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Declaration of
Creekside Professional Plaza 2,
a Condominium

Declarant:

DUSTY HILLS,
A TEXAS LIMITED
LIABILITY COMPANY

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**DECLARATION
OF
CREEKSIDE PROFESSIONAL PLAZA 2,
A CONDOMINIUM**

THIS DECLARATION OF CREEKSIDE PROFESSIONAL PLAZA 2, a Condominium ("Declaration"), is made on the date hereinafter set forth, by DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY ("Declarant").

RECITALS:

- A. Declarant is the owner of certain real property located in the City of New Braunfels, County of Comal, State of Texas, more particularly described on **Exhibit A** attached hereto and by this reference made a part hereof (the "Property"). The Property is known locally as Creekside Professional Plaza 2.
- B. The Property and the two single story Buildings to be constructed on the Property, containing a total of no more than eight Units, together with the other improvements now or hereafter erected thereon, all facilities and appurtenances thereto and all other property, real, personal or mixed, intended for use or used in connection with the Property, is hereinafter sometimes referred to as the "Project" or the "Condominium Regime" or the "Regime".
- C. Declarant desires to establish a condominium regime under the Texas Uniform Condominium Act and a plan for the individual ownership in fee simple of estates consisting of the area or space contained in each of the Units, and the co-ownership by the individual and separate owners thereof, as tenants in common, of the remaining portion of the Project. Each Unit will have appurtenant to it a membership in the Owners Association of Creekside Professional Plaza 2.
- D. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of development for the benefit of all the Units and the owners thereof.

NOW THEREFORE, Declarant does hereby establish CREEKSIDE PROFESSIONAL PLAZA 2, a Condominium, as a condominium regime under the Act and declares that the Units within the Project are to be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Project and every part thereof. All of the limitations, covenants, conditions, restrictions and easements constitute covenants which run with the land and be perpetually binding upon Declarant and its successors-in-interest and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Project, their grantees, legal representatives, heirs, devisees, successors and assigns.

ARTICLE 1

Definitions

Each capitalized term not otherwise defined in this Declaration has the meaning specified or used in the Act. As used herein, the following terms have the meanings set forth below, unless the context expressly provides otherwise, and unless otherwise provided herein or the Bylaws, the following terms will have the same meaning in all Project Documents:

1.1 “Access Easement” means a perpetual, irrevocable and non-exclusive easement and right of access and entry to each Unit as may reasonably be necessary for (i) the maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom, (ii) the making of emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit and (iii) such other reasonable purposes as are deemed by the Association to be necessary for the performance of the obligations of the Association as described herein and in the Bylaws.

1.2 "Allocated Interests" means the proportionate undivided interest in the Common Elements, the Common Expense liability and the vote in the Association which are allocated to each Unit as set forth in this Declaration.

1.3 “Architectural Reviewer” means the Declarant during the Development Period. After expiration of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Architectural Control Committee, appointed by the Board.

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

1.5 “Association” means the Owners Association of Creekside Professional Plaza 2, a Texas non-profit corporation, the Members of which are the Owners of Units within the Regime. The term “Association” has the same meaning as the term “unit owners association” in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Articles, the Bylaws, and the Act. References in this Declaration to an act being undertaken by the Association means by act of the Board or its officers.

1.6 "Board" or "Board of Directors" means and refers to the governing body of the Association.

1.7 “Building” means and refers to any one of the two buildings to be erected on the Property containing the Units, as more fully identified and depicted on the Map.

1.8 "Bylaws" means and refers to the Bylaws of the Association, as amended from time to time.

1.9 "Certificate of Formation" means and refers to the Certificate of Formation of the Association filed in the Office of the Secretary of State of the State of Texas, as the same may be amended from time to time.

1.10 "Common Elements" means and refers to all portions of the Project other than Units and includes both the General Common Elements and Limited Common Elements.

1.11 "Common Elements Easement" means a perpetual, irrevocable and non-exclusive easement over the General Common Elements for ingress to and egress from each Unit, together with the non-exclusive right to use and enjoy the General Common Elements, and the exclusive right to use and enjoy the Limited Common Elements appurtenant to each Owner's Unit (subject to the rights of other Owners to use and enjoy such Limited Common Elements if appurtenant to more than one Unit).

1.12 "Common Expenses" means and includes: (a) all expenses incurred by the Association for promoting the health, safety, welfare and recreation of the Owners of the Units and in particular for the administration and management, ownership, maintenance, operation, repair, replacement or improvement of and addition to the Common Elements (including unpaid Special Assessments and amounts assessed to maintain a reserve for replacement fund and to cover costs incurred by the Association to participate in any condemnation suit); and (b) expenses declared to be Common Expenses by provisions of this Declaration or by the Bylaws of the Association.

1.13 "Declarant" means DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY, and its successors and assigns, provided that each assign is designated in writing by Declarant as an assignee of the rights of Declarant hereunder. Any assignment of Declarant's rights must be recorded in the Official Public Records of Comal County, Texas.

1.14 "Declaration" means and refers to this instrument and any recorded amendment hereto.

1.15 "Declarant Control Period" means that period of time during which Declarant is developing and constructing the Project, selling the Units and controlling the operation and management of the Association, pursuant to **Exhibit B** of this Declaration. The duration of the Declarant Control Period is from the date this Declaration is recorded for a maximum period not to exceed the earlier of: (i) eight years from the date this Declaration is recorded in the Official Public Records of Comal County, Texas; or (ii) 120 days after title to all of the Units has been conveyed to Owners other than Declarant.

1.16 "Development Period" means the 15 year period beginning the date this Declaration is recorded in the Official Public Records of Comal County, Texas, during which Declarant has reserved certain rights as more particularly described on **Exhibit B** attached hereto, including rights related to development, construction, expansion and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own any portion of the Property. Declarant may terminate the Development Period by the recordation of a notice of termination, executed by Declarant, and recorded in the Official Public Records of Comal County, Texas.

1.17 "Documents" or "Project Documents" mean, singly or collectively as the case may be, this Declaration, the Plat and Plans attached hereto, the Certificate of Formation, the Bylaws, and the Rules and Regulations, as amended from time to time. An appendix, exhibit, schedule or certification accompanying a Document is a part of that Document.

1.18 "Easements" means collectively the Access Easement, the Common Elements Easement, the Drainage Easement, and the Utility Easement.

1.19 "General Common Elements" means Common Elements which are not Limited Common Elements, and includes the following to the extent not designated as Limited Common Elements:

- (a) The land on which all Buildings and other improvements are constructed, other than the portion which may be designated as a Limited Common Element;
- (b) The foundations, common dividing walls between two or more Units or between Units and Common Elements, exterior walls, bearing walls and columns (including any windows and doors therein), girders, beams, slabs, supports, roofs and attic spaces;
- (c) The grounds, driveways, fences, streets, service drives, walks, service easements and areas used for storage of maintenance and janitorial equipment and materials, if any;
- (d) The compartments or installations, if any, consisting of the equipment and materials making up central services such as power, light, gas, hot and cold water, sewer, television, central air-conditioning and heating reservoirs, and the like which are intended to serve more than one Unit, and all machinery and equipment related thereto or existing for common use;
- (e) All unassigned parking spaces; provided, however, that the Declarant during the Development Period, and the Board thereafter, have the right and power, at any time and from time to time, to assign and reassign to the Owners all parking spaces which are currently shown on the Map as unassigned; and provided, further, that the Map may be amended by the Declarant or Board, as appropriate, without the consent of any Owner for the purpose of designating any such parking space with a Unit number, and thereafter such parking space will be a Limited Common Element appurtenant to such Unit, subject to the right of reassignment herein reserved by Declarant or granted to the Board;
- (f) All other structures, facilities, equipment, and elements rationally of common use or necessary or convenient to the existence, maintenance, operation and safety of the Regime and which are not specifically designated as a Limited Common Element or as appurtenant to or constituting a part of a particular Unit; and

- (g) All repairs, replacements and additions to any of the foregoing.

General Common Elements are designated as “GCE”, “General Common Elements”, or “Common Area” on the Map or Plat.

1.20 "Limited Common Elements" means those Common Elements reserved for the exclusive use of a specified Unit or Units, or serving exclusively one or more specified Units but less than all the Units, the enjoyment, benefit or use of which is reserved to the lawful occupants of said Unit or Units either in this Declaration, or as indicated on the Plan as the same may be amended from time to time, including the parking spaces designated with Unit numbers on the Plan and such parking spaces which are currently unassigned but which may be assigned by the Declarant or Board at a later date and designated with a Unit number by the filing of an amended Plan, subject to the right of reassignment granted herein.

1.21 “Map” or “Plat” means or includes the engineering survey of the Property, locating thereon all of the Buildings, a copy of which is attached as **Exhibit C**.

1.22 "Member" or "Members" means and refers to one or more persons or entities entitled to membership in the Association as provided herein.

1.23 "Mortgage" or Mortgages" means one or more first lien interests in a Unit or Units given as security for repayment of a loan or loans made to the Unit Owner or Owners, such interests to be evidenced by instruments duly and properly recorded in the Real Property Records of Comal County, Texas.

1.24 "Mortgagee" or "Mortgagees" means one or more beneficiaries or holders of a Mortgage or Mortgages.

1.25 “Occupant” means a person or collectively the persons in possession of a Unit at the relevant time, regardless of whether the person is a Unit Owner, lessee or otherwise.

1.26 "Owner" or "Owners" means and refers to the record holder or holders of fee simple title of a Unit or Units in the Project, but does not include persons having any interest in a Unit merely as security for the performance of any obligation. An Owner may be a person, firm, corporation, partnership, association, trustee or other legal entity, or any combination thereof.

1.27 "Plans" means and refers to the dimensional drawings attached as **Exhibit D**, as the same may be amended from time to time as herein provided. The Plans horizontally and vertically identify and describe the Units and Common Elements contained in the Buildings, exterior boundaries, interior square footage, location and Unit number. In interpreting the Plans, the existing physical boundaries of each Unit are conclusively presumed to be its boundaries. Declarant reserves unto itself the right, so long as Declarant owns one or more Units, to amend the Plans and amendments thereto, to conform same to the actual location of any of the improvements, to establish, vacate and relocate easements, and parking spaces, to establish certain General Common Elements not theretofore established, to establish certain General Common Elements as

Limited Common Elements, to reduce the number of Units as provided herein, and to show such other changes that Declarant may make in accordance with the terms of this Declaration.

1.28 "Special Declarant Rights" means rights reserved for the benefit of Declarant to:

- (a) Complete improvements indicated on the Plat or Plans;
- (b) Exercise any Development Rights;
- (c) Use easements through the Common Elements for the purpose of making improvements within the Project or within real property that may be added to the Project; or
- (d) Appoint or remove any officer or board member of the Association during any period of Declarant control.

1.29 "Texas Uniform Condominium Act" or "Act" means Chapter 82 of the Texas Property Code, enacted in the 1993, which permits the creation of condominium regimes, as the same has been or may be amended or supplemented in any successor statute.

1.30 "Unit" means the physical portion of the Regime designated for separate ownership or occupancy, the boundaries of which are described herein. Unless and until changed by Declarant in the exercise of Development Rights, the boundaries of each Unit will be the walls, floors and ceilings of the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting part of the finished surfaces are a part of the Unit, and all other portions of the walls, floors and ceilings are a part of the Common Elements. The actual physical boundaries of the Unit will be conclusively presumed to be the proper boundaries of a Unit, regardless of variances between boundaries shown on the Plans and the actual boundaries of such Unit. The Unit further includes the interior construction, partitions, appliances, fixtures and improvements that are intended to serve exclusively such Unit, such as interior room walls, floor coverings or finishes, closets, cabinets, shelving, individual fixtures, plumbing and appliances, individual lighting and electrical fixtures, and other separate items of personal property exclusively serving such Unit, any of which may be removed, replaced, disposed of or otherwise treated without affecting any other Unit or the ownership, use or enjoyment thereof; provided, however, if any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture is partially within and partially outside the designated boundaries of a Unit, the portion serving only that Unit is a Limited Common Element allocated solely to that Unit, and the portion serving more than one Unit or the Common Elements is a part of the General Common Elements. Shutters, awnings, doorsteps, stoops, porches, patios, and exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. Declarant, or an assignee of the Special Declarant Rights, or the Association, may file a boundary designation in the Official Public Records to describe or re-define the boundaries of the Unit as contemplated, constructed, converted, combined or modified within the Regime. A boundary designation, upon recordation in the Official Public Records, automatically amends this Declaration for the purpose of defining

the Unit, General Common Elements, and/or Limited Common Elements to which the notice relates.

ARTICLE 2

Submission Of Property To Condominium

2.1 Submission. Declarant submits the Property to the provisions of the Act for the purpose of creating Creekside Professional Plaza 2, a Condominium and making the improvements shown in the Plat and Plans and declares that the Property is to be held, transferred, leased, occupied, used, insured, encumbered and conveyed subject to the terms, covenants, restrictions and conditions provided in this Declaration, including Declarant's reservations as set forth on **Exhibit B** attached hereto, which run with the Property, bind all parties having or acquiring any right, title or interest in the Property, their heirs, successors and assigns, and inure to the benefit of each Owner of the Property.

2.2 Additional Property. Additional real property may be annexed to the Property and subjected to the Declaration and the jurisdiction of the Association on approval of Owners representing at least two-thirds of the ownership interests in the Property, or, during the Development Period, by Declarant as permitted in **Exhibit B**. The real property which Declarant may annex to the Property during the Development Period is described on **Exhibit G** attached hereto. Annexation of additional property is accomplished by the recording of a declaration of annexation, which will include a description of the additional real property, in the Official Public Records of Comal County, Texas. The declaration of annexation must also include a description, which complies with the Act, of the Units and Common Elements added to the Regime.

ARTICLE 3

General Provisions

3.1 Creation of Units; Map and Plans.

- (a) The Property is hereby divided into fee simple estates composed of separately designated Units, and such Units' undivided interest in and to the Common Elements. Each Unit, together with such Unit's undivided interests in the Common Elements is for all purposes a separate parcel of and estate in real property. Accordingly, each such separate parcel of and estate in real property will be deemed to include the Common Elements Easement that is hereby granted and conveyed to each Owner by Declarant. The separate parcels of and estates in real property designated hereby will be created on the date of filing of this Declaration in the Real Property Records of Comal County, Texas, and will continue until this Declaration is revoked or terminated in the manner herein provided.
- (b) The Map and Plans set forth, *inter alia*, the following: (1) a general description and diagrammatic plan of the Regime; (2) the location and dimensions of all Buildings to be constructed on the Property; (3) the location of horizontal Unit boundaries and the Units' identifying numbers within each Building and any Limited Common

Elements appurtenant thereto; and (4) such other information as is desirable or required pursuant to the Act, including a certification as to compliance with Section 82.059 of the Act.

