATION
OF
PARCEL 4 CONDOMINIUM COMMUNITY, INC.

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Business Organizations Code, does hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I
NAME

The name of the corporation is: Parcel 4 Condominium Community, Inc. (hereinafter called the "**Master Association**").

ARTICLE II
NONPROFIT CORPORATION

The Master Association is a nonprofit corporation.

ARTICLE III
DURATION

The Master Association shall exist perpetually.

ARTICLE IV
PURPOSE AND POWERS OF THE MASTER ASSOCIATION

The Master Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Business Organizations Code, and does not contemplate pecuniary gain or profit to its members. In furtherance of its purposes, the Master Association shall have the following powers which, unless indicated otherwise by this Certificate of Formation, that certain "Development Tract Declaration of Condominium Regime for Parcel 4 Master Condominium," recorded or to be recorded in the Official Public Records of Travis County, Texas, as the same may be amended from time to time (the "**Master Declaration**"), the Bylaws, or Applicable Law, may be exercised by the Board of Directors:

(a) all rights and powers conferred upon nonprofit corporations by Applicable Law;

(b) all rights and powers conferred upon condominium associations by Applicable Law, including the Act, in effect from time to time, provided, however, that the Master Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings in the name of any Owner as provided in Section 82.102(a)(4) of the Act; and

(c) all powers necessary, appropriate, or advisable to perform any purpose or duty of the Master Association as set out in this Certificate of Formation, the Bylaws, the Master Declaration, or Applicable Law.

Notwithstanding any provision in Article XIV to the contrary, any proposed amendment to the provisions of this Article IV shall be adopted only upon an affirmative vote by the holders of one-hundred percent (100%) of the total number of votes of the Master Association. Terms used but not defined in this Certificate of Formation shall have the meaning subscribed to such terms in the Master Declaration.

ARTICLE V

REGISTERED OFFICE; REGISTERED AGENT

The street address of the initial registered office of the Master Association is 600 W 5th Street, Suite 900, Austin, Texas 78701. The name of its initial registered agent at such address is Robert D. Burton.

ARTICLE VI

MEMBERSHIP

Membership in the Master Association shall be determined as set forth in the Master Declaration.

ARTICLE VII

VOTING RIGHTS

Voting rights of the members of the Master Association shall be determined as set forth in the Master Declaration. Notwithstanding the foregoing, cumulative voting is not permitted.

ARTICLE VIII

INCORPORATOR

The name and street address of the incorporator is:

NAME	ADDRESS
Robert D. Burton	600 W 5th Street, Suite 900 Austin, Texas 78701

ARTICLE IX

BOARD OF DIRECTORS

The affairs of the Master Association shall be managed by an initial Board of Directors consisting of four (4) individuals. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors for nonprofit corporations pursuant to the Texas Business Organizations Code. The number of Directors of the Master Association may be increased in accordance with the Bylaws of the Master Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

____
____
____

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All of the powers and prerogatives of the Master Association shall be exercised by the initial Board of Directors named above until their successors are appointed in accordance with the Bylaws.

ARTICLE X

LIMITATION OF DIRECTOR LIABILITY

A member of the Board of Directors of the Master Association shall not be personally liable to the Master Association for monetary damages for any act or omission in his capacity as a Board member, except to the extent otherwise expressly provided by Applicable Law. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a member of the Board of Directors at the time of the repeal or modification.

ARTICLE XI

INDEMNIFICATION

Each person who acts as a member of the Board of Directors, officer or committee member of the Master Association shall be indemnified by the Master Association against any costs, expenses and liabilities which may be imposed upon or reasonably incurred by him in connection with any civil or criminal action, suit or proceeding in which he may be named as a party defendant or in which he may be a witness by reason of his being or having been a member of the Board of Directors, officer, or committee member of the Master Association or by reason of any action alleged to have been taken or omitted by him or her in either such capacity. Such indemnification shall be provided in the manner and under the terms, conditions and limitations set forth in the Bylaws of the Master Association.

ARTICLE XII

DISSOLUTION

Upon dissolution of the Master Association, other than incident to a merger or consolidation, the assets of the Master Association shall be dedicated to an appropriate public agency to be used for purposes substantially similar to those for which this Master Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such substantially similar purposes.

ARTICLE XIII

ACTION WITHOUT MEETING

Any action required by law to be taken at any annual or special meeting of the members of the Master Association, or any action that may be taken at any annual or special meeting of the members of the Master Association, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the number of members having the total number of votes of the Master Association necessary to enact the action taken, as determined under the Master Declaration or this Certificate of Formation.

ARTICLE XIV

AMENDMENT

This Certificate of Formation may only be amended by a Majority of the Board of Directors. In the case of any conflict between the Master Declaration and this Certificate of Formation, the Master Declaration shall control; and in the case of any conflict between this Certificate of Formation and the Bylaws of the Master Association, this Certificate of Formation shall control.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand, this ________ day of ____________________, 20____.

____
Robert D. Burton, Incorporator

ATTACHMENT 4

Plat and Plans

[ATTACHED]

ATTACHMENT 5

Insurance Requirements

TYPE	WHO MUST CARRY	MINIMUM AMOUNT	OTHER REQUIREMENTS
1. Commercial General Liability and Excess/Umbrella Liability Insurance on the Common Elements	Master Association	1. Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Common Elements, with such insurance, (A) Being written on an "occurrence" form; (B) with limits of liability of $1,000,000 each accident or occurrence and $2,000,000 general aggregate policy limit; and (C) providing coverage for at least the following hazards, as contained in the CG00-01 Commercial General Liability form or a similar form: (1) premises and operations, (2) products and completed operations, (3) independent contractors, and (4) blanket contractual liability; 2. Automobile Liability insurance covering operations of all owned, hired and non-owned vehicles with limits of liability for each accident of not less than Two Million Dollars ($2,000,000) combined single limit with respect to bodily injury, death and property damage, if applicable; 3. Excess/Umbrella Liability insurance in an amount not less than $10,000,000 per occurrence	1. Each Owner and each Owner's Registered Mortgagee shall be additional insureds. 2. Upon the written request of an Owner, a Tenant of an Owner will be named as an additional insured.

