

CONDOMINIUM DECLARATION

FOR

EIBANDS LUXURY CONDOMINIUMS

Made and Established on _____, 2006.

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CONDOMINIUM DECLARATION
FOR
EIBANDS LUXURY CONDOMINIUMS

This Condominium Declaration is made and established on _____, 2006, by Declarant;

RECITALS:

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

NOW, THEREFORE, Declarant does hereby submit the Property to the provisions of the Act and the Condominium established hereby, and does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations are hereby established and shall be deemed to run with the Property and shall be a burden and benefit to Declarant, the Association, the Owners and their respective heirs, legal representatives, successors and assigns:

ARTICLE I

Definitions

Section 1.1 Terms Defined. As used in this Declaration, the following terms shall have the meanings set forth below, provided that those capitalized terms not expressly defined herein shall have the same meaning as defined in the Declaration:

"Access Easement." A perpetual, irrevocable, assignable and non exclusive easement as more particularly described in Section 3.7(a) of this Declaration.

"Acquired Property." Shall have the meaning set forth in Section 13.2 of this Declaration.

"Act." The Uniform Condominium Act, Texas Property Code, Chapter 82, Section 82.001 et seq., as amended from time to time.

"Affiliate." As defined in Section 82.003(1) of the Act.

"Allocated Interests." The undivided interests of each Owner in the Common Elements and the Common Expenses allocated to each Unit as reflected on Exhibit "C" attached to this

Declaration, as may be reallocated in accordance with the Reallocation Percentages as required from time to time pursuant to this Declaration.

"Articles." The articles of incorporation of the Association filed with the Secretary of State of Texas, as amended from time to time.

"Assessments." Monthly Assessments, Special Assessments and Individual Assessments, due to the Association by an Owner, or levied against a Unit by the Association.

"Association." Eibands Luxury Condominiums Association, Inc., a Texas non-profit corporation organized under the Act and created for the purposes and possessing the rights, powers and authority set forth of this Declaration and in the Articles.

"Board of Directors." The board of directors (sometimes herein referred to as the "Board") of the Association named in the Articles and their successors as duly elected and qualified from time to time.

"Budget." A budget prepared by the Association that includes the anticipated Common Expenses and Charges for the Property for the ensuing year.

"Building." The structure located on the Property, as shown on the Map, and described on Exhibit "A" attached to this Declaration which structure contains the Units, including all Common Elements thereof but excluding those elements otherwise within the definition of a Unit.

"Bylaws." The bylaws of the Association, as amended from time to time, adopted by the Board of Directors.

"Charges." Any costs, expenses, dues, interest fees, late fees, fines, collection costs, attorney's fees and any other sums arising under the Governing Documents owing to the Association.

"Common Elements." The Limited Common Elements and the General Common Elements.

"Common Elements Easement." A perpetual, irrevocable, assignable and non-exclusive easement as more particularly described in Section 3.7(b) of this Declaration.

"Common Expenses." Expenses for which the Association is responsible, including: (i) the Expenses; (ii) those insurance coverages as may be maintained by the Association as described in Section 6.2 of this Declaration; (iii) Governmental Impositions levied against the Common Elements; (iv) utilities related to the Common Elements; (v) professional services for the Association, such as management, accounting and legal services; and (vi) such other costs and expenses as may be incurred by the Association with respect to the proper maintenance, care, operation, management and administration of the Association and the Common Elements.

"Condominium." The form of real property established by this Declaration with respect to the Property, in which portions of the Property are designated for individual ownership or

occupancy and the remainder of the Property is designated for common ownership or occupancy solely by the Owners of such portions, and initially consisting of twenty-four (24) Residential Units and one (1) Retail Unit, each a Condominium Unit.

"County." Galveston County, Texas.

"Declarant." Gal Gate, LLC, a Texas limited liability company, and its successors and assigns, having the rights, powers, authority and obligations described in this Declaration evidenced by a written instrument filed for record in the real property records of the County assigning the rights, powers, authority and obligations of Declarant under this Declaration.

"Declarant Control." The period commencing on the date of this Declaration and continuing until one hundred twenty (120) days after the date that deeds to not less than 75% of the Units have been recorded in the real property records of the County, subject, however to the provisions of Section 10.2.

"Declarant's Mortgagee." Any Person that is the holder of the Lien Indebtedness of Declarant.

"Declaration." This Condominium Declaration for Eibands Luxury Condominiums and all recorded amendments thereto, which Declaration and all amendments thereto, shall be recorded in the real property records of the County.

"Development Rights." A right or combination of rights: (i) to make and record corrections to the Map to conform the Map to the actual location of the Improvements, the actual size and location of the Units and/or the proper designation of the elements of the Improvements as Units or Common Elements; (ii) to create Units or Common Elements within the Condominium and (ii) to convert Units into Common Elements or convert Common Elements into Units. The Development Rights so reserved may be exercised by Declarant to the extent and only if permitted by the Act and at all times while Declarant owns any Unit or other real property interest in the Condominium, or for such lesser time as may be permitted by the Act.

"Dispute." Any claim, grievance or other dispute arising out of or relating to: (i) the interpretation, application or enforcement of the Governing Documents; (ii) any conflict or dispute arising between or among two or more Owners; (iii) the proper party to bear a maintenance cost or expense or a capital expenditure or the proper amount of the expense, fee or Assessment to be charged or collected; (iv) the rights, obligations and duties of any Owner under the Governing Documents; (v) the transfer of control of the Association by the Declarant to the Owners or the physical condition of the Limited Common Elements and/or the Building, which claim, grievance or other dispute maybe asserted against the Declarant only by the Association, but also if attempted to be asserted against the Declarant or the Association of any officer or director thereof by an Owner; (vi) the authority of the Association or Declarant under any Legal Requirement or under the Governing Documents to: (a) require any Owner to take any action or not to take any action involving its Unit; or (b) alter, subtract from or add to the Common Elements or the Condominium; (vii) the interpretation or enforcement of any warranty; or (viii) the failure of the Association, in accordance with Legal Requirements and the Governing Documents, to: (w) properly conduct elections; (x) give adequate notice of meetings or actions;

(y) properly conduct meetings; or (z) allow inspection of books or records. The following shall not be considered "Disputes" unless all parties shall otherwise agree to submit the matter to mediation or arbitration, as applicable, pursuant to Article XI of this Declaration: (i) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of the Governing Documents; (ii) any suit between Owners which does not include the Declarant, or the Association, if such suit asserts a Dispute which would constitute a cause of action independent of any of the Governing Documents; (iii) any disagreement that primarily involves title to any Unit or Common Elements or (iv) any suit in which the applicable statute of limitations would expire within one hundred eighty (180) days of the giving of notice as provided in Article XI of this Declaration unless the Persons against whom the Dispute is made agree to toll the statute of limitations for a period of time necessary to comply with Article XI of this Declaration.

"Easements." Collectively, the Access Easement, Common Elements Easement and Systems Easement.

"Expenses." Expenses allocated to the Owners under this Declaration for which each Owner is responsible for its proportionate share in accordance with its Allocated Interest, including the Owner's portion of those expenses incurred by the Association for (i) maintenance and repair of the Common Elements, (ii) casualty, public liability and other insurance coverage required to be maintained on the Common Elements by the Association, (iii) Governmental Impositions levied and assessed against the Common Elements and (iv) the Owner's portion of all other Assessments described in this Declaration.

"General Common Elements." All portions of the Common Elements that are not the Limited Common Elements. The General Common Elements shall be and include all of the Property and Building except the Units (as defined herein) and shall include, without limiting the generality of the foregoing, all improvements located or to be located on the Property; foundations; supporting columns; girders; beams; slabs; supports; load-bearing walls; shear walls; exterior glass walls; dividing walls between two or more Units or between such Units and Common Elements; roofs; halls; lobbies; walkways; stairs; stairways; fire escapes; entrances and exits of the Building; grounds, if any; all approaches, entrances and exists thereto and therefrom; swimming pool; fitness room and wet areas appurtenant thereto; managerial and security offices, if any; mailrooms; areas used for storage of janitorial supplies, maintenance equipment and materials; trash chute; parking gate; locking mechanism for walk-thru gate; cable television lines, converters, conduit and facilities, telecom rooms, if any; electrical lines and cables up to an including the point of entry into the breaker boxes of a Unit; plumbing fixtures, pipes and lines installed in the walls of the Building or of a Unit that do not exclusively serve a particular Unit, including power, light, water, chilled and heated water lines, heating, air conditioning (including "air handlers" and fan coil units not located within a Unit) and waste collection facilities; elevators; tanks; pumps, motors; fans; compressors; ducts; sidewalks; and in general all apparatus and installations existing for the common use or necessary or convenient to the operation, maintenance and use of the Property, the Building and all other improvements located or to be located on the Property as a condominium; and all repairs and replacements of or additions to any of the foregoing.

"Governing Documents." Individually and collectively, the Act, this Declaration, the Articles, the Bylaws and the Regulations.

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

"Improvements." The Building, including their infrastructure and Structure, and the pavement, fencing, landscaping, facilities, Systems and man-made objects of every type, existing or in the future placed on the Property, including all cable television, cellular phone, internet and other utility or communication installations or equipment.

"Individual Assessments." Assessments levied by the Association against one or more but less than all Owners pursuant to Section 7.2 of this Declaration.

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

"Insurance Trustee." The Association acting as a trustee in connection with the Insurance Proceeds.

"Legal Requirements." Any and all then-current judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any federal, state or municipal authority or any quasi-governmental authority in any way applicable to any Owner's use and enjoyment of the Condominium, or any Unit, including the Restrictive Covenants, zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier, health and environmental laws and regulations.

"Lien Indebtedness." Any bona fide indebtedness, which is the result of an arm's length negotiation, that is secured by a lien or encumbrance upon a Unit.

"Limited Common Elements." Those portions of the Common Elements that are allocated by this Declaration and the Map for the exclusive use by one or more, but less than all of the Units, including, without limitation, a) if any chute, duct, wire, conduit, bearing wall, bearing column, or any other fixture is partially within and partially outside the designated boundaries of a Unit, and 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; b) if any shutters, awnings, window boxes, fire shutters, if applicable, and exterior doors and window 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; c) stairways, the use of which is limited to certain Units as shown on the Map; d) Parking Spaces and Storage Spaces shall be Limited Common Elements for the exclusive use of the Unit Owner of the Unit to which they are assigned of record by the Declarant; e) storm windows and storm doors, if any, will be Limited Common Elements of the

Unit which they service and f) mailboxes, name plates and exterior lighting affixed to the Building, if any, will be Limited Common Elements allocated to the Units served.

"Maintenance Standard." Maintenance in good repair in an attractive and clean condition, including the operation, upkeep, repair and restoration, ordinary wear and tear excepted, to the extent necessary to maintain the Condominium or the Units, as applicable, in a condition reasonably suitable for its intended purpose.

"Manager." Any professional manager or management company with whom the Association contracts for the day-to-day management of either or both of the Condominium or the administration of the Association.

"Map." The plats and plans in Exhibit "B", attached to this Declaration and made a part of this Declaration, including a survey plat of the Property and dimensional drawings that horizontally and vertically identify and describe the Units and describe the Common Elements.

"Monthly Assessment." Assessments established and collected by the Board of Directors pursuant to Article VII of this Declaration for payment of the Common Expenses and other Charges when due.

"Mortgagee." Any Person, including Declarant's Mortgagee, so long as Declarant is an Owner, that is the holder of Lien Indebtedness and which has provided the Association with written notice of its name, address and description of the Unit encumbered by such Lien Indebtedness.

"Owner." Any Person (including Declarant) owning fee title to a Unit, which Unit includes an undivided interest in the Common Elements, but excluding a Person having an interest in a Unit solely as security for an obligation.

"Parking Lot." The above-ground parking lot located at 2220 Church Street, Galveston, Texas 77550, as shown on the Map.

"Parking Spaces." Those portions of the Parking Lot used exclusively for the parking of automobiles by the Owners and which are designated as a Limited Common Element appurtenant to Units, as more particularly described in Section 3.4 of this Declaration, as shown on the Map.

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

"Person." Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other legal entity, including any public or governmental body, agency or instrumentality and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Property." The Units and the Common Elements.

"Reallocation Percentage." The percentage of the undivided interest of each Owner in the Common Elements, as set forth on a Supplemental Declaration, determined by dividing (i) the square footage of a Unit by (ii) the combined total square footage of all of the Units which measurement of the square feet within each Unit shall be done in the same manner as the measurement used to establish the initial Allocated Interests set forth on Exhibit "C", attached to this Declaration.

"Regulations." The Rules and Regulations for the Eibands Luxury Condominiums, adopted by the Board of Directors of the Association, as amended from time to time.

"Rents." Any and all rental or other income received by an Owner in connection with the leasing of a Unit or the granting or licensing of a right to use all or any portion of such Unit.

"Retail Unit." The Unit designated as a retail unit on the map, comprising approximately 9,676 square feet on the first floor of the Building.

"Special Assessments." Assessments established and collected by the Association pursuant to Article VII of this Declaration for payment when due of costs relating to the repair and restoration of the Common Elements, and for payment of non-recurring Common Expenses, when due.