- (c) The boundaries and identifying number of each Unit are shown on the Plans attached hereto as **Exhibit D** and described in Section 1.29. Each and every Owner of a Unit and such Owner's heirs, executors, administrators, successors and assigns hereby agree: (i) that the square footage, size and dimensions of each Unit, as set out and shown in this Declaration or on the Plans are approximate and are shown for description purposes only; (ii) that the Declarant does not warrant, represent or guarantee that any Unit actually contains the area, square footage or dimensions shown therein; (iii) that each Owner of a Unit, or interest therein, has had full opportunity and is under a duty to inspect and examine the Unit and verify its size prior to the purchase thereof, and agrees that the Unit is purchased as actually and physically existing; and (iv) that each Owner of a Unit hereby expressly waives any claim or demand against the Declarant or other seller of such Unit on account of any difference, shortage or discrepancy between the Unit as actually and physically existing and as it is shown on the Plans. In interpreting deeds and the Plans, the then existing physical boundaries of a Unit, whether in its original state or constructed in substantial accordance with the original plans thereof, will be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or Plans, regardless of settling, rising or lateral movement of the Building and regardless of minor variance between boundaries shown on the Plans or deed, and those of the Building, and regardless of minor variance between boundaries shown on the Plans or deed, and those of the Building; provided, however, that the presumption provided herein does not apply where the boundaries of any Unit have been altered due to any encroachment or protrusion caused by the willful misconduct of any Owner or such Owner's agent.

3.2 **Designation of Limited Common Elements.** Portions of the Common Elements may be allocated as Limited Common Elements on the Plans attached hereto as **Exhibit D**. A Common Element not allocated by this Declaration as a Limited Common Element may be allocated only pursuant to the provisions of this Article. Declarant has reserved the right, as set forth on **Exhibit B** attached hereto, to create and assign Limited Common Elements within the Property.

3.3 **Reallocation of Limited Common Elements.** A Limited Common Element may not be reallocated, except by an amendment to this Declaration. An amendment reallocating Limited Common Elements must be executed by the Unit Owners between or among whose Units the reallocation is made and their Mortgagees. The amendment will be delivered to the Association which must record it at the expense of the reallocating Unit Owners. The Unit Owners executing the amendment will prepare the amendment at their sole cost and expense and will reimburse the Association for its reasonable attorneys' fees in connection with review and recording of the amendment.

3.4 **Allocation of Interests.** The Allocated Interests set forth on **Exhibit E** are assigned to

each Unit in accordance with a ratio of the floor area of each Unit to the total floor area of all Units in the Regime. The same formula is to be used in the event the Allocated Interests are reallocated as a result of any change in the number of Units subject to this Declaration. In the event an amendment to this Declaration is filed which reallocates the Allocated Interests as a result of any change in the number of Units, the reallocation will be effective on the date such amendment is recorded in the Official Public Records of Comal County, Texas.

3.5 Common Expense Liabilities. The share of liability for Common Expenses allocated to each Unit will be determined based on the then current Allocated Interest for such Unit.

3.6 Votes. Each Unit in the Project will have the same number of votes as the Allocated Interest in the Common Elements assigned to such Unit.

3.7 Limited Common Elements. Portions of the Common Elements are set aside and reserved for the exclusive use of individual Owners, such areas being Limited Common Elements. Limited Common Elements are allocated and assigned by the Declarant to the respective Units as shown on the Plans. In addition, the following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

- (a) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit or a portion of the Common Elements is a part of the Common Elements.
- (b) Any exterior doors and windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit, and their use is limited to that Unit.
- (c) Space above suspended ceilings to which access is needed for repair and maintenance of a Unit and Common Elements above the Unit is a Limited Common Element to the Unit.
- (d) Utility areas, the use of which is limited to the Unit or Units as shown on the Plans.
- (e) Parking areas, the use of which is limited to the Unit as shown on the Plans.

3.8 Inseparability of Units; No Partition. Each Unit is inseparable, and will be acquired, owned, conveyed, transferred, leased and encumbered only as an entirety. In no event may a Unit held by more than one Owner be subject to physical partition and no Owner or Owners may bring or be entitled to maintain an action for the partition or division of a Unit or the Common Elements. Any purported conveyance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements without the Unit to which such Common Elements are allocated is void ab initio. Notwithstanding any provision herein to the contrary, Declarant may subdivide

a Unit as provided in **Exhibit B** attached hereto.

3.9 **Permissible Relationships; Description.**

- (a) A Unit may be acquired and held by more than one person in any form of ownership recognized by the laws of the State of Texas.
- (b) Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrances of a Unit must legally describe such Unit by its identifying Unit number and Building designation, followed by the words *Creekside Professional Plaza 2, a condominium*, with further reference to the recording data for this Declaration and any amendments to the Declaration. Every such description will be good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Unit, and any such description will be construed to include all incidents of ownership relating to a Unit.

3.10 **Mortgage of Unit.** An Owner is entitled from time to time to mortgage or encumber such Owner's Unit by creating a lien covering the Unit under the provisions of a Mortgage, but any lien created thereby will be subject to the terms and provisions of this Declaration, and any Mortgagee or other lienholder which acquires an Owner's Unit through judicial foreclosure, public sale or any other means will be subject to the terms and provisions of this Declaration, except as specifically provided to the contrary herein. An Owner which mortgages its Unit must notify the Association, giving the name and address of the Mortgagee.

3.11 **Alteration of Unit Boundaries.**

- (a) Declarant reserves the right to alter Unit boundaries as provided in **Exhibit B**.
- (b) An Owner or two or more Owners of Units which adjoin horizontally have the right to relocate the boundaries between such adjoining Units by removing and relocating all or any part of any intervening partition wall, notwithstanding the fact that such partition wall may in whole or in part be a Common Element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion of any Common Element (other than the partition wall) is damaged, destroyed or endangered; provided, however, that the Owner or Owners have the right to relocate certain Common Elements which are located within the said partition wall (such as pipes, flues, conduits, shafts, vents, ducts, wiring and the like) so long as such relocation is performed in a good and workmanlike manner by a capable and experienced workman and such Common Elements are fully operational upon completion of such relocation. Notwithstanding the above, prior to the commencement of any such alterations, such Owner or Owners must submit to the Board for its approval full and complete plans and specifications relating to such alterations and a report of a structural engineer evidencing the feasibility of such proposed alterations. The Board may request such additional information as it deems necessary to evaluate the alteration request. Within a reasonable period of

time following its receipt of the plans and specifications and all such other requested information, the Board must provide to the Owner or Owners written acknowledgment of the Board's receipt of the alteration request and the Board will be deemed to have approved such plans and specifications if it fails to disapprove of such plans and specifications in writing within 30 days after the date of the Board's written acknowledgment of receipt of the request for alterations. In such event, the Association will cause an appropriate boundary designation to be prepared, executed and recorded in accordance with the provisions of this Declaration. The boundary designation must (i) contain such plats and floor plans as are necessary to show the boundaries between the Units involved, which must be certified as to their accuracy by a registered architect or engineer, (ii) recite the occurrence of any conveyance between the Owners of the Units affected, (iii) specify any reasonable reallocation of the aggregate percentage ownership interest in the Common Elements pertaining to the Units affected, and (iv) specify any reallocation of parking spaces appurtenant to any of the Units affected. The Association hereby agrees to cooperate reasonably with such Owner or Owners in effectuating such amendment to this Declaration, provided that all costs and expenses incurred by the Association in connection therewith including attorneys' fees must be paid exclusively by such Owner or Owners. In the event any damage is caused to any bearing wall, Common Element (other than the partition wall), or another Owner's Unit as a result of an Owner's exercise of the rights granted hereunder, all such damage must be repaired at the sole cost and expense of the Owner or Owners exercising such right. The Association has an Individual Assessment lien against the Units of the owner or Owners responsible for the damages.

3.12 Right of Entry. In addition to the rights of access granted in §82.066 and §82.107(d) of TUCA, the Access Easement is hereby created over, through and across the Regime in favor of the Association for the purpose of providing access to each Unit and to abate any nuisance or any dangerous or unauthorized activity or condition being conducted or maintained within the Regime, to remedy any prohibited or unlawful activity which affects the welfare or health of other Owners, to enforce the provisions of this Declaration, the Bylaws or the Rules and Regulations. The Association also has the right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements, or at any time for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units.

3.13 Utility and Drainage Easement. The Association and Declarant (during the Development Period) may grant permits, licenses and easements over the Common Elements for utilities, roads, drainage and other purposes reasonably necessary for the proper operation of the Regime. The Declarant (during the Development Period) and the Association may grant easements over and across the Units and Common Elements to the extent necessary or required to provide utilities to or drainage for Units. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair or replacement of utility lines and equipment, and to do anything else

necessary to properly maintain and furnish utility service to the Property. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security. Specifically, without limiting the generality of the foregoing, Declarant hereby reserves a perpetual, non-exclusive utility easement (the "Utility Easement") and drainage easement (the "Drainage Easement") over and across that portion of the Units and General Common Elements more particularly labeled "U.E" or "D.E.", as applicable on the Plans, for drainage or utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal and operation of water lines, wastewater lines, storm drains, drainage channels and facilities (surface or subsurface) electric lines, and related utility facilities, and related appurtenances, or making connections thereto, as well as for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of wastewater lines, water lines, storm drains, drainage channels and facilities (surface or subsurface), electric lines, and related utility facilities. The Utility Easement, the Drainage Easement and the rights and privileges reserved hereunder may be assigned by Declarant to any party: (i) unilaterally and without the consent or any further approval of any other party; (ii) exclusively or non-exclusively; and (iii) in whole or in part.

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

3.14 Security. THE ASSOCIATION MAY, BUT IS NOT OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE PROPERTY DESIGNED, EITHER DIRECTLY OR INDIRECTLY, TO IMPROVE SAFETY IN OR ON THE PROPERTY. EACH OWNER AND OCCUPANT ACKNOWLEDGES AND AGREES, FOR HIMSELF AND HIS INVITEES, THAT DECLARANT, THE ASSOCIATION, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, COMMITTEES, AGENTS AND EMPLOYEES ARE NOT PROVIDERS, INSURERS, OR GUARANTORS OF SECURITY WITHIN THE PROPERTY. EACH OWNER AND OCCUPANT ACKNOWLEDGES AND ACCEPTS HIS SOLE RESPONSIBILITY TO PROVIDE SECURITY FOR HIS OWN PERSON AND PROPERTY, AND ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO SAME. EACH OWNER AND OCCUPANT FURTHER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, COMMITTEES, AGENTS AND EMPLOYEES HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS THE OWNER OR OCCUPANT RELIED ON ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE, BURGLARY, AND/OR INTRUSION SYSTEMS RECOMMENDED OR INSTALLED, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY. EACH OWNER AND OCCUPANT ACKNOWLEDGES AND AGREES THAT DECLARANT, THE ASSOCIATION, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, COMMITTEES, AGENTS AND EMPLOYEES MAY NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.

3.15 Injury to Person or Property. NEITHER THE ASSOCIATION NOR DECLARANT, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, COMMITTEES, AGENTS AND EMPLOYEES HAVE A DUTY OR OBLIGATION TO ANY OWNER, OCCUPANT OR THEIR INVITEES: (A) TO SUPERVISE MINOR CHILDREN OR ANY OTHER PERSON; (B) TO FENCE OR OTHERWISE ENCLOSE ANY LIMITED COMMON ELEMENT, GENERAL COMMON ELEMENT, OR OTHER IMPROVEMENT; OR (C) TO PROVIDE SECURITY OR PROTECTION TO ANY OWNER, OCCUPANT, OR THEIR AGENTS, EMPLOYEES, CONTRACTORS AND INVITEES FROM HARM OR LOSS. BY ACCEPTING TITLE TO A UNIT, EACH OWNER AGREES THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE REASONABLE AND CONSTITUTE THE EXERCISE OF ORDINARY CARE BY THE ASSOCIATION AND DECLARANT. EACH OWNER AGREES TO INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION AND DECLARANT, AND DECLARANT'S AGENTS FROM ANY CLAIM OF DAMAGES, TO PERSON OR PROPERTY ARISING OUT OF AN ACCIDENT OR INJURY IN OR ABOUT THE REGIME TO THE EXTENT AND ONLY TO THE EXTENT CAUSED BY THE ACTS OR OMISSIONS OF SUCH OWNER, OCCUPANT AND THEIR RESPECTIVE AGENTS, EMPLOYEES, CONTRACTORS, OR INVITEES TO THE EXTENT SUCH CLAIM IS NOT COVERED BY INSURANCE OBTAINED BY THE ASSOCIATION AT THE TIME OF SUCH ACCIDENT OR INJURY.

3.16 Easement to Inspect and Right to Correct. For a period of 10 years from the date of recording this Declaration, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, builder and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct and relocate any structure, improvement or condition that may exist on any portion of the Property, including the Units, and a perpetual non-exclusive easement of access is hereby granted throughout the Property to the extent reasonably necessary to exercise this right. Declarant, or any party who exercises the rights granted hereunder, will promptly repair, at its sole expense, any damage resulting from the exercise of the rights reserved hereunder. By way of illustration but not limitation, relocation of a screening wall may be warranted by a change of circumstance, imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be amended without Declarant's written and acknowledged consent.

3.17 Creekside Wellness Center Covenants. The Project is part of Creekside Wellness Center, a mixed use project, subject of its own covenants, conditions and restrictions (the "Creekside CCRs") and governed by its own separate owners association. The Creekside CCRs are disclosed on **Exhibit F** attached hereto. The Creekside CCRs establish architectural guidelines, payment of assessments and control through an owners association. This Declaration constitutes a Supplemental Covenant as defined in the Creekside CCRs. Declarant will be responsible for obtaining approval of all improvements it may construct on the Property from the appropriate Architectural Reviewer named in the Creekside CCRs. To facilitate the exercise of voting or other rights attributable to the Property under the Creekside CCRs, each Owner by accepting the benefits of ownership of a Unit and each Mortgagee by accepting a lien on a Unit will thereby be deemed to have appointed Declarant (during the Development Period) and the Association thereafter the irrevocable agent and attorney-in-fact to vote and otherwise represent the owner of

the Property with respect to the Creekside CCRs. Regular Assessments will include payment of assessments to the owners association referred to in the Creekside CCRs.