TYPE	WHO MUST CARRY	MINIMUM AMOUNT	OTHER REQUIREMENTS
		and $10,000,000 general aggregate policy limit; and 4. If applicable, workers' compensation, subject to the statutory limits and employer's liability insurance with limits of liability of $1,000,000 each accident, $1,000,000 each employee and $1,000,000 bodily injury disease aggregate. All insurance maintained pursuant to clauses 1 through 4 shall contain waivers of subrogation and the Board and the Owners each hereby waive and agree that they shall make no claim for recovery against each other for damages to or loss of the Common Elements and/or any Master Unit, or any improvements and betterments thereon or therein, and injury or damage arising out of operations if such damage injury or loss is covered by valid and collectible insurance protecting the Board and the Owners and which contains a clause permitting the insured to waive such rights prior to the occurrence of a loss.	
2. All-Risk Property Insurance on the Common Elements	Master Association	1. "All Risk" Property insurance on the Common Elements. (A) including, without limitation, fire, flood, windstorm, sprinkler leakage and water damage; (B) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," of the Common Elements which for purposes of this Master Declaration shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation;	1. Each Owner and each Owner's Registered Mortgagee shall be additional insureds. 2. The amount of coverage shall be reviewed at least annually and modified, as necessary, such that the amount is at all times 100% of the full insurable replacement value of the Common Elements. 3. Upon the written request of an Owner, a Tenant of an Owner will be named as an additional insured. The

TYPE	WHO MUST CARRY	MINIMUM AMOUNT	OTHER REQUIREMENTS
		(C) containing an agreed amount endorsement or provision with respect to the Common Elements and waiving all co-insurance provisions.	incremental premium increase, if any, for such supplemental insurance coverage will be specifically assessed to the Owner of the Master Unit that requested that the Tenant be named as an additional insured. 4. The Master Association shall satisfy any and all co-insurance requirements.
3. All-Risk Property Insurance on the Master Units	Each Owner	1. "All Risk" Property insurance on the Master Units and the fixtures initially installed therein by the original builder (referred to as "the Property"). (A) including, without limitation, fire, flood, windstorm, sprinkler leakage and water damage; (B) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," of the Property which for purposes of this Master Declaration shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (C) containing an agreed amount endorsement or provision with respect to the Property and waiving all co-insurance provisions.	1. Each Owner and each Owner's Registered Mortgagee shall be additional insureds. 2. The amount of coverage shall be reviewed at least annually and modified, as necessary, such that the amount is at all times 100% of the full insurable replacement value of the Property.
4. Commercial General Liability Insurance on the Master Units	Each Owner	1. Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Owner's Master Unit, with such insurance, (A) Being written on an "occurrence" form; (B) with limits of liability of $1,000,000 each accident or occurrence and $2,000,000 general aggregate policy limit; and	1. Each Owner and each Owner's Registered Mortgagee shall be additional insureds.

TYPE	WHO MUST CARRY	MINIMUM AMOUNT	OTHER REQUIREMENTS
		(C) providing coverage for at least the following hazards, as contained in the CG00-01 Commercial General Liability form or a similar form: (1) premises and operations, (2) products and completed operations, (3) independent contractors, and (4) blanket contractual liability; 2. Automobile Liability insurance covering operations of all owned, hired and non-owned vehicles with limits of liability for each accident of not less than Two Million Dollars ($2,000,000) combined single limit with respect to bodily injury, death and property damage, if applicable; 3. If applicable, workers' compensation, subject to the statutory limits and employer's liability insurance with limits of liability of $1,000,000 each accident, $1,000,000 each employee and $1,000,000 bodily injury disease aggregate; and 4. Excess/Umbrella Liability insurance in an amount not less than $10,000,000 per occurrence and $10,000,000 general aggregate policy limit. All insurance maintained pursuant to clauses 1 through 4 shall contain waivers of subrogation and the Board and the Owners each hereby waive and agree that they shall make no claim for recovery against each other for damages to or loss of the Common Elements and/or any Master Unit, or any improvements and betterments thereon or therein, and injury or damage arising out of operations if such damage injury or loss is covered by valid and collectible insurance protecting the Board and the Owners and which	

TYPE	**WHO MUST CARRY**	**MINIMUM AMOUNT**	**OTHER REQUIREMENTS**
		contains a clause permitting the insured to waive such rights prior to the occurrence of a loss.	
5. Directors and Officers Liability	Master Association	1. Directors and Officers Liability insurance with limits of liability of $1,000,000 or such higher limits as the Board may from time to time deem reasonable and proper.	The Directors and Officers liability shall cover the directors and officers of the Master Association.
6. Fidelity Bond or Crime Insurance	Master Association	Fidelity bond or crime insurance with limits of liability of $1,000,000 or such higher limits as the Board may from time to time deem reasonable and proper covering any person handling or responsible for Master Association funds.	The Fidelity or crime insurance shall cover the person(s) responsible for handling the Master Association funds.