"Special Declarant Rights." Rights reserved for the benefit of Declarant to (i) exercise any Development Right; (ii) use any Easement for the purpose of making improvements within the Condominium or on the Property; (iii) appoint or remove any officer or board member of the Association during the period of Declarant Control; and (iv) exercise the rights and powers enumerated in Section 3.6 of this Declaration.

"Storage Spaces." Those approximately 24 storage closets located on the first floor used exclusively for the storage of items by the Owners, as more particularly described in Section 3.3 of this Declaration, and which are Limited Common Elements as shown and numbered on the Map.

"Structure." All foundations, footings, columns, flat slabs, sheer walls, girders, support beams, post tension cables or rods and including any and all other structural components that support, uphold or are a part of the Building.

"Supplemental Declaration." An instrument executed by Declarant and recorded in the real property records of the County for the purpose of modifying the Allocated Interests, adding to the Condominium, withdrawing any portion thereof from the effect of this Declaration or for such other purposes as are provided in this Declaration.

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

"Systems Easement." A perpetual, irrevocable, assignable and non-exclusive easement as more particularly described in Section 3.7(c) of this Declaration.

"Taking." The taking or threat of taking of all or a portion of the Property for any public or quasi-public use, by eminent domain proceedings or otherwise, by a governmental agency or quasi-governmental agency or by an action in the nature of eminent domain (whether permanent or temporary) or the sale or other transfer of the Property in lieu thereof.

"Tenant." Any Person having the right to occupy a Unit pursuant to a lease granted by an Owner.

"Unit." The physical portion of the Condominium that is designated for separate ownership or occupancy (the boundaries of which Unit are depicted on the Map) with the unrestricted right of ingress thereto and egress therefrom, together with an undivided interest, appurtenant to such Unit, in and to the Common Elements, and included within the boundaries of each Unit, without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the interior walls, floors or ceilings (such as, but without limitation, paint, wallpaper, wall or floor coverings and carpets); interior walls and doors separating rooms within Unit; and all utility pipes, lines, systems, fixtures or appliances servicing only that Unit, including, without limitation, hot water heaters, chilled and heated water pipes, air handlers, fan coil units and all visible and exposed plumbing fixtures, lines and pipes within the boundaries of a Unit. It is expressly stipulated, and each and every purchaser of Unit, its heirs, executors, administrators, assigns, successors and grantees hereby agree, that the square footage, size and dimensions of each Unit as set out and shown in this Declaration or in the Maps attached as exhibits hereto are approximate and are shown for descriptive purposes only, and that the Declarant does not warrant, represent or guarantee that any Unit actually contains the area, square footage or dimensions shown by the Maps attached hereto. No Owner or purchaser of a Unit shall have any claim, demand or other action against the Declarant on account of any difference, shortage or discrepancy between the Unit as actually and physically existing and as it is shown on the Maps attached hereto. Timeshare estates or interests will not be created with respect to any of the Units in the Condominium.

"Working Capital Contribution." An amount equal to the Monthly Assessment multiplied by two to be contributed to the Association by each Owner (but not the Declarant) as provided in Section 10.3 of this Declaration.

ARTICLE II

General Provisions

Section 2.1 Creation of Units, Map.

(a) The Property is hereby divided into fee simple estates composed of separately designated Units and each such Unit's 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. The separate parcels of and estates in real property designated hereby shall be created on the date of filing of this Declaration in the

condominium records of the County and shall continue until this Declaration is revoked or terminated in the manner provided in this Declaration.

(b) The Map sets forth, among other things, the following: (i) a general description and diagrammatic plan of the Condominium; (ii) the location and dimension of all real property subject to the Development Rights; (iii) all major improvements to the Units, showing its location within the Buildings, the floor and the number of the Unit and, by identifying unit number as applicable, the Limited Common Elements appurtenant thereto; (iv) the location of the Parking Spaces and Storage Spaces designated for use by the Owners; and (v) such other information as is desirable or required pursuant to the Act, including a certification as to compliance with the Act. The measurements set forth on the Map as to each Unit are approximate values taken from the plans and specifications for the Property and may not be precisely accurate as to any Unit due to variances in construction and interior floor plans. THE DECLARANT, ANY OWNER, AND THEIR SUCCESSORS, ASSIGNS, OR DESIGNEES SHALL NOT BE LIABLE TO ANY OWNER AS A RESULT OF ANY DISCREPANCIES IN ACTUAL MEASUREMENTS FROM THOSE SET FORTH ON THE MAP OR IN ANY CONDOMINIUM PURCHASE CONTRACT TO WHICH DECLARANT, AND ITS SUCCESSORS, ASSIGNS, OR DESIGNEES, IS OR WAS A PARTY, AND EACH OWNER, BY ACCEPTING A DEED TO A UNIT, WAIVES ANY SUCH CLAIM OR CAUSE OF ACTION AGAINST DECLARANT AND ITS SUCCESSORS, ASSIGNS, OR DESIGNEES.

(c) Notwithstanding anything contained in this Declaration to the contrary, the Owner(s) of the Retail Unit shall have no right to use the General Common Elements, including, without limitation, no right to use the swimming pool, exercise room, lobby, elevators, parking spaces or any Limited Common Elements appurtenant only to other Units. The sole purpose of assigning the Owner of the Retail Unit a percentage interest in Common Elements is for purposes of exercising voting rights and such Owner's entitlement to insurance proceeds and/or condemnation awards, as more particularly described in Articles VIII and IX.

Section 2.2 Allocation of Interests in Common Elements. The initial Allocated Interests have been determined by dividing the square footage of each Unit by the aggregate square feet of all Units and the Allocated Interest of each Unit is shown opposite the Unit numbers in Exhibit "C" attached to this Declaration. The Common Elements shall remain undivided. Each Supplemental Declaration filed in order to reflect changes to the actual measurements of any Unit shall include a revised listing of all Units reflecting the Reallocation Percentage opposite the description of the Unit.

Section 2.3 Inseparability of Units; No Partition. Each Unit shall be inseparable and shall be acquired, owned, conveyed, transferred, leased and encumbered only as an entirety. In no event shall a Unit be subject to physical partition and no Owner shall 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*.

Section 2.4 Permissible Relationships; Description.

(a) A Unit may be acquired and held by more than one Person in any form of ownership recognized by the Legal Requirements.

(b) Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of a Unit shall legally describe such Unit by its identifying Unit designation, followed by the words "Eibands Luxury Condominiums, located in Galveston County, Texas," with further reference to the recording data for this Declaration (including the Map and any amendments to the Declaration). Every such description shall be good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Unit, and any such description shall be construed to include all incidents of ownership relating to a Unit.

Section 2.5 Obligations of Owners and Units. Upon the filing of this Declaration and the acceptance of a deed to a Unit by an Owner, any and all obligations (including the obligations to pay Assessments as defined in this Declaration), liabilities, limitations, rights, benefits or burdens that are vested, or that may in the future become vested, in or upon the Declarant pursuant to this Declaration are hereby assumed by each Owner and shall automatically be the joint obligations (including the obligations to pay Assessments, as defined in this Declaration), liabilities, rights, benefits or burdens of the Owners and the Units. The Owner of the Retail Unit shall pay a separate Monthly Assessment as determined by the Board of Directors. EACH OWNER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE BOARD OF DIRECTORS AND DECLARANT FROM SUCH OWNER'S SHARE OF ANY AND ALL LIABILITIES, COSTS, EXPENSES (COMMON OR OTHERWISE), CHARGES AND ASSESSMENTS RELATING OR APPERTAINING TO ITS UNIT.

Section 2.6 Right to Bring Action Regarding Common Elements. No Owner, individually or collectively with any other Person, including the Owners, shall have the right to assert a claim or institute a cause of action, subject to mediation and arbitration as provided herein, against the Declarant or any officer or director of the Association with respect to any Common Elements, such right to assert a claim or institute a cause of action against the Declarant or any officer or director of the Association being hereby assigned by each Owner to the Association. The Association shall be the sole Person entitled to assert a claim or institute a cause of action, subject to mediation and arbitration as provided herein, against the Declarant or any officer or director of the Association with respect to any Common Elements. The provisions of this Section 2.6 shall not otherwise limit the right of an Owner to assert a claim or institute a cause of action, subject to mediation and arbitration as provided herein, against the Declarant or any other Person with respect to such Owner's Unit.

Section 2.7 Mortgage of Unit. An Owner shall be entitled from time to time to mortgage or encumber its Unit by creating a lien covering such Unit under the provisions of a deed of trust, but any lien created thereby shall be subject to the terms and provisions of this Declaration and any mortgagee or other lienholder which acquires a Unit through judicial foreclosure, public sale or any other means shall be subject to the terms and provisions of the Governing Documents. An Owner that mortgages its Unit shall notify the Association, giving the name and address of said Owner's Mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Units."

ARTICLE III

Uses, Reservations and Restrictions

Section 3.1 Permitted Use. Except for those Units owned by Declarant, the Property shall be subject to the limitations on use, occupancy, architectural standards and other matters as are set forth in the Governing Documents. Additionally, except for those Units owned by Declarant, the following use restrictions apply to all Units and to the Common Elements:

(a) Except for those activities conducted as part of the marketing and development program of the Declarant, and with respect to the Retail Units, no industry, business, trade or commercial activities other than home professional pursuits without employees, public visits or nonresidential storage, mail or other use of a Unit shall be conducted, maintained or permitted in any part of a Unit, nor shall any Unit be used or rented for transient, hotel or motel purposes.

(b) No improper, offensive or unlawful use may be made of the Property. Owners shall comply with and conform to all applicable laws and regulations of the United States and the State of Texas and all ordinances, rules and regulations of the City of Galveston, Galveston County, Texas. The violating Owner shall hold harmless the Association and other Owners from all fines, penalties, costs and prosecutions for any violation or noncompliance.

Section 3.2 Leases. Units, Parking Spaces and Storage Spaces may be leased; however: (i) no lease shall be made for transient or hotel purposes, and shall be for a term of at least six (6) months; (ii) such lease shall be in writing, shall state that it is subject in all respects to the provisions of the Governing Documents and shall provide that any failure by the Tenant thereunder to comply with the terms and provisions of Governing Documents shall constitute a default under such lease; (iii) each lease shall be subject to leasing restrictions set forth by the Association in the Governing Documents; (iv) an executed copy of each lease shall be submitted to the Association promptly following execution; and (v) all leases shall be on forms approved by the Association. Parking Spaces and Storage Spaces may be leased only to an Owner or to a Tenant.

Section 3.3 Storage Spaces. All Storage Spaces shall be for the use of the Owners for storage purposes only, shall be considered a Limited Common Element, and shall be subject to the procedures and regulations adopted for the same from time to time by the Association, as described in the Regulations.

Section 3.4 Parking. All Parking Spaces, shall be considered a Limited Common Element, shall be subject to the procedures and regulations set forth in the rules and regulations adopted for the same from time to time by the Association as described in the Regulations.

Section 3.5 Compliance with Governing Documents. Each Owner, by accepting a deed conveying title to a Unit and any Tenant having the right to occupy any portion of a Unit pursuant to a lease granted by such Owner, shall automatically be deemed to have agreed to strictly comply with the provisions of the Governing Documents and all Legal Requirements. A failure or refusal of an Owner to so comply with any such provisions, after written notice, shall

constitute a Dispute that shall be resolved in accordance with Article XI of this Declaration. In addition, an Owner's voting rights in the Association may by written notice be suspended by the Association during the period of such noncompliance.

Section 3.6 Declarant Reservations and Rights.

(a) Special Declarant Rights. In accordance with, and only if permitted by the Act, Declarant for itself and its assigns, successors and Designees, reserves the right at all times while Declarant or any Affiliate of Declarant owns any Unit or any other real property interest in the Condominium, to exercise the Special Declarant Rights which include rights to (i) upon completion of the construction of Improvements, file a Supplemental Declaration amending the Map to reflect the actual measurements for each Unit and any other appropriate changes and amendments to Exhibit "C" to reflect the Reallocation Percentage based upon completion of construction; (ii) establish, vacate, relocate and use the Easements as set forth in this Declaration; (iii) include, in any instrument initially conveying a Unit, such additional reservations, exceptions and exclusions as it may deem consistent with and in the best interests of the Owners and the Association; (iv) have and use an easement over, under and across any and all of the Property to the extent that same may be necessary or useful for the exercise of any Special Declarant Rights or the performance of any obligations of Declarant; (v) exercise any Development Right; and (vi) maintain sales, management, or leasing offices in Units for as long as Declarant owns a Unit (or has written agreement with another Owner for the use of such Owner's Unit for such purpose).

(b) Alteration of Units. Declarant reserves the right, by a Supplemental Declaration, to supplement or modify any Unit by adding additional facilities or deleting facilities, to designate additional portions of the Condominium as part of any Unit, or to combine Units. Declarant also reserves the right, without the vote or consent of the Association or any other Owner, to: (i) make alterations, additions or improvements in, to and upon any Unit owned by Declarant or its Affiliates, whether structural or non-structural; or (ii) change the floor plan and layout of any Unit owned by Declarant or its Affiliates.