ARTICLE 4
Management and Operation of the Regime

4.1 Authority to Manage. The affairs of the Regime will be administered by the Association. The Association acts by and through its Board of Directors. The Association is governed by its Bylaws, as amended from time to time. Any and all actions taken by the Association pursuant to this Declaration, the Act or the Bylaws are binding on all Owners.

4.2 Powers.

- (a) The Association has all of the powers, authority and duties permitted pursuant to TUCA, which are necessary and proper to manage the business and affairs of the Regime. This Declaration does not provide for any limitations or restrictions on the power of the Association or its Board of Directors.
- (b) Association funds needed for mandatory reserve accounts and to pay known expenses may not be assigned or pledged. The Association may otherwise assign or pledge its future income, including its rights to receive Assessments, only by the affirmative vote of Owners of Units to which at least 51% of the votes in the Association are allocated, at a meeting called for that purpose. Such assignment may be for the following purposes only:
 - (i) to cover shortfalls in reconstruction costs following a casualty or condemnation;
 - (ii) to cover shortfalls in operating revenue due to defaults in payment by Owners;
 - (iii) to cover the cost of enforcing the Declaration, Bylaws or Rules and Regulations; and
 - (iv) to provide for the indemnification of any persons who may be indemnified by the Association.
- (c) The Association, acting through its Board of Directors, may:
 - (i) bring an action to evict a tenant of a Unit Owner for the tenant's violation of the Declaration, Bylaws or Rules and Regulations of the Association;
 - (ii) bring an action to evict a tenant of a Unit Owner who fails to pay the Association for any cost it is otherwise required under this Declaration to bear to effect repairs to Common Elements which are substantially damaged

by the Owner's tenant;

- (iii) collect fines from tenants for violations of the Declaration, Bylaws or Rules and Regulations by the tenants; or
- (iv) collect rents from a tenant of a Unit Owner, but only if such Unit Owner is at least 60 days delinquent in the payment of any amount due to the Association.

4.3 Declarant Control. The Declarant has all the powers reserved in Section 82.103(c) of TUCA during the Declarant Control Period to appoint and remove officers and members of the Board.

4.4 Membership in Association. Each Owner (and only an Owner) is automatically a Member of the Association so long as the Owner owns a Unit, and such membership automatically terminates when ownership of a Unit ceases. The Bylaws contain other controlling provisions regarding the rights, duties and obligations of the members of the Association.

4.5 Voting of Members. Each Owner is entitled to the same number of votes per Unit owned by each Owner as the Allocated Interest assigned to such Unit or Units as reflected on Exhibit E.

4.6 Notices. Any notice or demand permitted or required to be given to a member of the Board or to an Owner may be delivered personally, by mail or by placing such notice in the mail distribution facility of each Owner if such facilities are on the Property or to the last known address of the Owner or Board member as shown on the records of the Association. Deliveries made in person or by deposit in any mail distribution facility will be immediately effective. If delivery is made by mail, facsimile, or electronic mail, it will be deemed to have been delivered on the day of transmission via facsimile or electronic mail (with a printed transmission confirmation) or on the day after deposit in the U.S. Mail, postage prepaid, addressed to an Owner at his or her Unit or to such other address as the Owner may have given in writing to the Secretary of the Association for the purpose of service of notices, as applicable. Any address for purposes of notice may be changed from time to time by notice in writing to the President or Secretary of the Association.

4.7 Administration and Enforcement of Declaration, Bylaws and Rules. The Association or any Owner may utilize any of the rights and remedies set forth below, for the enforcement of all restrictions, conditions, covenants, reservations, liens, provisions, rules, charges and liabilities imposed by the provisions of this Declaration, the Certificate of Formation, the Bylaws, or Rules. Failure of the Association or any Owner to enforce will not be deemed a waiver of the right to do so thereafter.

- (a) Rules and Regulations. The Board may adopt Rules and Regulations for governing the use and maintenance of the Property and obtaining compliance by Owners and their contractors, invitees and tenants with the Declaration and the Bylaws, provided that same are not prohibited by this Declaration or Texas law. The Rules and Regulations may address any subject relating to uses of Units,

Common Areas, construction, repairs, parking, unsightly objects, relationships between Owners, invitees, tenants and/or the Association, enforcement, and other subjects reasonably affecting the Project. The rules must be consistent with and not in conflict with this Declaration.

- (b) Late Charges. The Board may adopt late charges, from time to time, for late payment by the Owners of monies owed to the Association.
- (c) Returned Check Charges. The Board may assess returned check charges against an Owner, as set by the Board from time to time, for each returned check, plus late charges, until acceptable payment is received.
- (d) Non-Assessment Items First. All monies received from an Owner may be applied first to non-assessment obligations of the Owner, such as fines, late charges, returned check charges, user fees, damages, etc., regardless of notations on checks and transmittal letters.
- (e) Fines. The Board or the Association's manager may assess fines against an Owner for violations by the Owner or its invitees, contractors, or tenants of standards of conduct contained in the Declaration and the Association Rules. Fines may also be assessed for violation of suspended common facility use rights. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owners. There must be notice of the alleged infraction and fine to the Owner no later than 45 days from the alleged infraction.
- (f) Tenants May Pay. If an Owner is delinquent in the payment of any sum due the Association for a period of 30 days or more, any tenant of the Owner occupying the Unit may pay any sums due to the Association by the Owner in order to avoid suspension of Common Area use rights; and agreements to protect tenants who pay money to the Association under authority of this Section.
- (g) Leasing. The Board may adopt reasonable requirements for leasing a Unit. For example, the Board may require (1) that tenant names, work phones, home phones, and emergency contact persons be registered with the Board or the Association's management company, or (2) that a particular lease form be used, provided that members are free to modify or amend such lease form as they deem proper.

The management company managing the Association does not have authority to act for the Association in leasing or managing individual units. A Unit Owner may contract with the same management company which manages the Association to lease or manage a Unit owned by the Owner. Additionally, in such case the Unit Owner must inform the tenant that in leasing or managing the Owner's Unit, the management company is not acting on behalf of the Association.

- (h) Interest. All sums due the Association by Owners will bear interest from the due

date at the highest lawful rate, compounded annually.

- (i) *Fees for Special Services.* Fees chargeable to Owners for special services (such as furnishing resale certificates, eligibility certificates, copies of declarations, copies of information sent to Mortgagees, copies of accounting records, etc.) may be set by the Board from time to time.
- (j) *Parking Limitations.* Vehicle owners must reimburse the Association for any costs incurred in towing vehicles illegally parked, provided notice required in applicable statutes is complied with regarding illegal parking. Owners are responsible for parking violations of their tenants.
- (k) *Publication of Delinquencies.* The Board may disclose and publish to Association members and Mortgagees the financial condition of the Association, including a list of names and amounts of any delinquencies. The Board may notify Mortgage lenders and tenants of delinquent monies owed by such Owners to the Association. Mortgage lenders may notify the Board of any delinquencies in the payment of Mortgages.
- (l) *Name and Addresses of New Owners.* An Owner may not sell or convey its Unit without all monies due and owing to the Association being paid in full; and if such Owner does sell, convey or transfer its Unit without paying such monies, such selling Owner remains liable for all monies accruing to the Association thereafter on such Unit until such monies are paid in full. If an Owner sells or transfers ownership of its Unit and fails to notify the Association of the sale, the selling Owner continues to be liable for the Assessments accruing on the Unit after the sale or transfer until such time as the selling or transferring Owner notifies the Association in writing of the name and address of the new Owner. The new Owner is also liable from the date of such new Owner's acquisition of title. The selling or transferring Owner has a right of indemnity against the new Owner for recovery of any such sums paid by the selling or transferring Owner under this Section.
- (m) *Change of Addresses.* Owners must keep the Association timely informed of their current addresses and any change of addresses.
- (n) *Name and Addresses of Tenants.* Owners must notify the Association of current names and addresses of tenants of their respective Units.
- (o) *Venue and Lawsuit Authority.* All obligations of Owners, tenants, and the Association arising under this Declaration, the Bylaws, or Rules are performed in Comal County, Texas, and venue for any lawsuits relating thereto is in Comal County, Texas. The Association has the right to file and defend a suit (including injunctions) and recover on behalf of the Owners in any cause of action based on damages to the Common Areas or based on liabilities of Owners and their invitees, contractors, tenants, or third parties accruing to Owners and/or the Association.

- (p) Attorney's Fees. If delinquent accounts or other violations are turned over to the Association's attorney, the Owner is liable for all attorney's fees incurred by the Association in collections, filing liens, foreclosing liens, releasing liens, prosecuting lawsuits, and/or otherwise enforcing the Declaration, Bylaws, and Rules and Regulations.
- (q) Notices to Multiple Owners, Tenants and Mortgagees. Notice to or from one of multiple Owners or tenants of a Unit will be deemed as notice to or from all Owners or tenants of that Unit. If Owner is more than 60 days delinquent, the Association may send to the Owner's tenant a copy of any Association notices or communications with the Owner. The Association may give such notice upon written request of a first lien Mortgagee or insurer.
- (r) Assignment of Revenues. The Association has the power to convey a security interest in its revenues to a lender for purposes of obtaining loans necessary for the operation and/or improvement of the Project. No such security interest may be given without being approved by a vote of the Board.
- (s) Other Powers. The Association has all other powers necessary and proper for the government and operation of the Association, including but not limited to those powers contained in the Act. Such powers include the right to grant permits, licenses and easements over Common Elements for utilities, roads, and other purposes for the proper operation of the Property.

ARTICLE 5

Covenant for Assessments

5.1 Purpose of Assessments. The Association will use Assessments for the general purposes of preserving and enhancing the Regime, and for the common benefit of Owners and Occupants, including maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of Assessments is final.

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

5.3 Control for Assessment Increases. This section of the Declaration may not be amended without the approval of Owners representing at least 67% of the votes in the Association. In addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget. At least 30 days prior to the effective date of a Special Assessment or increase in excess of 10% in Regular Assessments, the Board will notify the Owner of each Unit of this amount of, the budgetary basis for, and the effective date of the Special Assessment or increase in Regular Assessments. The Special Assessment or increase in excess of 10% in Regular Assessments will automatically become effective unless Owners representing at least a majority of the votes in the Association disapprove the Special Assessment or increase in the Regular Assessments by petition or at a meeting of the Association. In such event, the last budget approved by the Association will continue in effect until a revised budget is approved by the Board. Notwithstanding the foregoing provision, in the event a prior year's budget is to be applied to the next fiscal year as a result of Owner disapproval as provided in this Section, the prior year's budget will be increased by the Board to discharge any actual expenses properly incurred by the Association and required to be paid by the Association in accordance with the Act.

5.4 Types of Assessments. There are four types of Assessments: Regular, Special, Individual and Deficiency Assessments.

5.5 Regular Assessments.

- (a) Purpose of Regular Assessments. Regular Assessments are used for Common Expenses related to the recurring, periodic and anticipated responsibilities of the Association, including but not limited to:
- (i) Maintenance, repair and replacement, as necessary, of the Common Elements and improvements, equipment, signage and property owned by the Association.
 - (ii) Utilities billed to the Association.
 - (iii) Services billed to the Association and serving all Units.
 - (iv) Taxes on property owned by the Association and the Association's income taxes.
 - (v) Management, legal, accounting, auditing and professional fees for services to the Association.
 - (vi) Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses and educational opportunities of benefit to the Association.
 - (vii) Insurance premiums and deductibles.

- (viii) Contributions to the reserve funds.
 - (ix) Assessments with respect to the Property payable to CWC 306 Master Community, Inc.
 - (x) Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Regime or for enforcement of the Documents.
- (b) Annual Budget. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and Common Expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or its summary available to the Owner of each Unit, although failure to receive a budget or summary does not affect an Owner's liability for Assessments. The Board will provide copies of the detailed budget to Owners who make written request and pay a reasonable copy charge.
- (c) Basis of Regular Assessments. Regular Assessments will be based on the annual budget, minus estimated income from sources other than Regular Assessments. Each Unit will be liable for its allocated share of the annual budget. If the Board does not approve an annual budget or fails to determine new Regular Assessments for any year, or delays in doing so, Owners will continue to pay the Regular Assessment as last determined.
- (d) Supplemental Increases. If during the course of a year the Board determines that Regular Assessments are insufficient to cover the estimated Common Expenses for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency.

If you own a Unit, you are required to pay Assessments to the Association.

5.6 Special Assessments. In addition to Regular Assessments, and subject to Section 5.3 above, the Board may levy one or more Special Assessments against all Units for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget or reserve funds. Special Assessments do not require the approval of the Owners, except that Special Assessments for the following purposes must be approved by at least a majority of the votes in the Association: (i) acquisition of real property; and (ii) construction of additional improvements within the Regime (excluding the repair or replacement of existing improvements).

5.7 Individual Assessments. In addition to Regular and Special Assessments, the Board may levy an Individual Assessment against an Owner and the Owner's Unit. Individual Assessments may include, but are not limited to: interest, late charges and collection costs on delinquent

Assessments; reimbursement for costs incurred in bringing an Owner or the Owner's Unit into compliance with the Documents; fines for violations of the Documents; transfer-related fees and resale certificate fees; fees for estoppel letters and Project Documents; insurance deductibles; any sub-metered utilities serving the Unit; reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or Occupants of the Owner's Unit; Common Expenses that benefit fewer than all of the Units, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Unit basis; and "pass-through" expenses for services to Units provided through the Association and which are equitably paid by each Unit according to benefit received.

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

5.9 Due Date. All Regular Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments, on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion. Special, Individual and Deficiency Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within 10 days after notice of the Special, Individual or Deficiency Assessment is given.

5.10 Reserve Funds. The Association will establish, maintain and accumulate reserves for operations and for replacement and repair. The Association will budget for reserves and may fund reserves out of Regular Assessments.

- (a) Operations Reserves. The Association may maintain operations reserves at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including deductibles on insurance policies maintained by the Association.
- (b) Replacement and Repair Reserves. The Association will maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the Common Elements.

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

5.12 Transfer Related Fees. A number of independent fees may be charged in relation to the transfer of title to a Unit, including fees for resale certificates, estoppel certificates, copies of the Documents, compliance inspections, ownership record changes, and priority processing, provided

the fees are customary in amount, kind, and number for the local marketplace. Transfer related fees are not refundable and may not be regarded as a prepayment of or credit against Regular or Special Assessments. Transfer related fees do not apply to the following transfers unless a party to the transfer requests the corresponding documentation: (i) foreclosure of a deed of trust lien, tax lien, or the Association's Assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child or parent. Transfer related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's Assessment lien, and are not payable by the Association. This Section does not obligate the Board or the managing agent to levy transfer related fees.