(c) Sale or Lease Rights. Declarant reserves the right to maintain one or more model units within any Unit in connection with the sale or leasing of Units, in such location as determined by Declarant. No such model unit shall be larger than 2,145 square feet, and Declarant shall have the right to relocate such model unit from time to time. Declarant shall have the right to authorize placement, upon the Common Elements, of signs designating any such model unit and/or a sales or leasing and advertising the sale or leasing of the Units. Such signs may be placed in such locations and shall be of such size and character as Declarant may determine. In the event Declarant elects to lease any unsold Units to third parties, Declarant reserves the right, from time to time, at Declarant's sole expense, to hire a rental management firm for the leasing and operation of such leased Units.

(d) Rights During Warranty Period. For as long as Declarant or its successors, assigns or designees remain liable under any warranty, whether statutory, express or implied, for any act or omission of Declarant, or its successors, assigns or designees in the development, construction, sale and marketing of any portion of the Condominium, the right, in Declarant's, or in its successor's, assign's or designee's sole discretion and from time to time, to enter the

Common Elements and the Units for the purpose of making necessary inspections, tests, repairs, improvements or replacements required for Declarant or its successors, assigns or designees to fulfill any of its warranty obligations, provided that no such entry into a Unit shall unreasonably interfere with the use of such Unit by its Owner. Failure of the Association or any Owner to provide such access may result in the appropriate warranty being nullified and of no further force or effect. Nothing in this Section 3.6(d) shall be deemed or construed as Declarant making or offering any warranty, all of which are disclaimed.

(e) Limitations on Rights. Declarant may not add or delete facilities from any Unit or combine Units, unless Declarant or an Affiliate of Declarant is the owner of such Unit or Units. Additionally, all material changes to the configuration or size of any Unit shall require the approval of the Association. No such additions to, deletions from, or changes of configuration or size of any such Unit, or combination of Units shall affect the interest in the Common Elements, the share of Common Expenses, or the voting rights appurtenant to the Units. Any Units which are combined shall be treated for all such purposes as separate Units. Declarant may separate any Units it has combined, at its sole expense, into separate and distinct Units as originally set forth in the Map. In no event shall any such alteration, improvement or change interfere with any structural support of any Unit or the Common Elements or the provision of utility service to any Unit or the Common Elements. All work done in accordance with the provisions of this Section 3.6 shall be done in compliance with the Governing Documents and all applicable Legal Requirements. Nothing in this Declaration, however, shall obligate Declarant to add to the Condominium or otherwise take any of the actions to which Declarant is entitled pursuant to this Section 3.6.

Section 3.7 Easements. Each Owner shall, by virtue of this Declaration, accept the deed to its Unit subject to the Easements reserved and granted in this Section 3.7, which shall be covenants running with the Property, except where otherwise indicated, and shall be for the benefit and in favor of, as applicable, the Owners, Declarant, the Association and their guests, licensees and invitees for all proper purposes.

(a) Access Easement. Declarant hereby grants and reserves an Access Easement over, on and across each Unit as may reasonably be necessary for its own benefit and for the benefit of each Owner, the Association and its agents, employees and representatives, including the Manager and the Manager's agents and employees as the case may be, as may reasonably be necessary for: (i) the use of a Unit by its Owner, provided no other reasonable means of access exists; (ii) the exercise by Declarant of the Special Declarant Rights or the performance of any obligations of Declarant under the Governing Documents; (iii) the maintenance, repair or replacement of any of the Common Elements therein, including any Systems not located exclusively within a Unit or accessible therefrom; (iv) the making of emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit; (v) the evacuation of all or any part of the Property in the event of an emergency; (vi) the police department, fire department, emergency medical services or similar persons in response to an emergency situation; and (vii) such other reasonable purposes as are deemed by the Association to be necessary for the performance of the obligations of the Association as described in the Governing Documents. Each Owner shall provide the Association with a key to its Unit which may be used in such Owner's absence for Unit Access Easement purposes.

(b) Common Elements Easement. Declarant hereby grants and reserves a Common Elements Easement over, on and across the Common Elements for its own benefit and for the benefit of each Owner and the Association for ingress 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 such 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).

(c) Systems Easement. Declarant hereby grants and reserves a Systems Easement over, on and across the Property for its own benefit and for the benefit of each Owner and the Association for the use of and the connection to any portion of the Systems.

(d) Easement for Encroachment. If any portion of the Common Elements encroaches upon any Unit, any Unit encroaches upon any other Unit or upon any portion of the Common Elements, or any encroachment shall hereafter occur as a result of (i) unintentional deviation from the floor plans or Map in the construction of the Improvements, (ii) settling or shifting of the Improvements, (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Declarant, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements; then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Improvements shall stand.

Section 3.8 Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Section 3.6, the following occupancy restrictions apply to all Units and to the Common Elements:

(a) No Owner shall do any act or permit any act to be done in, on or to any Unit, parking space, or Common Element which will impair the structural integrity, weaken the support or otherwise adversely affect the Building or any Common Element.

(b) No electrical device creating overloading of standard circuits may be used without permission from the Board of Directors. Misuse or abuse of appliances or fixtures within a Unit which affects other Units or the Common Elements is prohibited. Any damage resulting from such misuse shall be the responsibility of the Owner who caused it. Total electrical usage in any Unit shall not exceed the capacity of the circuits as labeled on the circuit breaker boxes.

(c) All Owners shall maintain their Units in a clean and well maintained condition. No storage of trash will be permitted in or outside any Unit in a manner which may permit the spread of fire, odors, or seepage or the encouragement of vermin.

(d) All fixtures and equipment will be used for the purposes for which they were designed. There shall be no floor load in excess of 50 pounds per square foot, unless special arrangements are made and an engineering determination of floor load capacity in the area of the heavy use is approved by the Association.

(e) A parking space is restricted to occupancy by the owner of the Unit to which the parking space is a Limited Common Element only for parking of automobiles, motorcycles, and

bicycles, and shall not be used for the parking or storage of recreational vehicles, boats or trailers.

(f) Storage of articles is restricted to identified storage areas or the Owner's Unit.

(g) No noxious, offensive, dangerous or unsafe activity shall be conducted in any Unit, nor shall anything be done, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants. No Owner or occupant shall make or permit any disturbing noises nor do or permit anything to be done by others that will interfere with the rights, comforts or convenience of other Owners or occupants.

(h) No animals, birds or reptiles of any kind shall be kept in a Unit, except for a maximum of two pets, whether dogs of small or medium size at maturity and of gentle disposition, cats or other household pets, as approved and licensed in writing by the Association as compatible with the Condominium. Pets may not be kept for any commercial purposes. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon three days' written notice from the Board of Directors. Owner shall hold the Association harmless from any claim resulting from any action of their pets. Seeing eye dogs and hearing ear dogs will be permitted for those persons holding certificates of necessity.

(i) All clothes dryers will have lint filters which will remain installed and prevent lint from accumulating in the vent duct. All such filters and screens will at all times be used and kept clean and in good order and repair by the Owner.

(j) Except for the Declarant's exercise of Special Declarant Rights, no signs, window displays or advertising visible from outside a Unit (except for a name plate or sign not exceeding nine square inches in area, on the main door to each Unit) shall be maintained or permitted in any part of a Unit.

(k) No antenna, satellite dish or other device for the transmission or reception of televisions signals, radio signals or any other form of electromagnetic radiation which is visible from the exterior of a Unit shall be erected, used or maintained on any Unit, except as otherwise expressly permitted by the Board of Directors. The Board of Directors may adopt such other rules and regulations governing the erection and maintenance of antennas and satellite dishes in accordance with federal, state or local ordinance, rule, or regulation for the benefit of the Association and Owners, collectively. No antennae or other similar device unless otherwise permitted by this Section 3.9, shall be affixed to any Unit.

(l) No aluminum foil, reflective film or similar treatment shall be placed on any window within the Condominium. Exterior windows shall be covered by only white shades, blinds or drapes, except for the Retail Units. The window treatment for the Retail Units is subject to the Board of Director's advance written approval.

(m) No window or wall-type air condition shall be permitted to be used, placed or maintained on or in any Unit without the advance written consent of the Board of Directors.

(n) While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any Owner acquiring a Retail Unit in reliance on one or more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Unit, agrees to indemnify, defend and hold Declarant harmless from any claims, losses, expenses (including reasonable attorney's fees), liabilities or damages resulting from Owner's violation of same.

(o) The Retail Unit may be improved and used for commercial, retail and/or office use, at the option and election of Declarant. The Declarant's designation of a Retail Unit as commercial, retail, and/or office shall be effective upon Declarant's delivery of a written use designation to the Board of Directors, which designation shall identify the Retail Unit(s) and indicate whether the Retail Unit(s) has been designated for commercial, retail, or office use and which designation may be recorded by the Owner of such Retail Unit. In the event Declarant designates the Retail Unit(s) as commercial, retail or office, such Retail Unit(s) may not be utilized for the operation of an adult-oriented business which is characterized by an emphasis on matter depicting, describing, displaying, or relating to nudity or partial nudity or sexual activities of any nature, including, but not limited to, adult bookstores, adult arcades, adult theaters, adult novelty shops, adult cabarets, and adult dance lounges. The Retail Unit shall not be used for restaurant purposes, a liquor store or any business which includes the sale of alcoholic beverages for on-premises consumption. The Board of Directors shall not promulgate any rule limiting the hours of operation of any business operating from the Retail Unit. In addition, in no circumstance or event shall any Owner of the Retail Unit designated as commercial, retail, and/or office, and/or any business operated within such Retail Unit, permit noise to exist or operate upon any portion of the Condominium so as to be offensive or detrimental to any other portion of the Condominium or its occupants, which determination shall be made in the sole and absolute discretion of the Board of Directors.

Section 3.9 Life-Safety Systems. Owners and Occupants shall not tamper with or disengage any portion of the life-safety systems that serve the Condominium, including, without limitation, the sprinkler heads and all branch and feed lines that support such sprinkler heads, and all fire control devices (such as smoke detectors and call boxes), regardless of whether such items are located within the boundaries of a Unit.

Section 3.10 Mitigation of Dampness and Mold. No Unit Owner shall install, within his or her Unit, or upon the Limited Common Elements or Common Elements, non-breathable wall coverings or low-permeance paints. Additionally, any and all built-in casework, furniture, and or shelving in a Unit must be installed over the floor coverings to allow air space and air movement and shall not be installed with backboards flush against any gypsum board wall. Additionally, all Unit Owners, whether or not occupying the Unit, shall periodically run the air conditioning system to maintain the Unit temperature, whether or not occupied, at not greater than seventy-eight degrees (78°) Fahrenheit, to minimize humidity in the Unit. While the foregoing are intended to minimize the potential development of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of molds or mycotoxins. Neither Declarant nor the Association

make any representations or warranties regarding the existence or development of molds or mycotoxins and each Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of same.

ARTICLE IV

Matters Regarding the Association

Section 4.1 General. The Association has been incorporated as a non-profit corporation under the Texas Non-Profit Corporation Act. In addition to the powers conferred on the Association under the Bylaws and under this Declaration, the Association may take all actions authorized by Section 82.102 of the Act. Any and all actions taken by the Association pursuant to the Governing Documents is binding on all Owners. This Declaration is not intended to place any limitations or restrictions on the power of the Association or the Board of Directors, except as set forth in this Declaration or the Governing Documents.

Section 4.2 Allocation of Votes in the Association. Each Owner shall automatically be a member of the Association and shall be entitled to cast one (1) vote for each Unit owned by such Owner. Any matter described in this Declaration as requiring approval by a stated percentage or a majority of the Owners shall be calculated on the basis of one (1) vote per Unit. An Owner may assign its voting rights as a member of the Association to any other Owner by use of a proxy in accordance with the Act.

Section 4.3 Suspended Voting Rights. All voting rights of an Owner may be suspended during any period that such Owner is delinquent in the payment of any Assessment duly established pursuant to this Declaration or is otherwise in default under the terms of the Governing Documents. Following Owner's cure of any such delinquency or default in full, its voting rights shall be completely reinstated 24 hours after such cure is effected.

ARTICLE V

Maintenance, Alterations, Taxes and Utilities

Section 5.1 Maintenance.

(a) **By Owner.** Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit, any awning attached to the Retail Owner's Unit as a Limited Common Element, and all improvements made by the Owner to the Limited Common Elements assigned to the Unit except any portion of a Unit which is expressly made the maintenance obligation of the Association as set forth in subparagraph (b) below. This maintenance responsibility shall include, but not be limited to the following: all glass surfaces, windows (excluding exterior cleaning), window frames (except for periodic painting, staining and/or cleaning of the exterior window frames), casings and locks (including caulking of windows); all Limited Common Element hurricane shutters, if any, unless the Board elects to maintain such shutters in accordance with subparagraph (b) below; all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting, staining and/or cleaning of the exterior surface of entry doors and door frames and doorways

facing the hallway of the Condominium); all portions of the heating and air conditioning system, including the air conditioning compressor serving the Unit and the fan coil- and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit). Unit Owners shall also be responsible for keeping the interior of his or her Unit free from insects and pests, including the responsibility to hire a professional exterminator when necessary. Additionally, each Unit Owner shall perform maintenance obligations as described in Section 5.1(f) below ("Mold and/or Mildew") within his/her Unit. All maintenance, repair and/or replacements for which the Owner is responsible and obligated to perform which if not performed, would affect other Units or Common Elements, shall be performed promptly as the need arises.

In addition, each Unit Owner shall have the responsibility:

(i) To keep in a neat, clean and sanitary condition any Limited Common Elements serving his or her Unit.

(ii) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units.

(iii) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.

(iv) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests, with the cost thereof to be billed to the Owner, which cost shall bear interest at the highest rate permitted by law from the date expended until paid in full.

(b) By the Association. The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes, but is not limited to, the following:

(i) all Common Elements, including any Limited Common Elements but excluding all improvements made to such Limited Common Elements and also excluding any awnings assigned as Limited Common Elements and including all portions of the roof and the roof support systems, including the roof joists and cross braces, even if such roof joists and cross braces are located within a Unit, and including all parking spaces;

(ii) periodic painting, staining and/or cleaning of exterior surfaces of the Building, exterior windows and window frames and entry doors and door frames, on a schedule to be determined by the Board of Directors;

(iii) the life safety system (including but not limited to sprinkler systems) of the Building and other Building systems; and

(iv) the Board has the right in its sole discretion, but not the obligation, to maintain all Limited Common Element hurricane shutters, if any.

Except for the maintenance responsibilities provided in subparagraph (a) above, no maintenance or repair that is the responsibility of the Association shall be performed on or to the Common Elements by an Owner or Tenant (including, but not limited to landscaping of Common Elements) without the written consent of the Board. If any such maintenance or repair is performed by an Owner or Tenant in violation of these covenants, the Owner or Tenant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair and the Owner or Tenant shall be liable to the Association for any resulting damage to the Common Elements.

(c) Limitation of Liability-Generally. Neither the Association nor Declarant shall be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other Person, or resulting from any utility, rain which leaks or flows from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner of a Unit has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. Neither the Association nor Declarant shall be liable to the Owner of any Unit or such Owner's Tenant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. Neither the Association nor Declarant shall be liable to any Owner, or any Owner's Tenant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Declarant to take some action or perform some function required to be taken or performed by the Association or Declarant under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements by the Association or Declarant, or from any action taken by the Association or Declarant to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work that is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(d) Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Owner does not complete the required maintenance, repair and/or replacement within the time allotted, and if the repair, replacement and/or maintenance is of an item which, if not performed would affect other Units or the Common Elements but which does not create an emergency, the Board may provide such maintenance, repair or replacement at a time agreed upon with the Owner and such cost shall be billed to the Owner as an Individual Assessment. If the Board determines that an emergency exists by virtue of an Owner's failure to maintain, then the Board may enter the Unit and provide the necessary maintenance, repair and/or replacement and such cost shall be billed to the Unit Owner. Any Individual Assessment billed to the Owner pursuant to this subsection may include reasonable administrative fees and shall bear interest at the Past Due Rate from the date expended until paid in full may include reasonable administrative fees.

If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner, or Tenant or their family, guests, lessees, or invitees, then the Association may bill the Owner for the cost of any such maintenance, repair, or replacement and any such amount billed may include reasonable administrative fees and shall bear interest at the Past Due Rate from the date expended until paid in full.

(e) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors at a mutually agreed upon time, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association to inspect the smoke detectors and replace batteries if needed by the Board of Directors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed Three Hundred Dollars (\$300) per Unit in any twelve (12) month period.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any requirement made by the Board of Directors pursuant to subparagraph (e)(i) above, the Association, upon fifteen (15) days' written notice (during which period the United Owner may perform the required act or work without further liability) may perform such required act or work at the Unit at a mutually agreed upon time. The cost of any such work performed by the Association shall be billed to the Owner and shall bear interest at the highest rate permitted by law from the date expended until full payment. The Association shall have all rights

necessary to implement the requirements mandated by the Board pursuant to subparagraph (e)(i) of this Paragraph, including, but not limited to, a right of entry without notice in an emergency situation.

(f) Mold and/or Mildew. Mold and/or mildew can grow in any portion of the Condominium that is exposed to elevated levels of moisture. The Association and each Unit Owner agree to: (i) regularly inspect the parts of the Condominium that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion (except when the water intrusion is part of the normal functioning of improvements and appliances such as showers, sinks, dishwashers, and other similar appliances and improvements) and/or damage; (ii) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Condominium that they respectively maintain; (iii) remediate or replace any building material located in the parts of the Condominium that they respectively maintain that has absorbed water or moisture as a result of water intrusion; and (iv) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Condominium that they respectively maintain in accordance with current industry-accepted methods. In addition, the Association agrees to notify the Owners, and each Owner agrees to notify the Association within twenty-four (24) hours of the discovery of mold, mildew, and/or water intrusion and/or damage in the parts of the Condominium that they respectively maintain.

Notwithstanding anything to the contrary herein. Declarant shall have no obligation to perform any invasive testing or inspections, maintenance or repairs in accordance with this subparagraph (f), and shall not be held liable for any loss or damage caused by the failure of the Association or a Unit Owner to perform their obligations herein.

(g) Inspections. In addition to the general maintenance obligations of the Association as set forth in the Declaration, the Association shall, at all times, contract or otherwise retain the services of independent, qualified, licensed individuals or entities (the "Inspectors") to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Condominium.

The Inspectors shall inspect component parts of the Building, including but not limited to those items described on Exhibit "E," attached hereto and incorporated herein. The items listed on Exhibit "E" are not intended to provide an exhaustive list of all items that should be inspected and the Inspectors may inspect such other items as the Association deems appropriate in accordance with prudent business practices and the recommendations of the Inspectors.

The inspections shall take place at least as frequently as specified on Exhibit "E" or more frequently if recommended by the Inspectors. The Inspectors shall provide written reports of their inspections to the Board promptly following completion thereof. The written reports shall identify any items of maintenance or repair, which either require current action by the Association or will need further review and analysis. The Board shall report the contents of such written reports to the members of the Association at the next meeting of the members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. The Board shall promptly cause all

matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the Inspectors.

For a period of ten (10) years after the conveyance of the last Unit in the Condominium by Declarant to an Owner, the Association shall maintain records of such inspections and of corrective or remedial work done to address concerns raised by the Inspectors, and if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

The provisions of this subparagraph (g) shall not apply during the period Declarant appoints any members of the Board in accordance with the Bylaws for the Association and the Act.

(h) Limitation of Liability of Association and Declarant. Notwithstanding the duty of the Association to maintain and repair parts of the Building or Units, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Building or Units to be maintained and repaired by the Association, or caused by the elements, other Unit Owners or third parties. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION, OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION, THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE BUILDING AND UNITS, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(i) IT IS THE EXPRESS INTENT OF THE CONDOMINIUM INSTRUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM AND THE VALUE THEREOF.

(ii) THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SECURITY OF THE CONDOMINIUM; HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT

NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE CONDOMINIUM. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-UNIT OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE CONDOMINIUM AND COMMIT CRIMINAL ACTS ON THE CONDOMINIUM NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE CONDOMINIUM WILL NOT BE COMMITTED BY OTHER UNIT OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH UNIT OWNER. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

(iii) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF TEXAS, GALVESTON COUNTY, THE CITY OF GALVESTON AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES.

(iv) ANY PROVISIONS OF THE CONDOMINIUM INSTRUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE COMMON ELEMENTS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

(i) AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF DECLARANT AND ITS AFFILIATES, AS WELL AS TO THE ASSOCIATION'S EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES) AND SUBCONTRACTORS, WHICH SHALL BE FULLY PROTECTED HEREBY.

Section 5.2 Additions, Alterations or Improvements by Owner. Subject to the provisions in this Declaration, no Owner (other than Declarant) shall: (i) make any addition,

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

Section 5.3 Mechanic's Liens; Indemnification. No labor or services performed or materials furnished and incorporated in a Unit, shall be the basis for the filing of a lien against the Unit of any other Owner not expressly consenting to or requesting the same or against the Common Elements. **EACH OWNER SHALL INDEMNIFY AND HOLD HARMLESS EACH OF THE BOARD OF DIRECTORS, ASSOCIATION, OWNERS, OTHER OWNERS, TENANTS, MANAGERS, DECLARANT, AND EACH OF THEIR RESPECTIVE SUCCESSORS, ASSIGNS OR DESIGNEES, FROM AND AGAINST ALL LIABILITIES AND OBLIGATIONS ARISING FROM THE CLAIM OF ANY MECHANIC'S LIEN AGAINST THE UNIT OR RESIDENCE OF SUCH OTHER OWNERS OR COMMON ELEMENTS.** All contracts for labor, services and/or materials with respect to any of the Units shall be in compliance with the provisions hereof.

Section 5.4 Taxes.

(a) Payment of Governmental Impositions. Each Owner shall be responsible for and shall pay when due all Governmental Impositions lawfully levied or assessed against its Unit, except to the extent such tax assessments are being actively and diligently contested in good faith by appropriate legal proceedings. Any Governmental Impositions lawfully levied or assessed with respect to the Property not separately billed to the Owners shall constitute a Common Expense and be payable by the Association when due.

(b) Notice to Taxing Authorities. Declarant shall give written notice to the appropriate taxing authorities of the creation of the Condominium established pursuant to this Declaration. Each Owner shall promptly request and diligently pursue from the applicable taxing authority separate tax parcel status and a separate tax identification number for its Unit.

(c) Units Not Separately Assessed. If any Governmental Impositions with respect to the Property are not separately billed to the Owners, each Owner shall pay its respective allocated portion of taxes which such allocations shall be determined in the manner set forth in this Declaration when requested by the Association (but in no event prior to twenty (20) days or later than ten (10) days before the date of delinquency, without any additional notice or grace period) to permit the Association to make full payment of taxes prior to the date on which such taxes would become delinquent; provided that the Association shall not require any Owner to make any payment to the Association for taxes to the extent such amounts have already been deposited by such Owner in accordance with any escrow arrangement.

(d) Failure to Pay Governmental Impositions. The Association or any Mortgagee may pay the portion of taxes that any Owner has failed to pay when due, and the Association or such Mortgagee shall have a lien against such Unit that may be enforced by any means available at law or in equity, including non-judicial foreclosure sale of such Unit in accordance with Texas Property Code Section 51.002 (as now written or hereafter amended); provided, however, no such lien for delinquent taxes shall be valid until a notice of such lien is duly recorded in the real property records of the County, notwithstanding any applicable statute, law (including case law), equitable doctrine, ordinance or regulation that permits any such lien to attach absent such recordation in the real property records. Each Owner, by its acquisition of such Unit, grants a power of sale in connection with such lien in favor of the Association or any Mortgagee that makes payment of taxes on behalf of a defaulting Owner. Any lien pursuant to this Section 5.4(d) shall have the same priority as a lien by the Association for Assessments; provided that any such lien for delinquent taxes shall be subordinate to the lien of any Lien Indebtedness encumbering the defaulting Owner's Unit, which Lien Indebtedness was recorded prior to the date such lien for taxes was duly recorded (notwithstanding any applicable statute, law (including case law), equitable doctrine ordinance or regulation that permits any such lien to attach absent such recordation in the real property records). This Section 5.4 shall terminate and be of no further force or effect whatsoever, upon the later of the date upon which (i) each Unit within the Condominium shall be separately assessed and billed as a separate tax parcel by the tax assessor and (ii) all the taxes due and owing prior to all Units being separately assessed and billed as a separate tax parcel by the tax assessor have been paid in full to the appropriate taxing authority.

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

ARTICLE VI

Insurance

Section 6.1 Insurance. All insurance coverage required to be obtained pursuant to this Article VI, or purchased at the election of an Owner or the Association shall:

- (a) be in such form and shall be issued by such responsible insurance companies licensed to do business in the State of Texas and shall be rated by Best's Insurance Guide (or any successor publication of comparable standing) as "A/VII" or better;
- (b) contain standard mortgagee clauses, if applicable;
- (c) not be brought into contribution with insurance purchased by other Owners or the Association;
- (d) provide that insurance trust agreements shall be recognized;
- (e) waive any right to claim invalidity arising from the acts of the insured; and
- (f) state that such policy is primary insurance if at the time of a loss under the policy any Owner has other insurance covering the same property covered by the policy.

Section 6.2 Insurance by Association.

(a) The Association shall obtain, as a Common Expense, insurance coverage required of an Owner pursuant to the Act and insurance coverage in at least the amounts of the coverage set forth on Exhibit "D" attached to this Declaration.

(b) The Association shall carry such other or additional insurance in such amounts and against such risks as the Association shall reasonably deem necessary or appropriate with respect to the operation of the Association, including liability insurance for all officers, directors, trustees and employees of the Association. The premiums for all insurance coverages maintained by the Association pursuant to this Section 6.2 shall constitute a Common Expense and be payable by the Association.