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

ARTICLE 6

Assessment Lien

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

6.2 Superiority of Assessment Lien. The Assessment lien is superior to all other liens and encumbrances on a Unit, except only for: (i) real property taxes and assessments levied by governmental and taxing authorities; (ii) a deed of trust or vendor's lien recorded before this Declaration; (iii) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent Assessment became due. Unless otherwise provided herein, the Assessment lien is superior to a lien for construction of improvements to the Unit, regardless of when recorded or perfected. It is also superior to any recorded assignment of the right to insurance proceeds on the Unit, unless the assignment is part of a superior deed of trust lien. The Assessment lien is subordinate and inferior to a recorded deed of trust lien that secures a first or senior purchase money mortgage, or a SBA guaranteed mortgage.

6.3 Effect of Mortgagee's Foreclosure. Foreclosure of a superior lien extinguishes the Association's claim against the Unit for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for Assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as a Common Expense.

6.4 Notice and Release of Notice. The Association's lien for Assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the Official Public Records of Comal County, Texas. If the debt is cured after a notice has been recorded, the Association will record a release of the Assessment lien at the expense of the curing Owner. The Association may require reimbursement of its costs of preparing and recording the notice before granting the release.

If you fail to pay Assessments to the Association, you may lose title to your Unit and all Improvements located thereon if the Association forecloses its Assessment lien against the Unit.

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

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

ARTICLE 7

Effect of Non-Payment of Assessments

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

to and not in substitution for all other rights and remedies which the Association may have pursuant to the Documents or applicable law.

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

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

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

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

7.5 Suspension of Use. If an Owner's account has been delinquent for at least 30 days, the Association may suspend the right of the Owner and the Occupants of the Owner's Unit to use Common Elements and common services during the period of delinquency. The Association may not suspend an Owner or Occupant's right of access to the Unit. Suspension of rights under this Section 7.5 does not constitute a waiver or discharge of the Owner's obligation to pay Assessments.

7.6 Collection of Rent. If a Unit for which Assessments are delinquent is occupied by a tenant who is obligated to pay rent to the Owner, the Association may require that Unit rents be used to pay the Unit's delinquent Assessments and may demand that the Unit tenant deliver Unit rent to the Association until the Unit's Assessment delinquency is cured.

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

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

7.9 Application of Payments. The Association may adopt and amend policies regarding the application of payments. After the Association notifies the Owner of a delinquency, any payment received by the Association may be applied in the following order: Individual Assessments, Special Assessments, and (lastly) Regular Assessments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the

Association's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the Unit Owner's Account.

ARTICLE 8

Maintenance and Repair Obligations

8.1 Overview. Generally, the Association maintains the Common Elements, and the Owner maintains his Unit. If an Owner fails to maintain his Unit, the Association may perform the work at the Owner's expense.

8.2 Association Maintains. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association performs the services or maintains, repairs and replaces, as a Common Expense, the portions of the Property listed below, regardless of whether the portions are on Units or Common Elements:

- (a) The Common Elements, except those Limited Common Elements contained within the boundaries of Units.
- (b) Any real and personal property owned by the Association but which is not a Common Element, such as a Unit owned by the Association.
- (c) Any area, item, easement or service, the maintenance of which is assigned to the Association by this Declaration or by the Plat or Plans.

8.3 Owner Responsibility. Every Owner has the following responsibilities and obligations for the maintenance, repair and replacement of their Unit:

- (a) Unit Maintenance. Each Owner must maintain his or her respective Unit and the utility installations and equipment therein or thereto, in good order and repair at all times. The Owner of a Unit, which includes as part of that Unit any doorstep or entry porch, is responsible for removal of snow, ice, leaves and debris therefrom. Plumbing leaks and sewer problems associated with a particular Unit is the responsibility of the Unit Owner and not the Association. The washing and maintenance of exterior windows is the responsibility of the Unit Owner and not the Association.
- (b) Owner Alterations. No Owner has the right to modify, alter, decorate (except seasonally, as provided below), redecorate or improve the exterior of any Unit, or to take any such action with respect to the interior or exterior of any of the Common Elements without first obtaining the written consent of the Board, which consent may be withheld if deemed not in the best interests of the Regime. However, under no circumstances may any Owner do any act nor allow any condition to exist which will adversely affect other Owners and their use of the Common Elements or the Limited Common Elements appurtenant to their Units. Each Owner has the right

to modify, alter, repair, decorate, redecorate, or improve the interior of such Owner's Unit, and to effect repairs of the Unit, provided that such action does not change the original exterior appearance of the Unit, impair the structural integrity, weaken the support, or otherwise adversely affect any of the other Units or any Limited Common Elements or Common Elements, and provided that all such action is performed in good and workmanlike manner.

- (c) Avoid Damage. An Owner may not do any work or fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Regime, reduce the value of the Regime, adversely affect the appearance of the Regime, or impair any easement relating to the Regime.
- (d) Responsible for Damage. An Owner is responsible for his own willful or negligent acts and those of his or the Occupant's invitees, agents, employees or contractors when those acts necessitate maintenance, repair or replacement to the Common Elements, or the property of another Owner.

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

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

ARTICLE 9 Architectural Covenants and Control

9.1 Purpose. Because the Units are part of a single, unified development, this Declaration creates rights to regulate the design, use and appearance of the Units and Common Elements in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre or peculiar in comparison to then existing improvements and to regulate the appearance of Buildings, fences, landscaping, retaining walls, yard art, sidewalks and driveways, and further including replacements or modifications of original construction or installation.

9.2 Architectural Control During the Development Period. During the Development Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of any Buildings or other improvements to be constructed on a Unit. During the Development Period, the Architectural Reviewer is the Declarant or its designee.

- (a) Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property. Accordingly, each Owner agrees that during the Development Period no improvements will be started or progressed in or on an Owner's Unit without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.
- (b) Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to: (i) an architectural control committee appointed by the Board; or (ii) a committee comprised of architects, engineers or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant to: (a) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (b) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

9.3 Architectural Control by Association. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if designated in writing by Declarant, the Association, acting through the ACC will assume jurisdiction over architectural control.

- (a) ACC. The ACC will consist of at least three but not more than seven persons appointed by the Board, pursuant to the Bylaws. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Documents to the ACC will be construed to mean the Board. Members of the ACC need not be Owners or Occupants, and may but need not

include architects, engineers and design professionals whose compensation, if any, may be established from time to time by the Board.

- (b) Limits on Liability. The ACC has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the ACC have no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for: (i) errors in or omissions from the plans and specifications submitted to the ACC; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

9.4 Prohibition of Construction Alteration and Improvement. Without the Architectural Reviewer's prior written approval, a person may not make an addition, alteration, improvement, installation, modification, redecoration or reconstruction of or to any Unit. The Architectural Reviewer has the right, but not the duty, to evaluate every aspect of construction, landscaping and property use that may adversely affect the general value or appearance of the Property.

9.5 Architectural Approval. To request architectural approval, an Owner must make written application and submit two identical sets of plans and specifications showing the nature, kind, shape, color, size, materials and locations of the proposed improvements. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved", "Denied" or "More Information Required". The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files. Verbal approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's manager does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing.

- (a) Deemed Approval. If an Owner has not received the Architectural Reviewer's written approval or denial within 90 days after delivering his complete application to the Architectural Reviewer, the Owner may presume that his request has been approved by the Architectural Reviewer. The Owner may then proceed with the construction of the proposed improvements, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvements in a timely manner.
- (b) No Approval Required. No approval is required for an Owner to repaint the interior of a Unit.
- (c) Building Permit. If the application is for work that requires a building permit from a governmental body, the Architectural Reviewer's approval is conditioned on the issuance of the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that they comply with the requirements of

the governmental body. Alternatively, governmental approval does not ensure Architectural Reviewer approval.

9.6 Architectural Guidelines. Declarant during the Development Period, and the Association thereafter, may publish architectural restrictions, guidelines and standards, which may be revised from time to time to reflect changes in technology, style and taste.

9.7 Control for Variances. If, following the Development Period, an Owner requests a variance or approval of a matter that, in the Architectural Reviewer's opinion, would constitute a variance of the Regime's established standards, the Architectural Reviewer must notify the Owners of each Unit of the nature of the proposed variance at least 20 days prior to approval. The Architectural Reviewer may approve the variance unless Owners representing of at least a majority of the Units disapprove the proposed variance by petition or at a duly called meeting of the Association. During the Development Period, if the Architectural Reviewer is the Declarant or its designee, the Architectural Reviewer may grant variances from architectural guidelines and the provisions of Article 10 without the necessity of notifying the Owners of each Unit if, in its sole and absolute discretion, such variance is justified due to visual or aesthetic considerations or unusual circumstances.

ARTICLE 10

Use and Occupancy Restrictions

10.1 Use Restrictions. Absent prior written approval from the Association and subject generally to the use restrictions set forth in this Declaration or referenced as additional restrictions in the definition of the Rules and Regulations:

- (a) Non-residential Use. No part of the Project may be used for residential purposes as defined in TUCA. All Units must be used and occupied only for office purposes and commensurate with the upscale character of the Regime by the Owner and its tenants.
- (b) Nuisances and Safety. No unsafe, noxious, offensive, or illegal activity, or odor is permitted on the Project. No activity may be conducted on the Property which in the judgment of the Board of Directors might reasonably be considered as annoying to neighbors of ordinary sensibilities, or might be reasonably calculated to reduce the desirability of the Property for quality. No exterior loudspeakers or flashing lights are allowed. No person may do anything that will increase insurance rates for the Project without the prior written consent of the Board or which may cause such improvements to be uninsurable or which may cause any policy to be canceled, or suspended or materially modified by the issuing company.
- (c) Noise. Owners and Occupants must refrain from playing radios, televisions, stereos, and other electrical or mechanical devices so loud that they may be heard outside their Unit. Doors and windows must be shut when playing televisions, stereos and similar sound equipment at sound levels object to by any Owner, tenant,

or management representative.

- (d) Signs. “For Rent” and “For Sale” signs and all other signs are prohibited and may not be exhibited anywhere in the Project, including from the interiors of the Units, without first obtaining the prior written consent of the Board. The Board may promulgate rules and regulations concerning signage that may be permissible. Board members and management company representatives may enter, without prior notice, and remove and throw away such signs. The foregoing prohibition is subject to Declarant’s rights reserved under this Declaration, particularly in **Exhibit B**.
- (e) Window Coverings. All exterior windows must be covered by white, ivory or tan blinds or drapes. No foil or other material objectionable in the reasonable judgment of the Board may be placed in or next to any window or sliding glass door. Burglar bars that may be seen from the outside are prohibited.
- (f) Storage. No property may be stored temporarily or permanently on sidewalks, walkways, parking lots, or other Common Areas. Nothing may be stored in Common Areas except in areas approved by the Board.
- (g) Parking.
 - (i) Parking of vehicles, motorcycles and bicycles in grass areas, dirt areas, flower beds or sidewalks is prohibited. Owners and Occupants must park vehicles in their respective parking spaces whenever possible. No Owner or Occupant may park, store, operate or keep within or adjoining the Project any vehicle over 18 feet long. Bicycles and similar items may not be stored outside a Unit or on patios. Washing of vehicles is not allowed anywhere on the Project.
 - (ii) No vehicles may be parked or unattended in such a manner as to block the passage of other vehicles on the streets or fire lanes.
- (h) Exterior Lighting. Exterior lighting or illumination of buildings, landscaping, drives and parking areas is subject to the control of the Architectural Reviewer. All exterior lighting devices placed on Buildings, whether Limited or General Common Elements, must be maintained with timers, sensors or other switches to assure that illumination therefrom occurs from dusk until dawn every day.
- (i) Declarant’s Use. Notwithstanding any other provisions of this Article 10, the Declarant, or any nominee designated by Declarant, may make such temporary use of the General Common Elements and Units as is reasonably necessary to facilitate Declarant’s sales efforts and the showing of the Regime and any unsold Units therein, including the right, without limitation, to maintain one sales office in, on or about the Regime, or any part thereof, to maintain and show one or more model

Units, and to have employees of Declarant in, on or about the Regime to show and use the Units owned by the Declarant and the Common Elements. All such activities will be without charge to or contribution by the Declarant except for the Common Expense charge payable by the Declarant with respect to unsold Units. The provisions of this Article 10 do not prohibit the use by the Association of all Common Elements in any reasonable manner necessary in connection with the operation and maintenance of the Regime.

- (j) Insurance. Nothing may be done in or kept in or on any Unit, parking space, storage space or other Limited or General Common Element which will increase the rate of insurance on the Regime or any Unit over that generally applicable to office condominiums, or which would result in the uninsurability of the Regime or any part thereof, or the cancellation, suspension, modification or reduction of insurance in or on or covering the Regime or any part thereof. If by reason of the occupancy or use of any Unit by any Owner, the rate of insurance on all or any portion of the Regime is increased, such Owner will be personally liable to the Association for such increase caused thereby and such sum will be payable to the Association as an Individual Assessment at the time and in the manner as provided herein for the payment of Individual Assessments.
- (k) Compliance with Law. Each Owner must promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority with respect to the occupancy and use of its Unit(s) and with the provisions hereof, and the Bylaws and Rules and Regulations promulgated hereunder.

10.2 Limited Common Elements. Limited Common Elements are limited to the exclusive use of the Owner or Owners to which such areas are assigned by the Plat or Plans; provided, however, that the same are subject to the Rights of Entry set forth in Section 3.12 of this Declaration. Any Limited Common Element so assigned to any Unit will be deemed appurtenant to such Unit, and will be deemed to be transferred with any conveyance of such Unit.

10.3 Restrictions on Alienation and Leasing. All leases of any Unit must (i) be in writing, and (ii) provide that such leases are specifically subject in all respects to the provisions of this Declaration and the Bylaws of the Association, and the Rules and Regulations adopted by the Association or the Board. All leases are subject to the occupancy standards, including the limits on the maximum number of Occupants per Unit, which are set forth in the Association's Rules and Regulations. Should any lessee or Occupant under any lease not comply with this Declaration or such Bylaws, Rules and Regulations or this Declaration, the Board has the right to cancel and terminate such lease, without any liability imposed upon the Board or Association, and for such purpose the Board will be deemed as the Owner's agent, fully authorized to take such steps as may be necessary to effect the cancellation and termination of such lease. The Board may resort to any remedies available to it including a proceeding in forcible detainer and the remedies set out in this Declaration or at law to enforce the provisions of this section. **A copy of the Rules and Regulations of the Association must be attached to all such lease agreements.** An Owner who

has entered into a bona fide lease of its Unit must, within 15 days of entering into such lease, give the Board written notice of such lease transaction, together with the name, work address and work phone number of the lessee. If the notice that is required by this Section is not timely given by the Owner, then the Owner is liable to the Board for any costs or expenses incurred by the Board in acquiring the information that should have been contained in the Owner's complete and timely leasing notice to the Board. For purposes of this Section 10.3, sublease and subletting are deemed to be included in the terms "lease" and "leasing". Nothing in this Section 10.3 may be deemed to, construed as or used in any way to discriminate against any person on account of race, creed, religion, age, sex, sexual preference or physical challenge. If a Unit Owner desires to sublease an individual office (as in an "executive suite" arrangement) the Unit Owner must give prior notice of such plans to the Association, and only the Unit Owner will be entitled to entry signage.

10.4 Signs. In order to establish harmony and appearance in sign display, the Board hereby adopts the following rules and regulations regarding the type, color, character and location of all signs in the Regime. Except as provided in this Section 10.4, no Owner has the right to place any sign on the exterior of any Unit, Common Element or Limited Common Element or that is visible from the exterior of any Unit or elsewhere on the Regime without the prior written consent of the Board (which consent may be withheld), and the Board has the right to remove and dispose of, without liability for trespass or other tort or action in connection therewith, any sign so placed without permission or which is in violation of the established Rules and Regulations of the Association. The Owner of a Unit may, without Board consent, place such signs as Owner or tenant deems appropriate inside the Unit so long as they are not visible from the exterior. Notwithstanding any provision herein to the contrary, any signs, including for sale and for lease signs, placed by or with the consent of Declarant are not subject to these provisions and may not be removed so long as Declarant is the Owner of any Unit in the Regime. Signs which are required by legal proceedings are permitted without prior approval.

10.5 Use of Common Elements. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

10.6 Regulation of Common Areas. Rules governing the use of Common Elements by Owners and by their guests and invitees will be promulgated by the Declarant, or by the Board of Directors of the Association after the same has been elected. All Owners must be furnished with a copy thereof at the direction of the Board. Each Owner is required to comply strictly with these Rules and Regulations and is responsible to the Association for compliance therewith by the members of their respective families, relatives, guests, invitees, tenants, and contractors, both minor and adult.

10.7 Inseparable Units. Each Unit and its corresponding Allocated Interest in and to the Common Elements appurtenant thereto are inseparable and may not be conveyed, leased or encumbered separately, and must at all times remain indivisible. Except for easements to utility companies, any attempted conveyance of an interest in the Common Elements is void unless it also conveys the Unit to which that interest is attached.

10.8 Encroachments. If any portion of the Common Elements encroaches upon a Unit or Units, a valid permanent easement for the encroachment and for the maintenance of same, so long as it stands, will and does exist. If any portion or portions of a Unit or Units encroach upon the Common Elements, a valid permanent easement for the encroachment and for the maintenance of same, so long as it stands, will and does exist.

10.9 Taxes. Written notice will be given to the Comal County Appraisal District of the establishment of the Regime with respect to the Project, as is provided by law, so that each Unit and its percentage or fraction of undivided interest in the Common Elements may be deemed a separate parcel and subject to separate assessment and taxation.

10.10 Reservation of Special Declarant Rights. The Declarant reserves the special rights set out in Exhibit B attached hereto, notwithstanding anything in this Declaration to the contrary (“Special Declarant Rights”).

ARTICLE 11

Insurance

11.1 General Provisions. All insurance affecting the Property is governed by the provisions of this Article, with which the Board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each Owner irrevocably appoints the Association, acting through its Board, as its trustee to negotiate, receive, administer and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally:

- (a) Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days prior written notice to the Board before the policy may be canceled, terminated, materially modified or allowed to expire, by either the insurer or the insured.
- (b) Deductibles. Any insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an Owner or Occupant or their invitees, the Owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission.

11.2 Property Insurance. The Association will obtain insurance for the Regime as required by Section 82.111 of the Act. The Association may also obtain and maintain at all times insurance on the Regime of the type and kind required by this Declaration, including such other risks, of a similar or dissimilar nature, as are or may customarily be covered with respect to condominium projects, similar in construction, design and use, issued by responsible insurance companies

authorized to do business in the State of Texas. The insurance must name the Association, the Owners and all Mortgagees of Units (all of whose lien interest the Association receives written notice) as the insureds. In addition, each policy must identify the interest of Unit Owners and provide for a standard, non-contributory mortgage clause in favor of each Mortgagee.

The Association will obtain and maintain property insurance covering the Buildings and Units. If reasonably available, the commercial property insurance policy will insure against all causes of loss – special form for the full insurable replacement cost of the damaged Unit or Units. Each Owner irrevocably designates the Association, as its attorney-in-fact, to administer and distribute property insurance proceeds applicable to the Owner’s Unit, whether or not the property insurance is obtained or maintained by the Association or the Unit Owner. The Board of Directors must, upon request of any eligible Mortgagee, furnish a certified copy of each policy and a separate certificate identifying the interest of the Unit Owner. All policies of insurance must provide that the insurance thereunder may be invalidated or suspended only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to that Owner’s interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under such policy, as to the interests of all other insured Owners not guilty of any act or omission, will not be invalidated or suspended and will remain in full force and effect.

The Association, in order to preserve the integrity of the Regime, will be deemed to have an “insurable interest” in each Unit. Any insurance obtained by the Association or a Unit Owner must contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Unit Owners, Association and their respective servants, agents or guests.

11.3 Liability Insurance. The Association must maintain a policy of commercial general liability insurance and property damage insurance against claims for personal injury or death, or property damage suffered by the public, or any Owner or Occupant, agent, employee, or invitee of an Owner or Occupant, occurring in or about the Limited or General Common Elements, which liability and property damage insurance must afford protection to such limits and extent as the Association deems desirable. Such liability and property damage insurance policy must also contain a cross liability endorsement wherein the rights of a named insured under the policy or policies will not prejudice his, her or their action or actions against another named insured. This liability coverage does not insure the individual Unit Owner for liability or damages arising out of the use of its individual Unit as distinguished from the Common Elements of the Regime.

11.4 Fidelity Coverage. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of: (i) the estimated maximum funds, including reserve funds, that will be in the Association’s custody at any time the policy is in force; or (ii) an amount equal to three months of Regular Assessments on all Units. A management agent that handles Association funds should be covered by its own fidelity insurance policy with the same coverages.

11.5 Unit Owner's Insurance. The property insurance obtained pursuant to Section 11.2 does not insure the personal property of Unit Owners. In addition, the insurance obtained pursuant to Section 11.2 does not insure any fixtures, installations, improvements or betterments composing a part of the Units. An Owner of a Unit may obtain at his cost and expense such additional insurance as the Owner may deem necessary to insure his Unit and the personal property, fixtures, improvements and betterments therein.

11.6 Directors and Officers Liability. To the extent it is reasonably available, the Association will maintain directors' and officers' liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members and managers against liability for any act or omission in carrying out their duties in those capacities.

11.7 Owner's Responsibility for Insurance. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by each Owner if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. Each Owner and Occupant is solely responsible for insuring his personal property, including furnishings, vehicles and stored items. *The Association strongly recommends that each Owner and Occupant purchase and maintain insurance on his personal belongings.*

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

ARTICLE 12

Reconstruction or Repair After Loss; Obsolescence

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

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

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

- (b) *Insufficient Proceeds.* If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the Board, the Board may levy a Deficiency Assessment against the Owners to fund the difference.
- (c) *Surplus Funds.* If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows: If Deficiency Assessments were a source of Restoration Funds, the surplus will be paid to Owners in proportion to their contributions resulting from the Deficiency Assessment levied against them; provided that no Owner may receive a sum greater than that actually contributed by him, and further provided that any delinquent Assessments owed by the Owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing sentence will be common funds of the Association to be used as directed by the Board.

12.3 Costs and Plans.

- (a) *Cost Estimates.* Promptly after the loss, the Board will obtain reliable and detailed estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the Board deems necessary, to assist in estimating and supervising the repair.
- (b) *Plans and Specifications.* Common Elements and Units will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either Common Elements or Units must be approved by Owners representing at least two-thirds of the votes in the Association and by certain Mortgagees if so required by the Mortgagee Protection article of this Declaration.

12.4 Owner's Duty to Repair.

- (a) *Uninsured Loss.* Within 60 days after the date of damage, the Owner will begin repair or reconstruction of any portion of his Unit, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof.
- (b) *Insured Loss.* If the loss to a Unit is covered by the Association's insurance policy, the Association, or Owner at the election of the Association, will begin repair or restoration of damage on receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association to supervise, approve or disapprove the repair or restoration during the course thereof.
- (c) *Failure to Repair.* If an Owner fails to repair or restore damage as required by this Section, the Association may affect the necessary repairs and levy an Individual

Assessment against the Owner and Unit for the cost thereof, after giving an Owner of the Unit reasonable notice of the Association's intent to do so.

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

12.6 Obsolescence of Common Elements. If Owners holding not less than 67% of the votes in the Association vote, at a meeting of the Association duly called for purposes of considering same, that the Common Elements, or any part thereof, including Limited Common Elements, are obsolete, the Association must promptly proceed with necessary replacements and improvements thereto pursuant to a budget established for such purpose, and the cost will be and constitute a Special Assessment payable by all Owners within 30 days of the date notice of such Special Assessment is delivered by the Association.

12.7 Obsolescence of Project. If Owners holding not less than 80% of the votes in the Association determine at a meeting of the Association duly called for purposes of considering same that the Project is obsolete, the Association after first securing the written consent of all Eligible Mortgagees must promptly proceed with the sale of the Project in its entirety. Any proceeds from such sale will be received, held and applied for and on account of the Owners and Eligible Mortgagees as their interests may appear on the Association records.

ARTICLE 13 Termination and Condemnation

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

13.2 Termination. Termination of the terms of this Declaration and the condominium status of the Property will be governed by Section 82.068 of the Act, subject to the following provisions:

- (a) Substantial Taking. In the event of substantially total damage, destruction or condemnation of the Property, an amendment to terminate must be approved by Owners representing at least 67% of the votes in the Association and by certain Mortgagees pursuant to Article 14 of this Declaration.

- (b) Total Taking. In the event of condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners or Mortgagees.
- (c) Other Circumstances. In all other circumstances, an amendment to terminate must be approved by Owners representing at least 80% of the ownership interests in the Property and by certain Mortgagees pursuant to the Mortgagee Protection article of this Declaration.

13.3 Condemnation. The Association's response to condemnation of any part of the Property will be governed by Section 82.007 of the Act. On behalf of Owners, but without their consent, the Board may execute an amendment of this Declaration to reallocate Allocated Interests following condemnation and to describe the altered parameters of the Property. If the Association replaces or restores Common Elements taken by condemnation by obtaining other land or constructing additional improvements, the Board may, to the extent permitted by law, execute an amendment without the prior consent of Owners to describe the altered parameters of the Property and any corresponding change of facilities or improvements.

ARTICLE 14

Mortgagee Protection

14.1 Introduction. This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. Some sections of this Article apply to "Mortgagees" as defined in Article 1. Other sections apply to "Eligible Mortgagees", as defined below.

- (a) Known Mortgagees. An Owner who mortgages his Unit must notify the Association giving the complete name and address of his Mortgagee and the loan number. The Association's obligations to Mortgagees under the Documents extend only to those Mortgagees known to the Association. All actions and approvals required by mortgagees will be conclusively satisfied by the Mortgagees known to the Association, without regard to other holders of mortgages on Units. The Association may rely on the information provided by Owners and Mortgagees.
- (b) Eligible Mortgagees. "Eligible Mortgagee" means the holder, insurer or guarantor of a first purchase money mortgage secured by a recorded deed of trust lien against a Unit who has submitted to the Association a written notice containing its name and address, the loan number, and the identifying number and street address of the mortgaged Unit. A single notice per Unit will be valid so long as the Eligible Mortgagee holds a Mortgage on the Unit. The Board will maintain this information. The Association will treat the notice as the Eligible Mortgagee's request to be notified of any proposed action requiring the consent of Eligible Mortgagees. A provision of the Documents requiring the approval of a specified percentage of Eligible Mortgagees will be based on the number of Units subject to Mortgages held by Eligible Mortgagees. For example, 51% of Eligible

Mortgagees” means Eligible Mortgagees of 51% of the Units that are subject to Mortgages held by Eligible Mortgagees.

14.2 Termination. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by Owners representing at least 67% of the votes in the Association, and by at least 51% of Eligible Mortgagees. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least 67% of Eligible Mortgagees.

14.3 Implied Approval. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within 30 days after receiving the Association’s written request for approval of a proposed amendment, provided the Association’s request was delivered by certified or registered mail, return receipt requested.

14.4 Other Mortgagee Rights.

- (a) Inspection of Books. The Association will maintain current copies of the Documents and the Association’s books, records and financial statements. Mortgagees may inspect the Documents and records, by appointment, during normal business hours.
- (b) Financial Statements. If a Mortgagee submits a written request, the Association will give the Mortgagee a certified financial statement for the preceding fiscal year within 120 days after the Association’s fiscal year end. A Mortgagee may have an audited statement prepared at its own expense.
- (c) Attendance at Meetings. A representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend.
- (d) Management Contract. If professional management of the Association is engaged, the contract for professional management may not require more than ninety (90) days’ notice to terminate the contract, nor payment of a termination penalty.

14.5 Notice of Actions. The Association will use its best efforts to send timely written notice to Eligible Mortgagees of the following actions:

- (a) Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Unit.
- (b) Any 60 day delinquency in the payment of Assessments or charges owed by the Owner of the mortgaged Unit.
- (c) A lapse, cancellation or material modification of any insurance policy maintained by the Association.

- (d) Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.
- (e) Any proposed amendment of a material nature, as provided in this Article.
- (f) Any proposed termination or the condemnation status of the Property.