Section 6.3 Insurance by Owners. Each Owner will be responsible for obtaining and maintaining at such Owner's sole cost and expense, in compliance with the requirements of Exhibit "D" to the extent applicable: (i) insurance covering all alterations, additions, betterments and improvements to its Unit, the Limited Common Elements appurtenant to its Unit and its Storage Space, and all other personal property located in the foregoing or constituting a part

thereof; and (ii) insurance covering damage to Common Elements or other Units, the cause of which originates from such Owner's Unit. Nothing in this Declaration shall be deemed or construed as prohibiting an Owner, at its sole cost and expense, from obtaining and maintaining such further and supplementary insurance coverages as such Owner may deem necessary or appropriate.

Section 6.4 Other.

(a) Unavailability of Coverage. The Association shall not be liable for failure to obtain any insurance coverage required by this Declaration to be obtained by the Association or for any loss or damage resulting from such failure, if such failure is due to the general unavailability of such coverage from reputable insurance companies, or if such coverage is not available at a commercially reasonable cost.

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

(c) Coverage Limitations. All insurance coverages purchased by the Association and the Owners pursuant to Article VI of this Declaration shall not cover claims against any other Owner due to accidents occurring within that other Owner's Unit or, casualty, theft or loss to the contents of that other Owner's Unit.

(d) Waiver of Claims. Each Owner waives and releases any claim it might have against the Board of Directors, Association, other Owners, Tenants, Resident Tenants (other than such Owner's Tenant), Managers, Declarant, and each of their respective successors, assigns or Designees, for (i) any damage to or theft, destruction, loss or loss of use of any property or (ii) any personal or bodily injury, to the extent the same is insured against under any insurance policy of the types described in the Governing Documents that cover the Property, such Owner's or the Association's fixtures, personal property, improvements, or business, or is required to be insured against under the terms of any Governing Document, regardless of whether the negligence of the Board of Directors, Association, other Owners, Tenants, Managers, Declarant, or each of their respective successors, assigns or designees (as applicable) caused such (x) damage, theft, destruction, loss, or loss of use of, any property or (y) personal or bodily injury. Each Owner shall cause its respective insurance carrier to endorse all applicable policies waiving each such carrier's rights of recovery under subrogation or otherwise against such Persons. Notwithstanding anything to the contrary in this Declaration, this waiver of subrogation shall have no affect upon the Association's authority to impose applicable fines should any Owner, Tenants, or any other party violate any provision of the Governing Documents.

Section 6.5 Insurance Trustee. Each Owner, by acceptance of title to, or possession of, a Unit shall be deemed to have irrevocably appointed the Association as the Insurance Trustee. Notwithstanding anything in Article VI or Article XIII of this Declaration to the

contrary, if physical damage to the Condominium occurs, the Insurance Proceeds of the policy maintained by the Association pursuant to Section 6.2 of this Declaration shall be paid to the Association, acting as the Insurance Trustee for the Condominium, and the Insurance Trustee shall perform all of the duties and obligations otherwise imposed on the Board of Directors (except any decision not to repair or reconstruct the improvements). The fees of the Insurance Trustee shall be a Common Expense. All Insurance Proceeds attributable to insurance policies required to be maintained by the Association shall be paid to the Association as Insurance Trustee.

ARTICLE VII

Assessments

Section 7.1 Monthly and Special Assessments by Association. The Association shall possess the right, power, authority and obligation to establish a regular Monthly Assessment and Special Assessments as set forth below.

(a) Common Expenses. The Association shall possess the right, power, authority and obligation to establish a regular Monthly Assessment sufficient in the judgment of the Association to pay all Common Expenses when due. Such Monthly Assessments so established shall be payable by the Owners on the first day of each calendar month, and shall be applied to the payment of Common Expenses and other Charges for which the Association is responsible.

(b) Budget for Common Expenses. Prior to the commencement of each fiscal year of the Association, the Association shall deliver to the Owners a Budget, incorporating the share of the Common Expenses owed by each Owner under this Declaration, in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred and shall be accompanied by a statement setting forth each Owner's monthly share thereof, which shall be determined in accordance with such Owner's Allocated Interests, and the date as of which such Monthly Assessment commences to be payable. The Budget shall include the Monthly Assessment payable by the Owner of the Retail Unit which shall be based upon the operational expenses of the Association, other than those operational expenses related to the maintenance, repair, replacement and operation of those Common Elements as to which the Owner of the Retail Unit has no usage rights. By way of example, the Owner of the Retail Unit shall not be obligated to pay Monthly Assessments with respect to the expenses of the Association allocable to the lobby, elevators, swimming pool, exercise room, parking spaces and any Limited Common Elements. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Monthly Assessment payable hereunder and the failure of the Association to timely deliver the Budget provided for in this Declaration shall in no event excuse or relieve an Owner from the payment of the Monthly Assessments contemplated hereby. Any Budget prepared and delivered to the Owners as contemplated in this Article VII may be amended as and to the extent reasonably necessary, and the amount of an Owner's Monthly Assessment changed to correspond therewith. If the proposed Budget for a fiscal year increases more than twenty percent (20%) above the Budget for the preceding fiscal year, such Budget must be approved by the affirmative vote of the Owners holding not less than sixty-seven percent (67%) of the Allocated Interests.

(c) Special Assessments. In addition to the Monthly Assessments contemplated by Section 7.1(a) of this Declaration, the Association shall possess the right, power and authority to establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Association to pay (i) the operation and management of the Condominium, the administration of the Association and the maintenance of and replacement of Common Elements and (ii) Owner's share of Special Assessments established by the Association from time to time for the proper maintenance, care, alteration, improvement, replacement, operation and management of the Common Elements of the Condominium, and the administration of the Association. Except as contemplated by Article VIII of this Declaration, no consent or approval of the Owners shall be required for the establishment of a Special Assessment as contemplated by this Section 7.1(c), except for any Special Assessment relating to the alteration or improvement of any Common Element of the Property or an expenditure in excess of \$50,000.00 per item or \$100,000.00 in the aggregate in any year, which in each case must be approved by at least sixty-seven percent (67%) of all of the Owners.

The Owner of the Retail Unit shall not be obligated to pay any Special Assessments allocable to the expenses of the Association related to the maintenance, repair, replacement, management and operation of those Common Elements as to which the Owner of the Retail Unit has no usage rights.

Section 7.2 Individual Assessments. In addition to the Monthly Assessments and Special Assessments contemplated in Section 7.1 of this Declaration, the Association shall possess the right, power and authority to establish or levy Individual Assessments in accordance with the provisions of this Declaration against an individual Owner or its Unit for charges properly borne solely by one or more but less than all Owners, such as (without limitation) charges for additional services, damages, fines or fees, interest, collection costs, attorneys' fees, insurance deductible payments, or any other amount owing the Association by an Owner. Individual Assessments shall be the personal obligation of the Owner against whom the Individual Assessment is assessed, and shall constitute a lien against the Unit in the same manner and with the same consequences as the Monthly Assessment and any duly authorized Special Assessment.

Section 7.3 Obligation to Pay Assessments. Each Owner shall be personally obligated to pay such Owner's share of all Assessments duly established pursuant to this Article VII to the Association. Unpaid Assessments due as of the date of the conveyance or transfer of a Unit shall not constitute a personal obligation of the new Owner (other than such new Owner's pro rata share of any reallocation thereof); however, the former Owner shall continue to be personally liable for such unpaid Assessment. No Owner shall be entitled to exemption from liability for Owner's obligation to pay such Assessments by waiver of the use and enjoyment of the Common Elements, by an abandonment of its Unit or by any other action whatsoever. Any Assessment not paid within five (5) days of the date due shall bear interest at the Past Due Rate, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of competent jurisdiction sitting in the County. It shall be the responsibility of the Association to collect any such delinquent Assessment, the existence of which shall be made known by written notice delivered to the defaulting Owner and, where requested, the Owner's Mortgagee.

Section 7.4 Lien to Secure Payment of Assessments. Declarant hereby reserves and assigns to the Association a lien, pursuant to the provisions of the Act, against each Unit, the Rents, if any, payable to the Owner and Insurance Proceeds any Owner may be entitled to receive, to secure the payment of all Assessments, which lien shall be and constitute a lien and encumbrance, in favor of the Association, upon such Units, the Rents, and any Insurance Proceeds. The liens established in this Declaration shall be prior and superior to all other liens and encumbrances subsequently created upon such Units, Rents and Insurance Proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of Lien Indebtedness (provided such lien was recorded prior to the date on which the Assessment became delinquent) and the liens for unpaid Governmental Impositions. The liens and encumbrances created in this Declaration may be enforced by any means available at law or in equity, including a non-judicial foreclosure sale of the Unit of a defaulting Owner; such sale to be conducted in the manner set forth in Texas Property Code Section 51.002 (as now written or as hereafter amended). Each Owner, by acquisition of its Unit, grants to the Association a power of sale in connection with the Association's liens. NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION 7.4 OF THE DECLARATION TO THE CONTRARY, THE ASSOCIATION SHALL NOT HAVE THE AUTHORITY TO FORECLOSE ON THE DEFAULTING OWNER'S UNIT FOR NON-PAYMENT OF ASSESSMENTS IF THE ASSESSMENTS CONSIST SOLELY OF FINES. By written resolution, the Association may appoint, from time to time, an officer, agent, trustee or attorney of the Association to exercise the power of sale on behalf of the Association. The Association may bid for and purchase the Owner's Unit, as a Common Expense, at any such foreclosure sale. The foreclosure by a Mortgagee of an Owner's Unit in order to satisfy Lien Indebtedness will extinguish the subordinate lien for any Assessments which became payable prior to the date of such foreclosure sale.

Section 7.5 Commencement of Obligation to Pay Assessments. Each Owner, other than Declarant, shall be obligated to commence payment of all Assessments against its Unit on the date such Owner's Unit is conveyed to the Owner. If such date is other than the first day of a month, then such Owner shall be obligated to pay only a pro rata share of the Assessment against such Owner's Unit based on the number of days during such month that the Owner will hold title to the Owner's Unit. If a Tenant occupies a Unit and that Owner becomes delinquent in the payment of any Assessment against such Unit, the Association shall have the right, upon written notice to the Tenant and Owner, to collect any rental payments due from the Tenant until the full amount of the Assessment plus any applicable late fees or fines is collected. Prior to the commencement of the initial Monthly Assessment, Declarant shall pay all Common Expenses of the Condominium (excluding portions thereof allocable to reserves); provided, however, nothing contained in this Declaration shall prevent Declarant from collecting from the purchaser of a Unit at closing any expenses, such as taxes or insurance, to the extent that Declarant prepaid on behalf of the Unit being purchased. After commencement of the initial Monthly Assessment and prior to the end of the period of Declarant Control, Declarant shall pay the amount by which the Common Expenses of the Condominium (excluding the portion thereof allocable to reserves) exceed Monthly Assessments required to be paid by Owners other than Declarant; thereafter, Declarant shall pay Monthly Assessments the same as any other Owner. If such date is other than the first day of a month, then Declarant shall be obligated to pay only a pro rata share of the Assessments against such Unit based on the number of days remaining during such month.

Section 7.6 Redemption by Owner. The Owner of a Unit purchased by the Association at a foreclosure sale of the Association's lien for Assessments may redeem the Unit not later than the 90th day after the date of the foreclosure sale. To redeem the Unit, the Owner must pay to the Association, as applicable, all amounts due at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the Past Due Rate, reasonable attorneys' fees and costs incurred by the Association in foreclosing the lien, any Assessment levied against the Unit by the Association after the foreclosure sale, and any reasonable costs incurred by the Association, as Owner of the Unit, including costs of maintenance and leasing. Upon redemption, the Association shall execute a deed to the redeeming Owner. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption period expires unless the redeeming Owner records prior to such date the deed from the Association or an affidavit stating that the Owner has exercised the right of redemption. A Unit that has been redeemed remains subject to all liens and encumbrances on the Unit before foreclosure. All Rents collected from the Unit by the Association from the date of foreclosure sale to the date of redemption belong to the Association, but the Rents shall be credited against the redemption amount. If the Association purchases a Unit at a sale foreclosing its lien, the Association may not transfer ownership of the Unit during the redemption period to a person other than the redeeming Owner.

Section 7.7 Notice of Default. If the Owner defaults in its monetary obligations to the Association, the Association shall notify any Mortgagee in accordance with the provisions of Article XIII of this Declaration and may notify other lienholders of the default and the Association's intent to foreclose its lien. The Association may also record a no file of the Delinquent Assessments in the Official Public Records of Real Property of Galveston County, Texas

Section 7.8 Alternative Actions. Nothing contained in this Declaration shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

ARTICLE VIII

Loss and Obsolescence

Section 8.1 Loss or Damage. The following provisions shall govern if the Common Elements, the Improvements, or any part thereof, are damaged or destroyed by fire or other casualty:

(a) Notice to Mortgagees. Prompt written notice of any such substantial damage or destruction shall be given to the Association, all Mortgagees and Owners.

(b) Restoration and Repair. The Association shall promptly proceed with the full restoration and repair of such damage or destruction unless (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any Legal Requirement; or (iii) eighty percent (80%) of the Owners, including each Owner of a Unit that will not be rebuilt or repaired, vote not to rebuild.