14.6 Amendments of a Material Nature. A Document amendment of a material nature must be approved by Owners representing at least 67% of the votes in the Association, and by at least 51% of Eligible Mortgagees. THIS APPROVAL REQUIREMENT DOES NOT APPLY TO AMENDMENTS EFFECTED BY THE EXERCISE OF A DEVELOPMENT RIGHT PROVIDED IN **EXHIBIT B** ATTACHED HERETO. A change to any of the provisions governing the following would be considered material:

- (a) Voting rights.
- (b) Increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens.
- (c) Reductions in reserves for maintenance, repair and replacement of Common Elements.
- (d) Responsibility for maintenance and repairs.
- (e) Reallocation of interests in the General Common Elements or Limited Common Elements, or rights to their use; except that when Limited Common Elements are reallocated by agreement between Owners, only those Owners and only the Eligible Mortgagees holding Mortgages against those Units need approve the action.
- (f) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, then only those owners and the Eligible Mortgagees holding mortgages against the Unit or Units need approve the action.
- (g) Convertibility of Units into Common Elements or Common Elements into Units.
- (h) Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property unless such annexation is otherwise permitted by **Exhibit B**.
- (i) Property or fidelity insurance requirements.
- (j) Imposition of any restrictions on the leasing of Units.
- (k) Impositions of any restrictions on Owners' right to sell or transfer their Unit.

- (j) Imposition of any restrictions on the leasing of Units.
- (k) Impositions of any restrictions on Owners' right to sell or transfer their Unit.
- (l) A decision by the Association to establish self-management when professional management had been required previously by the Documents or an Eligible Mortgagee.
- (m) Restoration or repair of the Property, in a manner other than that specified in the Documents, after hazard damage or partial condemnation.
- (n) Any provision that expressly benefits Mortgage holders, insurers or guarantors.

ARTICLE 15

Amendments

15.1 Consents Required. As permitted by the Act or by this Declaration, certain amendments of this Declaration may be executed by Declarant acting alone, or by the Board acting alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least 67% of the votes in the Association.

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

15.3 Effective. To be effective, an amendment must be in the form of a written instrument: (i) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (ii) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners and, if required, Eligible Mortgagees; and (iii) recorded in the Official Public Records of Comal County, Texas.

15.4 Declarant Provisions. No amendment may affect Declarant's rights under this Declaration or the Act without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. Because **Exhibit B** of this Declaration is destined to become obsolete, beginning 15 years after the date this Declaration is first recorded, the Board may restate, rerecord, or publish this Declaration without **Exhibit B**; provided, the other exhibits are not re-lettered. The automatic expiration and subsequent deletion of **Exhibit B** does not constitute an amendment of this Declaration. This Section may not be amended without Declaration's written and acknowledged consent.

ARTICLE 16

Miscellaneous

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

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

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

16.4 Injury to Person or Property. Each Owner acknowledges that the Declarant and the Association have no duty or obligation to any Owner or their guests: (i) to supervise minor children or any other person; (ii) to fence or otherwise enclose any Limited Common Element, General Common Element or other improvement; or (iii) to provide security or protection to any Owner, Occupant or their agents, employees, contractors, and invitees from harm or loss. By accepting title to a Unit, each Owner agrees that the limitations set forth in this Section 16.4 are reasonable and constitute the exercise of ordinary care by the Association and Declarant. Each Owner agrees to indemnify, defend and hold harmless the Association and Declarant from any claim of damages to person or property arising out of an accident, loss or injury on or about the Regime to the extent caused by the acts or omissions of the Owner, its guests, employees, agents, contractors or invitees and not covered by the Association's insurance.

16.5 Declarant as Attorney-in-Fact and Proxy. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to **Exhibit B** and elsewhere in this Declaration, each Owner, by accepting a deed to a Unit and each Mortgagee, by accepting the benefits of a Mortgage

against a Unit within the Regime, and any other person, by acceptance of the benefits of a Mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Unit in this Regime, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's and person's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to **Exhibit B** or elsewhere in this Declaration. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee, and/or person, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency, and death of an Owner, Mortgagee, and/or person and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party. In addition, each Owner, by accepting a deed to a Unit, and each Mortgagee, by accepting the benefits of a Mortgage against a Unit in the Regime, and any other person, by accepting the benefits of a Mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien, and/or any other security interest against any Unit in the Regime, will thereby appoint Declarant the proxy of such Owner, Mortgagee, or person, with full power of substitution in the premises, to do and perform each and every act permitted or required pursuant to **Exhibit B** or elsewhere in this Declaration, and which may otherwise be reasonably necessary in connection therewith, including without limitation, to cast a vote for such Owner, Mortgagee or person at any meeting of the Members for the purpose of approving or consenting to any amendment to this Declaration in order to effect and perfect any such act permitted or required pursuant to **Exhibit B** or elsewhere in this Declaration and to execute and record amendments on their behalf to such effect; and the power hereby reposed in the Declarant, as the attorney-in-fact for each such Owner, Mortgagee or person includes, without limitation, the authority to execute a proxy as the act and deed of any Owner, Mortgagee or person and, upon termination or revocation of any Owner's proxy as permitted by the Texas Business Organizations Code, the authority to execute successive proxies as the act and deed of any Owner, Mortgagee or person authorizing the Declarant, or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. Furthermore, each Owner, Mortgagee and Person upon request by the Declarant, will execute and deliver a written proxy pursuant to Section 82.110(b) of the Act, including a successive written proxy upon the termination or revocation as permitted by the Act of any earlier proxy, authorizing the Declarant, or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. All such appointments and successive proxies expire as to power reserved by Declarant pursuant to **Exhibit B** or elsewhere in this Declaration on the date Declarant no longer has the right to exercise such rights. All such proxies are non-revocable for the maximum lawful time and upon the expiration of non-revocable period, new proxies must again be executed for the maximum non-revocable time until Declarant's right to require such successive proxies expires.

16.6 Rules and Regulations. The Rules and Regulations with respect to the day-to-day maintenance, operation and enjoyment of the Common Elements, Limited Common Elements and the Regime may be amended from time to time by the Board; provided, however, that such rules may not be in conflict with law or the documents governing the Regime and must affect the Common Elements or other Units and further provided that to the extent the same constitute restrictions on use, occupancy, or alienation of any Unit, the rules so adopted may only be to implement the use, occupancy or alienation provisions that are set forth in this Declaration. [See

TUCA Section 82.102(a)(7)]. The Rules and Regulations are of equal dignity with, and are enforceable in the same manner as the provisions of this Declaration but, in the event of a conflict, this Declaration controls. Each Owner, by accepting any conveyance of a Unit, agrees to comply with and abide by the Rules and Regulations, as the same may be amended from time to time.

16.7 Encumbrances. A description of and the recording data for recorded easements and licenses appurtenant to or included in the Condominium Regime or to which any portion of the Condominium Regime is or may become subject by reservation in the Declaration as of the date of this Declaration are set out in the Schedule of Encumbrances attached hereto as **Exhibit F**.

16.8 Exhibits. The following exhibits are attached to this Declaration and are incorporated herein by reference:

- | | |
|-----------|--|
| Exhibit A | Description of Property |
| Exhibit B | Declarant Reservations |
| Exhibit C | Map or Plat |
| Exhibit D | Plans |
| Exhibit E | Schedule of Allocated Interests |
| Exhibit F | Schedule of Encumbrances |
| Exhibit G | Identification of Property Subject to Annexation |

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

EXECUTED on this 21st day of March, 2017.

DECLARANT:

DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY

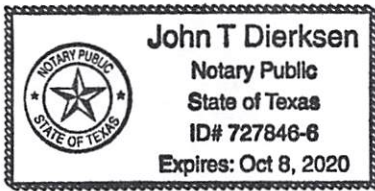
By: 
DUSTIN SEIDEL, Managing Member

By: 
JENNIFER SEIDEL, Managing Member

THE STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledged before me on March 26, 2017, by DUSTIN SEIDEL, Managing Member of DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY, on behalf of same and in the capacity herein stated.

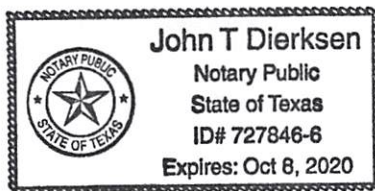



Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledged before me on March 21, 2017, by JENNIFER SEIDEL, Managing Member of DUSTY HILLS, A TEXAS LIMITED LIABILITY COMPANY, on behalf of same and in the capacity herein stated.




Notary Public, State of Texas

JOINDER BY MORTGAGEE

The undersigned, being the sole mortgagee of Declarant and holding a mortgage against the land and the Units which must be built, joins in the execution of the Declaration of Creekside Professional Plaza 2, a Condominium for the purposes of establishing a condominium regime pursuant to the provisions of the Texas Uniform Condominium Act, and subordinating the liens and security interests of said Mortgagee (including, without limitation, those more fully set forth below) to the condominium regime hereby established and extending said liens and security interests to the Units hereby created and hereafter created and the appurtenances thereto, including the Limited Common Elements and the undivided Allocated Interests in and to the Common Elements:

Deed of Trust dated March 1, 2017, recorded as Document No. 201706008058 in the Official Public Records of Comal County, Texas, executed by Dusty Hills, A Texas Limited Liability Company to John T. Dierksen, Trustee, securing a promissory note of even date therewith in the principal amount of \$438,126.80, payable to Creekside 1101, Ltd.

The undersigned joins herein for the sole purpose of subordinating the liens described above to the condominium regime and makes no representation or warranty, expressed or implied, of any nature whatsoever, to any present or future Owner or purchaser of a Unit with respect to such Unit or the condominium regime. All such Owners or purchasers agree by their purchase of a Unit that no such representation or warranty has been made by the undersigned and that they have not relied upon the undersigned in any way in making their decision to acquire a Unit.

Mortgagee:

CREEKSIDE 1101, LTD., by
Norris Realty of Canyon Lake, Inc.,
Its General Partner

By: 
W.M. Norris, President

THE STATE OF TEXAS §
COUNTY OF COMAL §

This instrument was acknowledged before me on March 21, 2017, by W.M. NORRIS, President of Norris Realty of Canyon Lake, Inc., the General Partner of CREEKSIDE 1101, LTD., a Texas limited partnership, on behalf of same and in the capacity herein stated.

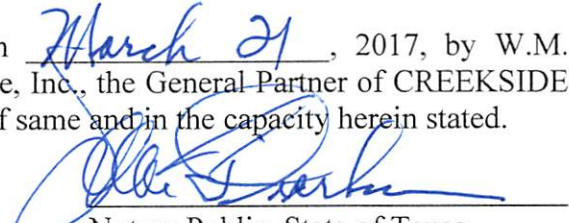

Notary Public, State of Texas

EXHIBIT A

Description of Property

Lot 33R2, Replat of Lot 33R, Amending Plat of Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 27, 32 and 33 of CREEKSIDE WELLNESS CENTER SUBDIVISION, a subdivision in Comal County, Texas, according to replat recorded as Document No. 201406030319, Map and Plat Records of Comal County, Texas.

EXHIBIT B

DECLARANT RIGHTS AND RESERVATIONS

B.1 General Provisions.

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

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

B.1.3 *Purpose of Development and Declarant Control Periods.* This Exhibit gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly build-out and sell-out of the Property, which is ultimately for the benefit and protection of Owners and Mortgagees. Declarant may not use its control of the Association and the Property for an advantage over the Owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with 90 days written notice.

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

B.2.1 *Duration.* The duration of the Declarant Control Period will be from the date this Declaration is recorded for a maximum period not to exceed the earlier of: (i) eight years after the date of recording this Declaration; (ii) within 120 days after all of the Units have been conveyed to Owners other than Declarant; or (iii) when, in the sole opinion of Declarant, the Association is viable, self-supporting and operational.

B.2.2 *Officers and Directors.* During the Declarant Control Period, the Board may consist of three persons. Declarant may appoint, remove and replace any officer or director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "leader".

B.2.3 Organizational Meeting. Before the end of the Declarant Control Period or within 120 days after all of the Units have been conveyed to Owners other than Declarant, the Owners will elect directors to the Board at an organizational meeting of the Members of the Association. Declarant or the Association will give written notice of the organizational meeting to an Owner of each Unit at least ten days before the meeting. For the organizational meeting, Owners of 10% of the Units will constitute a quorum. The Board elected at the organizational meeting will elect the officers of the Association not later than 30 days after the end of the Declarant Control Period.

B.2.4 Obligation for Assessments. Until the Association first levies Regular Assessments, Declarant must pay all the expenses of the Property as they accrue. After the initial levy, the Declarant has the following options until the earlier of: (a) the end of the Declarant Control Period; or (b) three years after the date on which Declarant first conveys a Unit.

- (i) For each Unit owned by Declarant, Declarant is liable for Assessments in the same manner as any Owner; or
- (ii) Declarant will assume responsibility for the difference (the “red ink”) between the Association’s Common Expenses and the Regular Assessments received from Owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. On termination of the option period, Declarant must begin paying Assessments on each Declarant owned Unit according to the Unit’s Allocated Interest for Assessments.

B.2.5 Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.

B.2.6 Budget Control. During the Declarant Control Period, the right of Owners to veto Special Assessments or increases in Regular Assessments is not effective and may not be exercised.

B.2.7 Management Contract. If Declarant enters into a professional management contract on behalf of the Association during the Declarant Control Period, the Association has the right to terminate the contract without cause or penalty, but with at least 30 days written notice to the manager, at any time after a Board elected by the Owners other than the Declarant takes office.

B.2.8 Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any Common Element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the Common Element will be free of encumbrance except for the property taxes, if any, accruing for the year of conveyance. Declarant’s conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.

B.3 Development Period Rights; Representations and Reservations. Declarant makes the following representations and reservations regarding Declarant's development of the Property:

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

B.3.2 Conversion. None of the improvements in the Property is a conversion building as defined by the Act.

B.3.3 Changes in Development Plan. During the Development Period, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, the combination of Units and changes in the sizes, styles, configurations, materials and appearances of Buildings, Units and Common Elements.

B.3.4 Architectural Control. During the Development Period, Declarant has the absolute right to appoint the Architectural Reviewer, consisting of any number of persons who serve at the pleasure of Declarant, and who may be removed and replaced by Declarant. Notwithstanding the foregoing, during the Development Period and after termination of the Declarant Control Period, or earlier if Declarant permits, the Board may appoint or serve as a "modifications committee" to respond exclusively to modifications of completed Buildings that are owned by persons other than Declarant. A modifications committee may not involve itself with the approval of new Buildings or Common Elements.

B.3.5 Transfer Fees. During the Development Period, Declarant may not be required to pay transfer-related and resale certificate fees.

B.3.6 Statutory Development Rights. As permitted by the Act, Declarant reserves the following Development Rights which may be exercised during the Development Period: (i) to add real property to the Property; (ii) to create Units, General Common Elements and Limited Common Elements within the Property; (iii) to subdivide Units or convert the Units into Common Elements; and (iv) to withdraw from the Property any portion of the real property marked on the Plat as "Development Rights Reserved" or "Subject to Development Rights", provided that no Unit in the portion to be withdrawn has been conveyed to an Owner other than Declarant.

B.3.7 Development Rights Reserved. Regarding portions of the real property shown on the Plat as "Development Rights Reserved" or "Subject to Development Rights", if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

B.3.8 Amendment. During the Development Period, Declarant may amend this Declaration, the Bylaws, and the other Documents, without consent of other Owners or any Mortgagee, for the following limited purposes:

- (i) To meet the requirements, standards or recommended guidelines of an institutional or governmental lender to make or purchase mortgage loans on the Units.
- (ii) To correct any defects in the execution of this Declaration or the other Documents.
- (iii) To add real property to the Property, in the exercise of statutory Development Rights.
- (iv) To create Buildings, Units, General Common Elements and Limited Common Elements within the Property, in the exercise of statutory Development Rights.
- (v) To subdivide, combine or reconfigure Units or convert Units into Common Elements, in the exercise of statutory Development Rights.
- (vi) To withdraw from the Property any portion of the real property marked on the Plat as “Development Rights Reserved” or “Subject to Development Rights” in the exercise of statutory Development Rights.
- (vii) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors or omissions in the Documents.
- (viii) To change the name or entity of Declarant.
- (ix) For any other purpose, provided the amendment has no material adverse effect on any right of any Owner.

B.4 Special Declarant Rights. As permitted by the Act, Declarant reserves the below described Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Property during the Development Period. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right may be exercised by Declarant so long as Declarant holds a Development Right to create additional Units or Common Elements or Declarant owns a Unit, whichever ceases last. Earlier termination of certain rights may occur by statute.

- (i) The right to complete or make improvements indicated on the Plat or Plans.
- (ii) The right to exercise any Development Right permitted by the Act and this Declaration.

- (iii) The right to make the Property part of a larger condominium or planned community.
- (iv) The right to use Units or leased by Declarant as models, storage areas and offices for the marketing, management, maintenance, customer service, construction and leasing of the Property.
- (v) For purposes of promoting, identifying and marketing the Property, Declarant reserves an easement and right to place or install signs, banners, flags, display light, potted plants, exterior decorative items, seasonable decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and occupants. Declarant reserves an easement and right to maintain, relocate, replace or remove the same from time to time within the Property.
- (vi) Declarant has an easement and right of ingress and egress in and through the Common Elements and Units owned or leased by Declarant for purposes of constructing, maintaining, managing and marketing the Property, and for discharging Declarant's obligations under the Act and this Declaration.
- (vii) The right to appoint or remove any Declarant-appointed officer or director of the Association during the Declarant Control Period consistent with the Act.

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

- (i) An easement and right to erect, construct and maintain on and in the Common Elements and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance and marketing of the Property.
- (ii) The right to sell or lease any Unit owned by Declarant. Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained elsewhere in this Declaration or the other Documents.
- (iii) An easement and right to make structural changes and alterations on Common Elements and Units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered Common Elements and Units to conform to the architectural standards of the Property. The restoration will be done within 120 days after termination of the Development Period.
- (iv) The right to provide a reasonable means of access for interested purchasers or tenants through any gated entrance in connection with the active

marketing of Units by Declarant, including the right to require that any gates be kept open during certain hours or on certain days.

- (v) The right to maintain signs for the purpose of marketing Units.
- (vi) The right to maintain a sales office and model Units.
- (vii) The right to assign parking spaces shown on the Plat or Plans as Limited Common Elements.

B.6 Working Capital Fund. Declarant may establish a working capital fund for the Association. If Declarant establishes this fund, each Unit's contribution will be collected when the sale of the Unit closes to an Owner other than Declarant or an affiliate of Declarant. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Not later than termination of the Declarant Control Period, the working capital fund will be transferred to the Association for deposit to a segregated fund. During the Declarant Control Period, the fund may be used to pay the Association's operational expenses. Declarant may not use the fund to defray Declarant's expenses, reserve contributions or construction costs. Declarant is not required to make contributions for any Unit owned or retained by Declarant, or for any Unit for which the contribution was not collected at closing.

B.7 Successor Declarant. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Official Public Records of Comal County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

B.8 Declarant's Mortgage. Any Mortgage of the Declarant's interest in the Project will be deemed to include the Special Declarant Rights; and any foreclosure sale pursuant to such Mortgage automatically conveys the Special Declarant Rights.

EXHIBIT C

Map or Plat

The Map or Plat of the Project follows on the next 3 pages, consisting of the Surveyor's Certificate and the survey prepared by Drew A. Mawyer, Registered Professional Land Surveyor.

SURVEYOR'S CERTIFICATE

I hereby certify that on February 28, 2017:

1. **Survey.** The survey was made on the ground as per the description shown on this survey and correctly shows the matters listed in paragraphs 2-10 below. The survey is an accurate on-the-ground instrument survey titled "Condominium Plat of Lot 33R2, Replat of Lot 33R, Amending Plat of Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 27, 32 and 33 of CREEKSIDE WELLNESS CENTER SUBDIVISION, a subdivision in Comal County, Texas, according to replat recorded as Document No. 201406030319 of the Map and Plat Records, Comal County, Texas", Job No. SEI 007 (the "Survey") of the premises (the "Property") and was conducted under my direction according to local professional practices. The Property is also described on Exhibit A attached to the Declaration of Creekside Professional Plaza 2, a Condominium ("Declaration"). The Survey shows all perimeter land boundaries of the condominium as required by §82.059 of the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code.
2. **Correct.** The Survey, the information, and the legal description, including courses and distances shown thereon, are correct. The Survey correctly shows (i) the boundaries and areas of the Property and the location and type of improvements thereon (if any); (ii) the location of all rights-of-way, easements and other matters of record (or of which I have knowledge or have been advised, whether or not of record) affecting the Property; (iii) all abutting dedicated public streets providing access to the Property together with the width and name thereof.
3. **Monuments.** All monuments shown on the Survey actually exist, and the location, size and type of materials thereof are correctly shown.
4. **Boundary and Possession Lines.** The title lines and lines of actual possession of the Property are the same, except as shown.
5. **Easements.** There are no easements, rights-of-way, old highways or abandoned roads, lanes, driveways or uses affecting the Property appearing from a careful physical inspection of the same, other than those shown and depicted on the Survey. The Survey shows the location of all easements serving or burdening any portion of the condominium, and the location of any underground utility line that is actually known by the Surveyor to have been constructed outside a recorded easement.
6. **Encroachments.** Except as shown on the Survey, there are no visible above-ground encroachments upon the Property by improvements on adjacent property; visible above-ground encroachments on adjacent property, or roads by any improvements on the Property.
7. **Conflicts.** Except as shown and specifically identified as such on the Survey, there are no visible discrepancies, conflicts, shortages in area or boundary line conflicts.

8. **Easements.** All recorded easements and other exceptions, as noted in New Braunfels Title Company Commitment GF#085123NBT have been correctly platted on the Survey.
9. **Utility Improvements.** The Survey shows the location of any visible telephone, telegraph, electric or other power lines, wires and poles on the Property.
10. **Improvements.** As of the date of the Survey, there are no improvements on the Property. The location of each of the two single-story buildings which must be constructed on the Property as per the Declaration is shown on the Survey. The distance and bearings locating each building from all other buildings and from at least one boundary line of the Property constituting the condominium are shown. The location and dimensions of Limited Common Elements, other than those described by §§ 82.052(2) and (4) of the Texas Uniform Condominium Act, are also shown to the extent known by the undersigned.
11. **Survey Criteria.** This Survey conforms to the (1) current standards promulgated by the Texas Board of Professional Land Surveying and (2) conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A, Condition 1 Land Title Survey. This Survey contains all information required to be shown on a condominium plat under §82,059 of the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code.




DREW A. MAWYER
Registered Professional Land Surveyor
Texas Registration No. 5348
2700 Rolling Creek
Spring Branch, TX 78070
(210) 325-0858
drewm@dam-tx.com

DATE: FEBRUARY 2017 3:01 PM



LEGAL DESCRIPTION OF PROPERTY
BEING LOT 33R2, REPLAT OF LOT 33R, CREEKSIDE WELLNESS CENTER,
A SUBDIVISION IN COMAL COUNTY, TEXAS IN PLAT RECORDED UNDER
DOCUMENT NO. 201408030319 IN THE MAP AND PLAT RECORDS OF
COMAL COUNTY, TEXAS.

CONDOMINIUM PLAT OF
CREEKSIDE PROFESSIONAL PLAZA 2

- LEGEND:
● (R) 1/2" DIA. 1/2" RISE PN
● UNLESS OTHERWISE NOTED
○ = PAVEMENT SPACE
□ = SQUARE FOOT
A.E. = ACCESS EASEMENT
R.O.W. = RIGHT-OF-WAY

SCALE: 1" = 40'



LOCATION MAP
N.T.S.

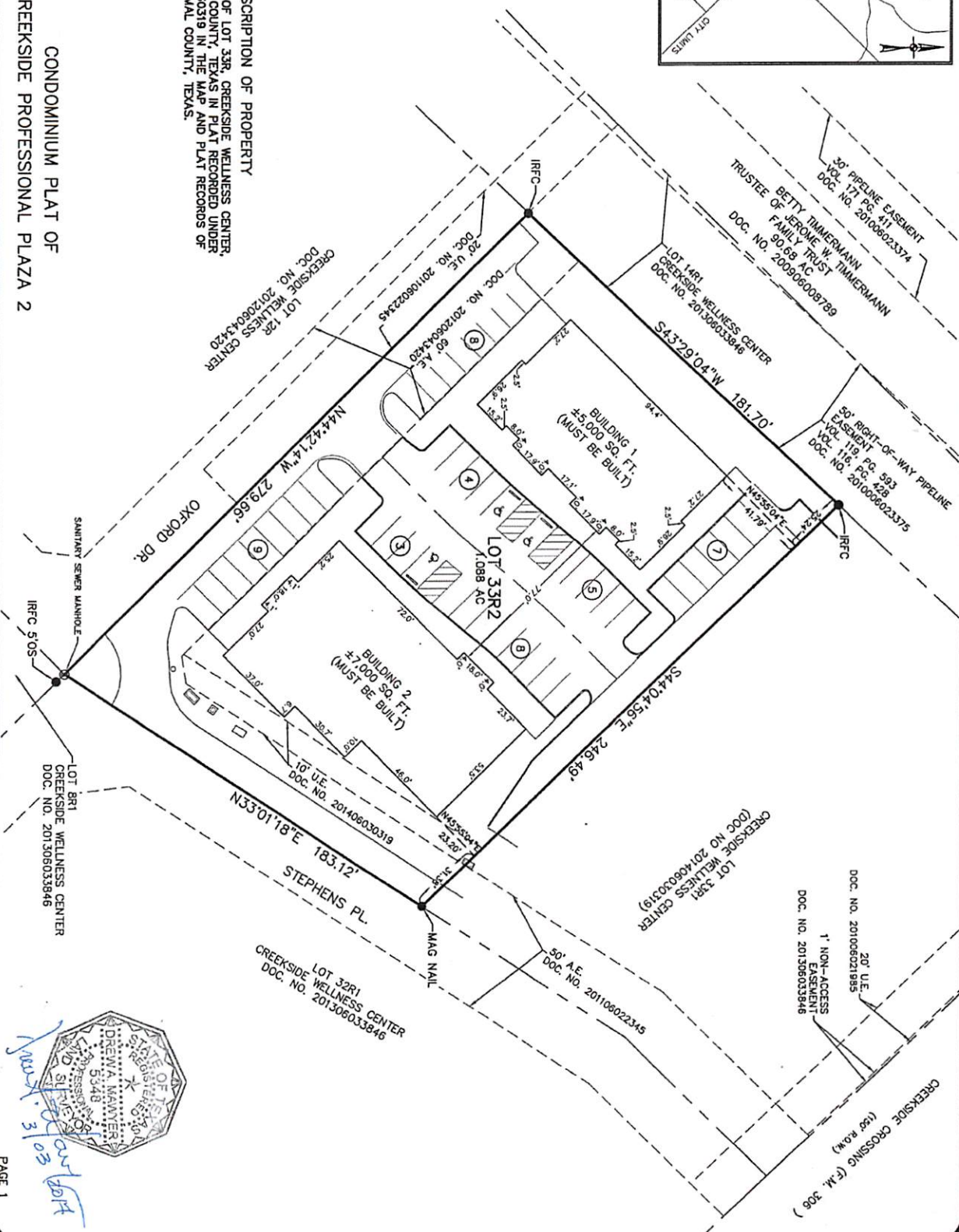


EXHIBIT D

Plans

The Plans of the Project follow on the next 3 pages, consisting of the Architect's Certificate and the plans prepared by Greg T. Shue of Open studio architecture, PLLC.

EXHIBIT D
THE PLANS

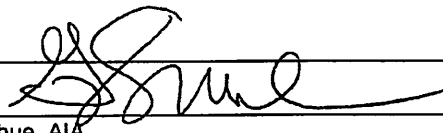
Architect's Certificate

The undersigned Architect hereby certifies that I have prepared the attached Plans, consisting of sheets 1 through 2 and that:

- A. **Items Depicted.** For the specific use of this project, the Plans depict among other matters the following:
1. These Plans are intended to document the "Creekside Professional Plaza 2, a Condominium", located at Lot 33R2 Creekside Wellness Center Subdivision, in the City of New Braunfels, Comal County, Texas, prepared for the purpose of compliance with §82.059 of the Texas Uniform Condominium Act of the Texas Property Code.
 2. All dimensions shown on the Plans represent the distance between the exterior face surface of exterior outside walls of each unit to the interior face surface of the sheetrock material at the party wall dividing the units. For the purposes of this description of interior space, the off-set distances at doors and windows were not considered.
 3. The dimensions in each Unit represent a finding at a general condition which is then used as a constant and do not represent an exhaustive effort to verify the same condition at multiple locations.
 4. Interior walls and partitions within each Unit have not been shown on the Plans.
 5. Each Unit is independent such that no unit has another unit above or below.
- B. **Plan Criteria.** The attached Plans contain the following information required to be shown on condominium plan under §82.059(d) of the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code. These dimensions, the General Notes shown on the attached plans and General Notes 1 through 5 above are to the best of my knowledge accurate as represented.
1. The location and dimensions of the vertical boundaries of each unit, and the unit's identifying number;
 2. The horizontal unit boundaries, with reference to established data, and the unit's identifying number;
and
 3. Any units, appropriately identified, in which the declarant has reserved the right to create additional units or common elements.