(c) Special Assessment. The amount by which such restoration and repair costs exceed collectible Insurance Proceeds shall be and constitute a Special Assessment payable by the Owners within sixty (60) days of the date notice of such Special Assessment is delivered by the Association, in accordance with Section 7.1(c) of this Declaration.

(d) Insurance Proceeds. Any excess Insurance Proceeds remaining after such restoration and repair, or any Insurance Proceeds or sales proceeds available absent such restoration and repair, shall be received and held in trust by the Insurance Trustee in separate accounts for each Owner according to the Allocated Interests of the Owners, and be applied, without contribution from one such account to another, as follows: (i) first, to the payment of any Governmental Impositions; (ii) second, to the payment of the balance of Lien Indebtedness of such Owner; (iii) third, to the payment of any delinquent Assessment with respect to such Owner's Unit; and (iv) the balance, if any, to each Owner or such other parties as shall be entitled thereto.

Section 8.2 Damaged Units. The following provisions shall govern if any Unit or any part thereof is damaged or destroyed by fire or other casualty ("Damaged Unit"):

(a) Notice to Mortgagees. Prompt written notice of any such substantial damage or destruction shall be given to the Owner of the Damaged Unit to the Association and the Mortgagees of the Damaged Unit.

(b) Restoration and Repair. The Owner of the Damaged Unit shall promptly proceed with the full restoration and repair of such damage or destruction and pay all costs of such restoration, repair and replacement or rebuilding in excess of the net proceeds of the collectible Insurance Proceeds unless: (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any Legal Requirement; or (iii) one hundred percent (100%) of Owners, including the Owner of the Damaged Unit, vote not to rebuild.

Section 8.3 Matters Relating to Restoration and Repairs. Any restoration and repair work undertaken by the Association or an Owner pursuant to this Article VIII shall be performed in a good and workmanlike manner with a view to restoring the Improvements to a condition similar to that existing prior to such damage or destruction; provided, however, that in no event shall the Association be responsible for restoring, repairing or replacing any improvements to a Unit made by an Owner or the contents located in such Owner's Unit. All such restoration and repair work, whether done by the Association or an Owner, shall be effected in a manner so as to observe all vertical and horizontal Unit boundaries existing prior to such damage or destruction. If an Owner decides to rebuild or repair any Unit in excess of its full replacement cost, such Owner shall be responsible for any such costs exceeding the full replacement value of such Unit; provided, however, that if the Association shall elect to incur such expenses, such additional expenses, to the extent they exceed the replacement value of such Unit, shall constitute a Special Assessment.

Section 8.4 Obsolescence of the Common Elements. If the Board of Directors shall vote, at a meeting of the Board of Directors duly called for purposes of considering same, that the Common Elements, or any part thereof, (including any Systems which serve only, or are a part of, individual Units), are obsolete, the Association shall promptly proceed with the

necessary replacements and improvements thereto pursuant to a budget established for such purpose, and the cost thereof shall be and constitute a Special Assessment payable by all Owners, in accordance with their respective Allocated Interests, within thirty (30) days of the date notice of such Special Assessment is delivered to them by the Association.

Section 8.5 Obsolescence of the Property. If the Owners holding not less than one hundred percent (100%) of the Allocated Interests shall determine, at a meeting of the Association duly called for purposes of considering same, that the Property is obsolete, the Association, after first obtaining the written consent of all Mortgagees holding at least 100% of the Allocated Interests of the Owners, shall promptly proceed with the sale thereof in its entirety. Any proceeds from such sale shall be received, held and applied for and on account of the Owners as provided in Section 8.1 of this Declaration.

Section 8.6 Association as Attorney-in-Fact. Each Owner, by acceptance or possession of title to a Unit, hereby irrevocably makes, constitutes and appoints the Association, and each and every one of its successors in interest hereunder (which appointment shall be deemed a power coupled with an interest), as such Owner's true and lawful attorney-in-fact, for and in Owner's name, place and stead, upon the damage or destruction of the Condominium, or any part thereof, or upon any determination by the Owners made pursuant to this Article VIII, to take any and all actions, and to execute and deliver any and all instruments, as the Association may, in its sole and absolute discretion, deem necessary or advisable to effect the intents and purposes of this Article VIII, hereby giving and granting unto the Association full power and authority to do and perform all and every act whatsoever requisite or necessary to be done in and about the premises as fully, to all intents and purposes, as an Owner might or could do, hereby ratifying and confirming whatsoever the Association may do by virtue hereof. The Association is hereby authorized, in the name and on behalf of all Owners, to do and perform all actions necessary or appropriate to effect the intent and purposes of this Article VIII as aforesaid, including the power and authority to make and settle claims under any insurance policies maintained by the Association, except as may be limited by this Declaration, and to execute and deliver all instruments necessary or incidental to any such actions.

ARTICLE IX

Condemnation

Section 9.1 General Provisions. If all or any part of the Property, excluding the Common Elements, is the subject to a Taking, the Association and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give such notice as it receives of such proceeding to all Owners and to all Mortgagees which have requested such notice, provided, however, that the failure of the Association to give such notice shall not prejudice the right of any Mortgagee to participate in such proceedings. The expense of participation in such proceedings by the Association shall be a Common Expense. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. If permitted by the Act, all damages or awards for any such Taking shall be deposited with the Insurance Trustee, and in any case, such damages or awards shall be applied

or paid as hereinafter provided. Any restoration or repair of the Property following a partial Taking shall be performed in accordance with the provisions of this Declaration and shall follow, as nearly as possible, the original plans and specifications for the Property, unless otherwise approved by all Mortgagees.

Section 9.2 Taking of One Unit. If an Owner's Unit (or a substantial part thereof such that ownership, operation, or occupancy of the remaining portion of the Unit in accordance with the originally intended use of the Unit is impossible) is the subject of a Taking, and the Owner of such Unit shall vacate and abandon such Unit by virtue of such Taking, the Owner and its Mortgagee shall be entitled to the award for such Taking, including the award for the value of such Owner's interest in the Common Elements, whether or not such Common Element interest is acquired, and, after payment thereof, such Owner and its Mortgagee shall be divested of all interest in the Property. The condemned Unit's entire Allocated Interest shall be automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the Taking. If any portion of a Unit is subject to a Taking, such that ownership, operation, or occupancy of the remaining portion of the Unit may be continued in accordance with the originally intended use of the Unit, the Owner may not vacate the remaining portion of the Unit. In such case, the Owner shall be entitled to the award for such Taking, and the Allocated Interest of the condemned Unit shall be reduced in proportion in accordance with the Reallocation Percentage. The portion of the Allocated Interest divested from the partially-acquired Unit shall be automatically reallocated to that Unit and the other Units in proportion to the respective Allocated Interests of the Units before the Taking, with the partially-acquired Unit participating in the reallocation on the basis of its reduced Allocated Interest. If any repair or rebuilding of the remaining portions of the Property is required as a result of such Taking, the remaining Owners shall determine by the affirmative vote or written consent of the remaining Owners owning a majority of the re-allocated Allocated Interests either to rebuild or repair the Property or to take such other action as such remaining Owners may deem appropriate. If no repair or rebuilding shall be required, or if none be undertaken, the remaining portion of the Property shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such Taking. This Declaration shall in all circumstances be amended to reflect the re-allocated Allocated Interests following the Taking.

Section 9.3 Taking of the Common Elements. If a portion of the Common Elements together with or apart from any Unit is the subject of a taking, the Association, in addition to the general powers set out in this Declaration, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding unless the action involves a material portion of the Common Elements in which case the agreement of all Owners shall be required. With respect to any such Taking of the Common Elements only, all damages and awards shall be determined for such Taking as a whole and not for any Owner's interest therein. After the damages or awards for such Taking are determined, such damages or awards shall be held by the Association, acting as trustee for each Owner and its Mortgagee, as their interests shall appear, in proportion to such Owner's percentage interest in the Common Elements, except that the portion of any such award attributable to the condemnation of a Limited Common Element shall be allocated among the Owners of the Units served by such Limited Common Elements, as such Owner's interests existed in the Limited Common Elements condemned. The Association may, if it deems advisable, call a meeting of the Owners, at which

meeting the Owners, by the vote of all Owners, shall decide whether to replace or restore as far as possible the Common Elements taken or damaged. If it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Map attached hereto shall be duly amended by instrument executed by the Association on behalf of the Owners and duly recorded.

Section 9.4 Taking of Multiple Units. If an eminent domain proceeding results in the Taking of all or part of multiple Units comprising less than two-thirds of the total square footage of the Property, then the damage and awards for such Taking shall be determined for each Unit and the following shall apply:

(a) The Association shall determine which of the Units damaged by such Taking may be operational or habitable for the purposes set forth in this Declaration, taking into account the nature of the Property and the reduced size of each Unit so damaged.

(b) The Association shall determine whether it is reasonably practicable to operate the remaining Units or portions of the Units as a mixed use condominium project in the manner provided in this Declaration.

(c) If the Association determines, with the consent of fifty-one percent (51%) of the Mortgagees, that it is not reasonably practicable to operate the undamaged Units and the damaged Units which can be made operational or habitable as a mixed-use condominium project, then the Property shall be deemed to be regrouped and merged into a single estate owned jointly in the undivided interest by all Owners, as tenants-in-common, in the percentage of the Allocated Interest of each Owner.

(d) If the Association determines that it will be reasonably practicable to operate the undamaged Units and the damaged Units which can be made operational or habitable as a mixed-use condominium project, then the damages and awards made with respect to each Unit which has been determined to be capable of being made operational or habitable shall be applied to repair and reconstruct such Unit so that it is made operational or habitable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed pro rata against the Owners of those Units which are being repaired or reconstructed so as to be made operational or habitable. With respect to those Units which may not be made operational or habitable, the award made with respect to each such Unit shall be paid to such Owner or the Owner's Mortgagee or mortgagees, as their interests may appear, and the remaining portion of such Units, if any, shall become a part of the Common Elements and repair and use of such Units shall be determined by the Association. Upon the payment of such award for the account of such Owner as provided in this Declaration, such Unit shall no longer be a part of the Property, and the Allocated Interest appurtenant to each remaining Unit which shall continue as part of the Property shall be equitably adjusted to distribute the Allocated Interest of the terminated Units among the reduced number of Owners.

Section 9.5 Complete Taking of Entire Property. If all the Property is subject to a Taking or damaged by such Taking, all damages and awards shall be held for the accounts of all Owners, and their Mortgagees, as their interests shall appear, as provided in this Declaration, in

proportion to their Allocated Interests, and this Condominium shall terminate upon such payment.

Section 9.6 Payment of Awards and Damages. Any damages or awards provided in this Article IX to be paid to or for the account of any Owner by the Association, acting as trustee, shall be applied (i) first, to the payment of any Governmental Impositions past due and unpaid with respect to that Unit; (ii) second, to Lien Indebtedness on that Unit; (iii) third, to the payment of any Assessments charged to or made against the Unit and unpaid; and (iv) finally to the Owner.

Section 9.7 Association as Attorney-in-Fact. Each Owner, by acceptance of title to, or possession of, a Unit, hereby irrevocably makes, constitutes and appoints the Association, and each and every one of its successors in interest hereunder (which appointment shall be deemed a power coupled with an interest), as Owner's true and lawful attorney-in-fact, for and in Owner's name, place and stead, upon the condemnation of the Condominium or any part thereof, or upon any determination by the Owners made pursuant to this Article IX, to take any and all actions, and to execute and deliver any and all instruments, as the Association may, in its sole and absolute discretion, deem necessary or advisable to effect the intents and purposes of this Article IX, hereby giving and granting unto the Association full power and authority to do and perform all and every act whatsoever requisite or necessary to be done in and about the premises as fully, to all intents and purposes, as an Owner might or could do, hereby ratifying and confirming whatsoever the Association may do by virtue hereof. The Association is hereby authorized, in the name and on behalf of all Owners, to do and perform all actions necessary or appropriate to effect the intent and purposes of this Article IX as aforesaid, including the power and authority to make and settle claims under any insurance policies maintained by the Association, except as may be limited by the Declaration, and to execute and deliver all instruments necessary or incidental to any such actions.

ARTICLE X

Development Period

Section 10.1 Initial Directors. The Board of Directors shall be initially established by Declarant as set forth in the Bylaws.

Section 10.2 Period of Declarant Control.

(a) Except as is provided below, Declarant shall have the right to appoint and remove members of the Board of Directors during the period of Declarant Control. If Declarant voluntarily surrenders control prior to the termination of the period of Declarant Control, Declarant may require that specified actions of the Board of Directors be subject to Declarant approval until the expiration of the period of Declarant Control.

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

(c) At least thirty (30) days prior to the termination of the period of Declarant Control, the Association shall elect at least three (3) directors to the Board of Directors pursuant to the Bylaws, of which one will be elected for a three year term, one will be elected for a two year term and one will be elected for a one year term, such terms to commence as of the date on which the period of Declarant Control terminates.

Section 10.3 Working Capital Contributions.

(a) Each Owner shall, at the time such Owner purchases a Unit from Declarant, contribute an amount to the Association equal to the Working Capital Contribution. Such amount shall be a contribution of working capital to the Association and shall not be considered as an advance payment of any Assessments. Declarant shall not be required to make any Working Capital Contribution.

(b) Any purchaser of a Unit from an Owner other than Declarant shall contribute an amount to the Association equal to the Working Capital Contribution at the time of purchase. Such amount shall be a contribution of working capital to the Association and shall not be considered as an advance payment of Monthly Assessments.

ARTICLE XI

Matters for Mediation and Arbitration

Section 11.1 Mediation. All Disputes except those relating to equitable remedies, which shall not be resolved within fifteen (15) days after same have arisen (unless such greater time is provided elsewhere in the Governing Documents) shall be submitted for, or determined by non-binding mediation. Mediation of any Dispute shall be initiated by any Owner making a written demand therefor to the other Owner or Owners involved in such Dispute and the Association. With respect to such mediation, the parties shall, within ten days after delivery of such written notice to the Association, appoint a mediator who is: (i) a reputable person actively engaged in the commercial real estate industry for a continuous period of not less than ten years and (ii) is in no way affiliated, or has had material business dealings with any Owner or any member of the Association. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth above shall be appointed by the then presiding judge of the United States District Court of the Galveston Division of the Southern District of Texas or such other service as may be recommended by the Galveston Bar Association. Such mediation shall occur within thirty (30) days after the mediator has been appointed and shall occur at a mutually acceptable location in Galveston, Texas. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorney's fees); provided, however, that if the Dispute is not resolved pursuant to such mediation, the provisions of Section 11.2 of this Declaration shall govern the payment of attorney's fees and costs and expenses of mediation or arbitration, as applicable under this Article XI.

Section 11.2 Final Offer Arbitration. If the parties are unable to resolve any Dispute at mediation, no later than thirty (30) calendar days after the parties have reached an impasse at mediation, the parties shall submit their Dispute to binding arbitration. The parties agree to select a single arbitrator from a list taken from the American Arbitration Association of

commercial arbitrators, and if they cannot agree on an arbitrator, each party shall select a person and those two so selected shall then select the single arbitrator who shall thereafter serve as arbitrator. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its most reasonable position to the arbitrator and the arbitrator shall select one of those two positions. The arbitrator shall have no discretion to select or award a position other than to select one of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current Rules for Commercial Mediation and Arbitration promulgated by the American Arbitration Association shall apply. Any award that is rendered by the arbitrator shall be accomplished no later than ten (10) days from the initiation of the arbitration procedure. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award. The party or parties whose position is not selected or awarded shall be responsible for all attorneys' fees, costs and expenses (incurred in connection with the mediation or arbitration, as applicable, of a Dispute under this Article XI) of the party whose position is selected or awarded for the mediation or arbitration, as applicable, of the Dispute under this Article XI.

Section 11.3 Exclusive Remedy. With respect to any Dispute subject to mediation or arbitration, as applicable, under this Article XI, it is agreed that the mediation and arbitration provisions of this Article XI shall be the sole remedy of the Owners and Association involved in such Dispute. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any dispute, claim, controversy or matter that does not constitute a "Dispute" as such term is defined in this Declaration or not described in this Declaration or with any person not named or described in this Declaration, provided that any arbitration proceeding initiated under the terms of this Section 11.3 may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Dispute and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrator shall be final and binding upon the Owners involved in the Dispute and such Owners' Mortgagees and nonappealable judgment thereon may be entered by any court having jurisdiction.

ARTICLE XII

Miscellaneous

Section 12.1 Sound Transmission Disclaimer. EACH OWNER, BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE OF THEIR UNIT, HEREBY ACKNOWLEDGES AND AGREES THAT SOUND AND IMPACT NOISE TRANSMISSION IN A HIGH-RISE BUILDING SUCH AS THE CONDOMINIUM IS VERY DIFFICULT TO CONTROL, AND THAT NOISES FROM ADJOINING OR NEARBY UNITS, AND THE SURROUNDING DEVELOPMENT, AND/OR MECHANICAL EQUIPMENT CAN AND WILL BE HEARD IN UNITS DECLARANT, THE OWNERS, AND THEIR DESIGNEES DO NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE LEVEL OF SOUND OR IMPACT NOISE TRANSMISSION BETWEEN AND AMONG UNITS AND THE OTHER PORTIONS OF THE PROPERTY, AND EACH OWNER HEREBY WAIVES AND EXPRESSLY RELEASES, TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW AS OF THE

DATE OF THIS DECLARATION, ANY SUCH WARRANTY AND CLAIM FOR LOSS OR DAMAGES RESULTING FROM SOUND OR IMPACT NOISE TRANSMISSION.

Section 12.2 Revocation or Termination of Declaration. Except in the circumstance of automatic termination as provided in Section 9.5 of this Declaration, this Declaration may be revoked or the Condominium established hereby may be terminated, only by an instrument in writing, duly approved, executed and acknowledged by those Owners holding not less than eighty percent (80%) of the Allocated Interests and not less than one hundred percent (100%) vote of the Mortgagees. Any such instrument of revocation or termination shall be duly filed of record in the County. If the Property is to be sold upon termination, the agreement effecting such termination shall also set forth the terms of such sale and comply with the provisions of the Act.

Section 12.3 Amendment to Declaration. This Declaration may be amended at a meeting of the Owners at which the amendment is approved by those Owners holding not less than sixty-seven percent (67%) of the votes or by a written amendment circulated among the Owners for execution. All amendments shall be evidenced by a written instrument executed and acknowledged by an officer of the Association on behalf of the consenting Owners and filed of record in the County. Any such amendment so effected shall be binding upon all of the Owners; provided, however, that except as permitted or required by the Act, no such amendment shall: (i) cause the alteration or destruction of all or part of any Unit unless such amendment has been consented to by the Owner and the Mortgagee of the Unit which is to be altered or destroyed; (ii) create or increase Special Declarant Rights; (iii) increase the number of Units; (iv) change the boundaries of a Unit; or (v) change the use restrictions on a Unit unless such amendment has been consented to by all of the Owners or is otherwise authorized by this Declaration. Additionally, notwithstanding anything contained in this Declaration to the contrary, including the foregoing provisions of this Section 12.3, to the extent permitted by the Act, the amendment of the definition of "Dispute" in Article I and/or the amendment of Section 2.6 of this Declaration shall require the written approval of Declarant, and no amendment pursuant to this Section 12.3 shall become effective unless approved by Declarant if Declarant still owns one or more Units and the amendment would, in Declarant's reasonable determination: (y) increase or otherwise modify Declarant's obligations; (x) reduce or modify any Special Declarant Rights or Special Declarant Rights set forth in the Declaration; or (z) materially inhibit or delay Declarant's ability to complete the Improvements or to convey any portion of the Property owned by Declarant. Notwithstanding the foregoing, Declarant, its Affiliate or the Association, if Declarant owns a Unit which has never been occupied, may, without a vote of the Owners or approval of the Association amend the Declaration or the Bylaws in any manner necessary to meet the requirements of the Federal National Mortgage Association, the Federal National Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration.

Section 12.4 Partial Invalidity. If any provision of the Governing Documents shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall in no way impair or affect the validity or enforceability of the remainder of the Governing Documents.

Section 12.5 Conflicts. If any of the provisions of the Governing Documents shall be in conflict with the provisions of the Act or the Texas Non-Profit Corporation Act or the Texas Business Corporation Act, the provisions of such statutes shall control. If a conflict exists among the provisions of the Governing Documents, the documents shall control in the following order:

1. The Declaration;
2. The Articles;
3. The Bylaws; and
4. The Regulations.

Section 12.6 Captions and Exhibits. Captions used in the various articles and sections of this Declaration are for convenience only, and they are not intended to modify or affect the meaning of any of the substantive provisions hereof. All exhibits are incorporated in and made a part of this Declaration.

Section 12.7 Usury. It is expressly stipulated and agreed to be the intent of the Declarant that at all times the terms of this Declaration, the Bylaws or the Regulations shall comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable under any provision of this Declaration, the Bylaws, or the Regulations. If the applicable law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received pursuant to this Declaration, the Bylaws, the Regulations or any other communication or writing by or between the Declarant, the Association and the Owners related to the matters set forth in this Declaration, the Bylaws, or the Regulations, then it is the express intent of the Declarant that all amounts charged in excess of the maximum rate allowed by Texas law shall be automatically canceled, *ab initio*, and all amounts in excess of the maximum rate allowed by Texas law theretofore collected shall be refunded, and the provisions of this Declaration, the Bylaws, or the Regulations shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law. The Owners hereby agree that as a condition precedent to any claim seeking usury penalties against the Declarant or the Association, any Owner will provide written notice to the Declarant or the Association advising the Declarant or the Association in reasonable detail of the nature and amount of the violation, and the Declarant or Association shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to an Owner or crediting such excess interest against the obligation then owing by such Owner to the Declarant or Association.

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

Section 12.9 Governing Law. THIS DECLARATION AND THE BYLAWS, ARTICLES, AND REGULATIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE CONDOMINIUM SHALL BE IN GALVESTON COUNTY, TEXAS.

Section 12.10 Notice. All notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered as properly given if (i) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee, or (iv) by prepaid telegram, telex, or telefacsimile to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. Any notice permitted or required to be given to a member of the Board or to an Owner may be delivered personally by mail placing such notice in the mail distribution facilities of each Owner if such facilities are present in the Building. For purposes of notice, the addresses of the Declarant and the Association shall be as set forth below, the address of each Owner shall be the address of the Unit and the address of each Mortgagee shall be the address provided to the Association; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 30 days' notice to the Association in the manner set forth herein:

Declarant:

Gal Gate LLC
353 E. Parkwood
Friendswood, Texas 77546
Attn: Jerome Karam

Association:

EIBANDS LUXURY CONDOMINIUMS ASSOCIATION, INC.
353 E. Parkwood
Friendswood, Texas 77546
Attn: Jerome Karam

Section 12.11 Estoppel Certificates. Each Owner, from time to time but no more often than twice each calendar year, shall have the right to require the Association (as to all items listed below) to deliver to the requesting Owner a written statement addressed to the requesting Owner and its Mortgagee or purchaser of its Unit, as applicable, without payment of any fee or cost certifying: (a) the Declaration is unmodified and in full force and effect (or if modified that the Declaration as so modified is in full force and effect); (b) the Declaration attached to the certificate is a true and correct copy of this Declaration and all amendments hereto; (c) the date through which all Assessments have been paid by the Owner requested to provide the certificate and the Owner requesting such certificate; (d) to the knowledge of the Association, the requesting Owner is not in default of any of its obligations under the Declaration (or if the Association knows the requesting Owner to be in default, specifying the defaults and any remaining cure period, if any); (e) the Association holds no then existing liens, other than the lien for unpaid Assessments accrued and not yet payable, against the requesting Owner's Unit; and (f) such other matters as are reasonably requested by the requesting Owner.

Section 12.12 Security.

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS OR EMPLOYEES, NOR THE DECLARANT, NOR ITS MEMBERS OR MANAGERS, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS OR EMPLOYEES, DECLARANT OR ITS MEMBERS OR MANAGERS, SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT OR TRACT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS OR EMPLOYEES, DECLARANT OR ITS MEMBERS OR MANAGERS OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT OR TRACT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS OR EMPLOYEES, DECLARANT OR ITS MEMBERS OR MANAGERS OR ANY OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND TO THE CONTENTS OF DWELLINGS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

Section 12.13 Covenants Running With the Land. All provisions of this Declaration, the By-Laws, and the rules and Regulations, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors, and assigns, but except as specifically provided for herein, the same are not intended

to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future owners, tenants, and occupants of Residence Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws, and the Rules and Regulations, as such document may be amended from time to time. The acceptance of a deed or conveyance or the entering into a lease or the entering into occupancy of any Residence Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws, and the Rule and Regulations, as such documents may be amended from time to time, are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Resident Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

If any provisions of this Declaration or the By-Laws is invalid under, or would cause this Declaration and the By-Laws to be insufficient to submit the Land to the provisions of the Act, such provision shall be deed deleted from this Declaration or the By-Laws as the case may be, for the purpose of submitting the Land to the provisions of the Act, but shall nevertheless be valid and binding upon and insure to the benefit of the owners of the land and their heirs, executors, administrators, legal representatives, successors, an assigns and covenants running with the Land and with every part thereof and interest under other applicable law to the extent permitted under such applicable law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land.

If any provision that is necessary to cause this Declaration and the By-Laws to be sufficient to submit the Land to the provisions of the Act is missing from this Declaration or the By-Laws, then such provision shall be deemed included as part of this Declaration or the By-Laws , as the case may be, for the purposes of submitting the land to the provisions of the Act.

Subject to the foregoing provisions, if this Declaration and the By-Laws are insufficient to submit the Land to the provisions of the Act, the provisions of this Declaration and the By-Laws shall nevertheless be valid and binding upon and insure to the benefit of the owners of the Land, and their heirs, executors, administrators, legal representatives, successors and assigns as covenants running with the Land and with every part thereof and interest therein under applicable law to the extent permitted under such applicable law with the same force and effect as if, immediately after the recording of this Declaration and the By-Laws, all Others had signed and recorded an instrument agreeing to each such provision as covenant running with the Land.