Dated: February 27, 2017.

Open studio architecture, PLLC

By: 
Name: Greg T. Shue, AIA
Title: Managing Partner

2/28/2017

Address:
816 Camaron Street, Suite 230
San Antonio, Texas 78212
Telephone: 210.417.4307
Email: greg.s@openstudio-usa.com

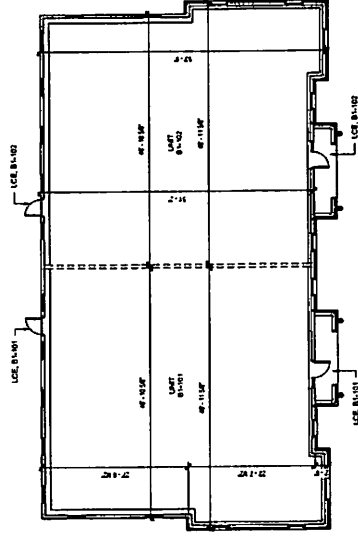
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CREEKSIDE PROFESSIONAL PLAZA 2
 5,000 S.F. SHELL BUILDING
 475 OXFORD
 NEW BRAUNFELS, TEXAS

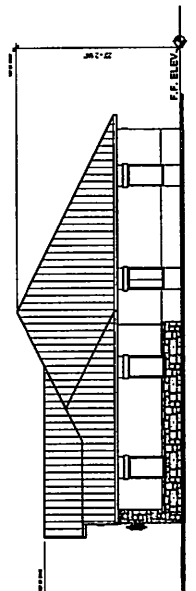
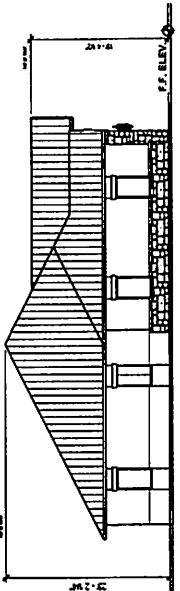
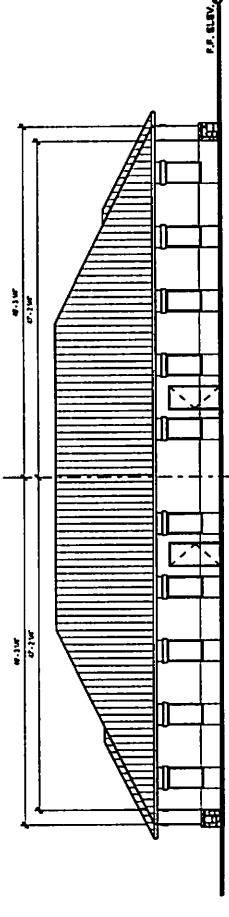
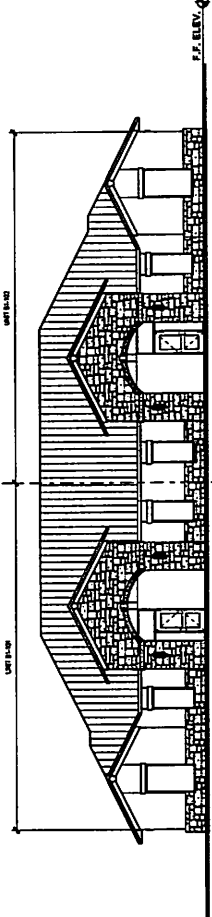
PROJECT #: 17207
 DATE: 02/17
 DRAWN BY: USA
 CHECKED BY: OSA
 DRAWING TITLE: BUILDING #1

DRAWING NUMBER:

- GENERAL NOTES**
1. THIS DRAWING WAS PREPARED TO SERVE AS A PLAN OF THE CREEKSIDE PROFESSIONAL PLAZA 2 TO BE LOCATED AT 475 OXFORD, NEW BRAUNFELS, TEXAS.
 2. ALL DIMENSIONS SHOWN ON THIS PLAN REPRESENT THE TO-MEASUREMENT DISTANCE BETWEEN THE FINISHED SURFACE OF THE STRUCTURAL MATERIAL AT EACH UNIT'S OUTSIDE WALL CONSTRUCTION.
 3. THE DIMENSIONAL DIMENSIONS REPRESENT A GENERAL CONDITION WHICH IS TO BE USED AS A CONSTANT AT MULTIPLE LOCATIONS.
 4. EXTERIOR WALLS AND PARTITIONS WITHIN EACH UNIT HAVE NOT BEEN SHOWN ON THIS PLAN.
 5. PORTALS ARE LIMITED COMMON ELEMENTS (L.C.E.'S) LOCATED EXCLUSIVELY TO UNITS.
 6. PORTALS ARE LIMITED COMMON ELEMENTS (L.C.E.'S) LOCATED EXCLUSIVELY TO UNITS. PORTALS INSTALLED BY OPEN STUDIO ARCHITECTURE AND ARE NOT BE USED UPON ACTUAL ON-SITE OBSERVATIONS AND MEASUREMENTS.
 7. UNIT WALLS ARE CONSIDERED TO BE COMMON ELEMENTS (L.C.E.'S) OF PARTY WALLS AND ARE TO BE CONSIDERED AS SUCH FOR ALL MEASUREMENTS.



- NOTES**
1. UNIT 81-101 - 2,500 SQUARE FEET (APPROXIMATELY)
 2. UNIT 81-102 - 2,500 SQUARE FEET (APPROXIMATELY)
 3. VERTICAL BOUNDARIES OF UNIT 81-101 & 81-102, 10-0" FROM FLOOR TO UNDERSIDE OF CEILING

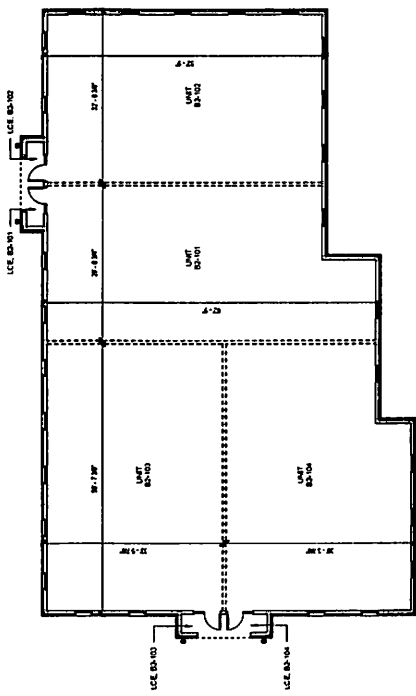


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CREEKSIDE PROFESSIONAL PLAZA 2
7,000 S.F. SHELL BUILDING
479 OXFORD
NEW BRAUNFELS, TX

PROJECT #: 17267
DATE: 02.11.17
DRAWN BY: JAW
CHECKED BY: CHS
DRAWING TITLE: BUILDING #2
DRAWING NUMBER:

- GENERAL NOTES**
1. THESE PLANS ARE INTENDED TO SERVE AS A PLAN OF THE CREEDENCE PROFESSIONAL PLAZA 2 SHELL LOCATED AT 479 OXFORD, NEW BRAUNFELS, TEXAS.
 2. THE PLANS SHOW THE EXISTING CONDITIONS AND THE PROPOSED CONSTRUCTION BETWEEN THE INTERIOR FACE OF THE EXTERIOR WALLS AND THE INTERIOR FACE OF THE EXTERIOR WALLS AT EACH UNIT'S OUTSIDE WALL CONDITION.
 3. THE PLANS SHOW THE EXISTING CONDITIONS AND THE PROPOSED CONSTRUCTION INCLUDING A COMMON ELEMENT (C.E.) COMMON ELEMENT WHICH IS TO BE SHARED BY THE UNITS.
 4. INTERIOR WALLS AND PARTITIONS WITHIN EACH UNIT HAVE NOT BEEN SHOWN ON THE PLANS.
 5. PORTCHES ARE LIMITED COMMON ELEMENTS (C.E.) ALLOCATED EXCLUSIVELY TO UNITS. THE COMPOSITION OF THESE PORTCHES IS BASED UPON TEN CONSTRUCTION UNITS. PORTCHES ARE NOT SHOWN ON THIS PLAN. PORTCHES ARE NOT BASED UPON ACTUAL ON-SITE OBSERVATIONS AND MEASUREMENTS.
 6. PARTY WALLS ARE CONSIDERED AS COMMON ELEMENTS. THE DEPTH OF PARTY WALLS AND EXTERIOR PERIMETER WALLS HAVE NOT BEEN NOTED.



FLOOR PLAN - BUILDING 2
LEGEND: LCE - LIMITED COMMON ELEMENT

- NOTES**
1. UNIT BS-101 - 1,729 SQUARE FEET (APPROXIMATELY)
 2. UNIT BS-102 - 1,729 SQUARE FEET (APPROXIMATELY)
 3. UNIT BS-104 - 1,716 SQUARE FEET (APPROXIMATELY)
 4. UNIT BS-104 - 1,716 SQUARE FEET (APPROXIMATELY)
 5. VERTICAL BOUNDARIES OF UNIT BS-101 THRU 104: 10'-0" FROM FLOOR TO UNDERSIDE OF CEILING

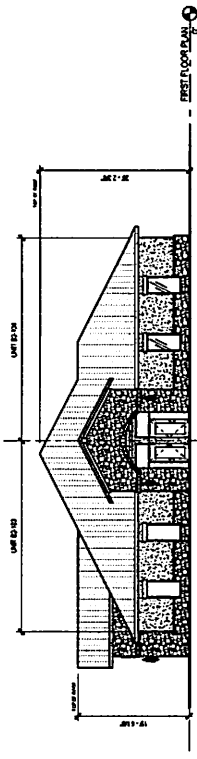
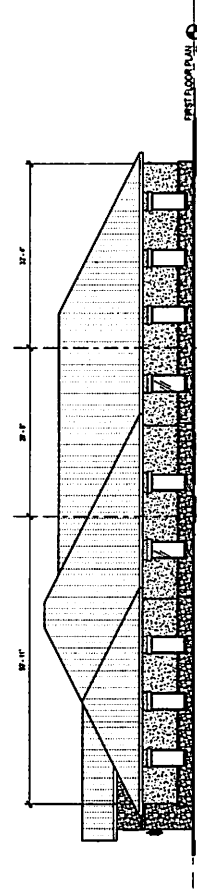
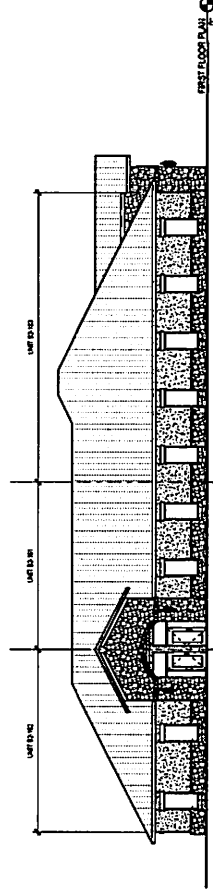
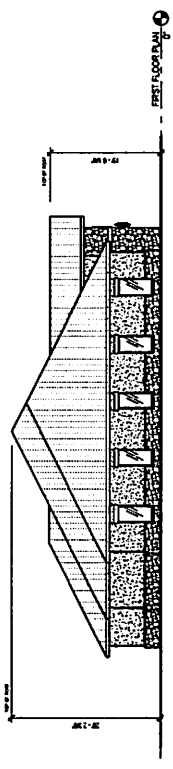


EXHIBIT E

Schedule of Allocated Interests

Building	Unit	Allocated Interest in Common Elements and the Common Expense Liability	Vote
1	B1-101	21.1 %	21.1
1	B1-102	21.1 %	21.1
2	B2-101	14.5 %	14.5
2	B2-102	14.4 %	14.4
2	B2-103	14.5 %	14.5
2	B2-104	14.4 %	14.4

EXHIBIT F

Schedule of Encumbrances

1. Restrictive covenants of record in Document No. 200606038677, Document No. 201006007306, Document No. 201306022512, Document No. 201306022526 and Document No. 201306004586, all in the Official Public Records of Comal County, Texas; and Document No. 201006021985, Document No. 201106022345, Document No. 201206043420, Document No. 20130603384 and Document No. 201406030319 of the Map and Plat Records of Comal County, Texas.
2. Terms, conditions, stipulations, assessments, easements and restrictions as set forth in Document No. 201306022512 and Document No. 2013106022526 of the Official Public Records of Comal County, Texas.
3. Portion of 50 foot access easement along southern property line, and portion of 60 foot utility easement along northwest property line as shown on plats recorded under Document No. 201106022345, Document No. 201206043420 and Document No. 201406030319, Map and Plat Records of Comal County, Texas.
4. Utilities will possess a 5 foot wide service easement to the dwelling along the service line and have access to the meter locations as recited on plat recorded under Document No. 201406030319, Map and Plat Records of Comal County, Texas.
5. Terms and conditions of Reciprocal Easement Agreement recorded under Document No. 201306022511, Official Public Records of Comal County, Texas.
6. Easements for streets, utilities and parking included within Gabriel's Place, Stephens Place and Oxford Drive as shown on the plat recorded as Document No. 201206043420 of the Map and Plat Records of Comal County, Texas, designated as Master Community Facilities in Document No. 201306004586 of the Official Public Records of Comal County, Texas, and conveyed to CWC 306 Master Community, Inc. in Document No. 201306048046 of the Official Public Records of Comal County, Texas.
7. 10 foot utility easement along the southern property line as shown on plat recorded under Document No. 201406030319, Map and Plat Records of Comal County, Texas.
8. Subject property lies within the Edwards Water District.

EXHIBIT G

Identification of Property Subject to Annexation

In the exercise of its Development Rights, Declarant identifies the following properties which may be annexed to the Property:

Lots 15, 16, 17 and 18, CREEKSIDE WELLNESS CENTER, a subdivision in Comal County, Texas, as per plat recorded as Document No. 201206043420, Map and Plat Records of Comal County, Texas.

Filed and Recorded
Official Public Records
Bobbie Koepf, County Clerk
Comal County, Texas
03/21/2017 04:05:30 PM
MEDINM 70 Page(s)
201706013973



Bobbie Koepf