Section 12.14 Covenant of Further Assurances. Any party subject to the terms of this Declaration, whether such party is an Owner, a lessee or sublessee of an Owner, a lessee of any Common Element, an occupant of a Residence Unit, or otherwise shall, at the expense of any such other party requesting the same, execute, acknowledge, and deliver to the Association such instruments, in addition to those specifically provided for herein, and take such other actions as such other party may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction. If any Owner, or any other party subject to the terms of this Declaration fails or refuses, within ten (10) days after request therefore, to execute, acknowledge, or deliver any instrument, or to take any action that such Owner or party is

required to execute, acknowledge and deliver or to take pursuant to this Declaration, then the Association is hereby authorized as attorney-in-fact for such Owner or other party, coupled with an interest, to execute, acknowledge, and deliver such instrument, or to take such action, in the name of such Owner or other party, and such document or action shall be binding on such Owner or other party.

Section 12.15 No Partition. Except as may be otherwise specifically provided in this Declaration, the Common Elements shall remain undivided and shall not be subject to an action for partition or division of the co-ownership thereof so long as the Condominium is maintained as a condominium regime in accordance with the provisions hereof, and, in any event, any Lien Indebtedness secured by an interest in the Common Elements must be paid in full prior to bringing any action for partition or the consent of all holders of such Lien Indebtedness must be obtained.

Section 12.16 Correction of Errors. Declarant reserves, and shall have the continuing right until election of the fully elected board, without the consent of other Owners or the representatives of any Mortgagee, to amend this Declaration or the By-Laws for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any misstatement, errors or omission herein, provided that no such amendment shall change the stated numbers of Units nor the Allocated Interest in the Common Elements attributable thereto (except as set forth in Section 3.6).

ARTICLE XIII

Provisions Applicable to Mortgagees

Section 13.1 Notice To Mortgagees. All Mortgagees shall be entitled to receive the following notices in writing from the Association which notices shall be sent promptly following the occurrence of the applicable event: (a) notice of any proposed action which requires the consent of Mortgagees, which notice shall be given not less than thirty (30) days prior to the desired effective date of such action; (b) notice of default by an Owner (the beneficial interest in which is held by that Mortgagee) in the performance of such Owner's obligations or delinquency in the payment of Assessments, Charges or Governmental Impositions owed by Declarant, which remain uncured for a period of sixty (60) days; (c) notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained hereunder by the Association or by any Owner; (d) notice of any damage or destruction to or condemnation of any portion of the Condominium that affects either a material portion of the Property or any Unit securing a Mortgagee's Lien Indebtedness, which notice shall be given promptly upon the Association's obtaining knowledge of such damage or destruction; (e) notice of any proposed payment to be made by any Person on behalf of an Owner which pursuant to the terms of this Declaration may result in a lien on such Owner's Unit; (f) notice sixty (60) days prior to the Association instituting any foreclosure action on any Unit owned by Declarant; (g) notice thirty (30) days prior to the effective date of (i) any proposed material amendment to this Declaration or the Map, but not otherwise; (ii) any termination of an agreement for professional management of the Association, that has been brought before the Association; and (iii) any proposed

termination of the Condominium; and (h) notice of all meetings of the members of the Association.

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

Section 13.3 No Invalidity of Mortgage Lien. No violation of this Declaration by, or enforcement of this Declaration against, any party shall impair, defeat or render invalid the lien of any Mortgagee.

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

Section 13.5 Unpaid Assessments. If any Mortgagee obtains title to any Unit on which such Mortgagee holds a mortgage encumbering such Unit, pursuant to judicial foreclosure or the powers provided in such mortgage, such Mortgagee shall take title to such Unit free and clear of any claims for unpaid Assessments or charges against such Unit which accrued prior to the time the Mortgagee acquires title to such Unit.

Section 13.6 Books and Records. All Mortgagees, upon written request, shall have the right to (a) examine the books and records of the Association, including current copies of the Governing Documents and financial statements, during normal business hours; (b) require the Association to submit an annual audited financial statement for the preceding fiscal year within one hundred twenty (120) days of the end of the Association's fiscal year, if one is available or have one prepared at the expense of such Mortgagee if such statement is not otherwise prepared by the Association; and (c) designate in writing a representative to attend all meetings of the members of the Association.

Section 13.7 Priority of Rights. No provision of the Declaration shall be construed or applied to give any Owner priority over any rights of any Mortgagee in the case proceeds or awards are not applied to restoration but are distributed to Owners in the case of a casualty loss or condemnation of, a Unit and/or Common Element.

Section 13.8 Required Percentage. Any required percentage of Mortgagees in this Declaration shall mean and refer to the percentage the face amount of Lien Indebtedness held by such Mortgagees as compared to the total of the face amount of all Lien Indebtedness, and not the number of such Mortgagees.

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

DECLARANT:

Gal Gate, LLC, a Texas limited liability company

By: _____
Jerome Karam
Manager

THE STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

This instrument was acknowledged before me on the _____ day of _____, 2006, by Jerome Karam, Manager, of Gal Gate, LLC, a Texas limited liability company, on behalf of said limited company.

Notary Public - State of Texas

My Commission Expires:

List of Exhibits:

- Exhibit "A" - Legal Description of the Property
- Exhibit "B"- Map
- Exhibit "C"- Allocated Interests
- Exhibit "D"- Insurance Requirements
- Exhibit "E" - Inspections

CONSENT AND SUBORDINATION

The undersigned, beneficiary under a Deed of Trust ("Deed of Trust") dated as of _____, 2006, and recorded in Book _____, Page _____ of the Real Property Records of Galveston County, Texas, approves the foregoing Declaration (the "Declaration"), and agrees that the Deed of Trust is, and shall at all times continue to be, subject, inferior and subordinate in all respects to the Declaration.

Dated: _____, 2006.

Enterprise Bank, a _____ bank

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2006, by _____, _____ of Enterprise Bank, a _____, bank, on behalf of said _____.

Notary Public - State of Texas

My Commission Expires:

CONSENT AND SUBORDINATION

The undersigned, beneficiary under a Deed of Trust ("Deed of Trust") dated as of _____, 2006, and recorded in Book _____, Page _____ of the Real Property Records of Galveston County, Texas, approves the foregoing Declaration (the "Declaration"), and agrees that the Deed of Trust is, and shall at all times continue to be, subject, inferior and subordinate in all respects to the Declaration.

Dated: _____, 2006.

Caddo East Estates I, Ltd., a Texas limited partnership

By: Caddo East Eastates, L.L.C., a Texas limited liability company,
its general partner

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 2006, by _____, _____ of Caddo East Estates, L.L.C., a Texas limited liability company, general partner of Caddo East Estates I, Ltd., a Texas limited partnership, on behalf of said limited partnership.

Notary Public - State of Texas

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

MAP

EXHIBIT C

UNIT	ALLOCATED INTERESTS		ESTIMATED MONTHLY ASSESSMENT
	SQUARE FOOTAGE	PERCENTAGE OF OWNERSHIP	
201	2,145		
202	1508		
203	1823		
204	1545		
205	1576		
206	1941		
207	1677		
208	1673		
309	1826		
310	1508		
311	1823		
312	1545		
313	1576		
314	1941		
315	1690		
316	2025		
417	1826		
418	1508		
419	1823		
420	1545		
421	1576		
422	1941		
423	1690		
424	2025		
Retail Unit	9676		
TOTAL:	51,432	100.00%	

EXHIBIT "D"
INSURANCE REQUIREMENTS FOR THE ASSOCIATION AND UNITS

The Association and each Unit, but only to the extent required below, shall purchase and maintain insurance policies ("Policies") in compliance with the following requirements:

COVERAGE AND LIMITS

<u>TYPE</u>	<u>WHO MUST CARRY</u>	<u>MINIMUM AMOUNT</u>	<u>OTHER REQUIREMENTS</u>
1. Workers' Compensation and Employer's Liability	1. The Association 2. Retail Unit	Statutory Limits, plus employer's legal liability of \$500,000 per occurrence	1. No "alternative" forms of coverage will be permitted.
2. Commercial General Liability or Comparable Homeowner's Liability (Occurrence Basis)	1. The Association 2. All Units	\$ 1,000,000 per occurrence \$ 2,000,000 general aggregate \$ 2,000,000 product-completed operations aggregate limit. \$ 1,000,000 personal and advertising injury limit \$ 50,000 fire legal liability \$ 5,000 medical expense limit	1. ISO form CG 0001 0196, or equivalent 2. Insured Parties will be named as "additional insureds" on ISO Form CG 20 11 and if performing improvements CG 2026 or equivalent 3. Aggregate limit of insurance (per location endorsement ISO CG2504 , or equivalent) and if performing improvements, also CG 2503) 4. Deletion of exclusions for liability assumed under contract (personal and advertising injury) 5. Defense will be provided as an additional benefit and not included within the limit of liability 6. Coverage for products liability CG2407 or equivalent (only required if Unit has restaurant use) 7. Total pollution exclusion with heating equipment and hostile fire exception CG 21 65 or equivalent.
3. Business Automobile Liability (Occurrence Basis)	1. The Association 2. Retail Unit	Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent.	1. ISO form CA 0001 1001, or equivalent 2. Insured Parties will be named as "additional insureds" 3. Includes owned, hired and non-owned vehicles

4. Liquor Liability & Dram Shop Liability (Occurrence Basis)	1. Retail Unit (if sell liquor)	\$1,000,000 per occurrence	
5. Umbrella Liability	1. The Association 2. All Units	\$5,000,000 for the Association; \$10,000,000 for Residential Units and Retail Unit	1. Written on an umbrella form, but minimum on "excess" following form over the coverages referenced in types 1 through 5 above 2. Same inception and expiration dates as commercial general liability insurance 3. Aggregate limit of insurance per location endorsement
6. Employee Dishonesty	1. The Association	\$1,000,000 each loss	1. Contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression 2. Including coverage for employee dishonesty, premise, transit, deposit and forgery, and computer theft
7. Causes of Loss-Special Form (formerly known as "All-Risk") Property Insurance	1. The Association 2. All Units	One hundred percent (100%) of the then current replacement cost of the Common Elements (to be procured by the Association) and the Unit (to be procured by such Unit, if applicable)	1. ISO form CP 1030, or better 2. Name Insured Parties as "insured as its interest may appear". 3. Contain only standard printed exclusions 4. Provide damage due to water and sprinkler leakage and flood and collapse and terrorism (covering losses from domestic and international terrorist acts) and shall be written with limits of coverage typically required with respect to facilities similar to the Condominium 5. Cost of debris removal and value of grading, paving, landscaping, architects, and development fees endorsement 6. Waiver of any right of the insurer to repair, rebuild or replace any damage or destruction if decision is made pursuant to this Master Declaration not to do so
11. Builders Risk Property Insurance (property following construction)	1. Association 2. All Units (if Owner is constructing improvements)	1. Coverage on a completed value basis 2. Amount of coverage; initial price of the work subject to subsequent modification of the work 3. Property covered: - All structures under construction - All property for installation, including materials and	1. ISO "All Risk" coverage form, or equivalent 2. Required Endorsements: Agreed Value (no coinsurance) Policy limit Damage arising from collapse Policy limit Debris removal additional limit \$1,000,000 or 25% of loss - whichever is greater Ordinance or law Policy limit Pollutant clean up or removal \$25,000 Preservation of property Policy limit Replacement cost Policy limit

12. Directors and Officers Liability (Occurrence Basis)	1. The Association	supplies involved in such construction - All temporary structures including scaffolding, falsework and temporary buildings involved in such construction \$1,000,000	Terrorism (covering losses from domestic and international terrorist acts) Policy limit Testing Policy limit Damage resulting from faulty or defective workmanship or materials Policy limit 3. No protective safeguard warranty permitted. 4. Name Insured Parties as Loss Payees.
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OTHER REQUIREMENTS:

1. **DEDUCTIBLES.** Any aggregate limit which is reduced below 75% of the limit required by this Master Declaration because of losses incurred must be reinstated by the party whose limit has been reduced. No deductible or self-insured retention in excess of \$25,000 (20% of the replacement cost with regard to the Causes of Loss – Special Form insurance).

2. **EVIDENCE OF INSURANCE REQUIRED**

The Association and each Owner shall provide a Certificate of Insurance to the Association, Declarant and each Owner upon the written request of the Association or an Owner. The “ACORD Form 25 Certificates of Liability Insurance” (with regard to liability insurance policies), the “ACORD Form 27” (with regard to property insurance policies) or another pre-approved substitute is the required form in all cases where reference is made herein to a “Certificate of Insurance”. The Certificate of Insurance must specify the additional insureds and waivers of subrogation. If requested in writing by the Association, Declarant or an Owner, the Association and each Owner shall provide the requesting party a certified copy of any or all Policies or endorsements required under this Master Declaration.

3. **INSURANCE REQUIRED FOR THE TERM OF THE ASSOCIATION**

With regard to the insurance required of a particular Unit, any and all insurance required by this Agreement with regard to such Unit shall be maintained until the earlier of (a) the removal of a Unit from the Condominium or (b) the date that the Association is terminated.