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Rebecca Guerrero, County Clerk  
Travis County, Texas

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Prepared in the Office of:  
Julie Alexander Law, PC  
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## **DECLARATION OF CONDOMINIUM REGIME**

### **Ceberry & Summit Condominiums** **8106 Ceberry Drive and 3600 Summit Bend, Austin, Texas 78759**

STATE OF TEXAS  
COUNTY OF TRAVIS

#### **Preamble**

This Declaration of Condominium Regime for the Ceberry & Summit Condominiums ("Declaration") is dated to be effective on March 24, 2022, in Travis County, Texas, by Holly Pyle, individually ("Declarant"), whose mailing address is 304 North Canyonwood Drive, Dripping Springs, Texas 78620.

#### **Recitals**

1. Declarant is the owner of all of the real property, including the land; all improvements and structures on the property; and all easements, rights, and appurtenances belonging to the property that is located at **8106 Ceberry Drive and 3600 Summit Bend, Austin, Texas 78759**, in Travis County (the "Property"), more particularly described in **Exhibit A**, which is attached and incorporated by reference.
2. Declarant submits the Property to a condominium regime established by the Texas Uniform Condominium Act (TUCA), which is codified in Chapter 82 of the Texas Property Code.
3. The Property constitutes a condominium project (the "Project") within the meaning of TUCA. The formal name of the Project is "**Ceberry & Summit Condominiums**."
4. Declarant intends and desires to establish by this Declaration a plan of ownership for the Project. The plan consists of individual ownership of residential condominium units (the "Units"), and an interest in the real property on which the Units are located. The Project shall be divided into no more than two (2) Units.
5. The Declarant intends to impose on the Project mutually beneficial restrictions for the benefit of all Units and the persons who own those Units (the "Owners"). The Declarant

Declaration of Condominium Regime  
Ceberry & Summit Condominiums

further intends, in accordance with the terms set forth herein, that the Owners will govern the Project by means of an organization of Owners (herein the "Association"), as more particularly set forth herein. The formal name of the Association is the "**Ceberry & Summit Condominium Association.**"

6. The Units and other areas of the Project are more particularly described in **Exhibit B**, which are attached and incorporated by reference. The Owners each have an undivided interest in the remaining property of the Project (referred to as the "Common Elements"), which is also more particularly described in **Exhibit B**. **Exhibit B** sets forth the allocation to each Unit of: (a) a percentage of undivided interests in the Common Elements, (b) a percentage of responsibility for the Common Expenses of the Association, (c) a percentage of votes in the Association, (d) a percentage that each Unit is of the entire Project, and (e) a percentage of responsibility for any property taxes assessed against the Project in its entirety, including but not limited to assessments made in the year in which this Declaration is recorded.
7. Therefore, the Declarant declares that the Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division of the Property into Units, and all of which are established and agreed on for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project and every part of the Project. All of the covenants, conditions, and restrictions shall run with the Property and shall be binding on all parties having or acquiring any right, title, or interest in or any part of the Property and shall be for the benefit of each owner of the Project or any interest in the Project and shall inure to the benefit of and be binding on each successor in the interest of the Owners.

#### Article 1 - Definitions

- 1.01. **Association.** *Association* means the **Ceberry & Summit Condominium Association**, a non-profit corporation organized under the Texas Business Organizations Code for the management of the Project, the membership of which consists of all of the Owners in the Project.
- 1.02. **Bylaws.** *Bylaws* mean the Bylaws of the Association and amendments to the Bylaws that are or shall be adopted by the Members of the Association.
- 1.03. **Certificate.** *Certificate* means the Certificate of Formation of the Association that is or shall be filed in the Office of the Secretary of State of the State of Texas.
- 1.04. **Common Elements.** *Common Elements* mean all elements of the Project except the separately owned Units and includes both General and Limited Common Elements, if any.
- 1.05. **Common Expenses.** *Common Expenses* means and excludes the following:
  - a) **General Expenses.** All reasonable expenses incurred by the Association for promoting the health, safety, welfare and recreation of the Owners of the Units and in particular for the administration and management, ownership, maintenance, operation, repair, replacement, or improvement of and addition to agreed upon Common Elements, if any.

- b) **Structural Repairs.** All reasonable expenses associated with the repair, maintenance and upkeep, or replacement of the roof, foundation, structural walls, bearing walls and columns, and structural components of the Condominiums, if such work affects the improvements in both Units, and is determined necessary by a third party expert, unless otherwise agreed by the Owners, shall be an expense of the Units to be shared equally by the Units, and shall **not** be considered a Common Expense of the Association.
- c) **Fencing.** All reasonable expenses for the shared fence on the dividing line of the Units, if any, shall be an expense of the Units to be shared equally by the Units, and shall **not** be considered a Common Expense. Any fencing, perimeter walls, retaining walls, rock walls, or other walls on the perimeter of a Unit or within a Unit, with the exception of the shared fencing described above, shall be considered a part of a Unit and as such the sole responsibility of the Unit, and shall **not** be considered a Common Expense of the Association.
- d) **Common Utilities.** All reasonable expenses arising from or associated with any utility service installations that are located on the Property and serve both Units, if any.
- e) **Association Expenses.** All reasonable expenses for registered agent services, legal and accounting services, and any accompanying filing fees or late fees, as necessary or proper for maintenance of the Association with the Texas Comptroller or Texas Secretary of State shall be an expense of the Units to be shared equally by the Units and shall **not** be considered a Common Expense of the Association.
- f) **Other Expenses.** All other reasonable expenses declared to be Common Expenses by provisions of this Declaration or by the other Documents.

All expenses in this Section shall be paid directly by each Owner to the provider within ten (10) days of the due date. If any Owner fails to make payment, the other Owner may make payment for the total amount, and the non-paying Owner shall reimburse the paying Owner such un-paid expense plus interest at ten percent (10%) per annum until paid in full.

1.06. **Condominium.** *Condominium* means the **Ceberry & Summit Condominiums**.

1.07. **Declarant.** *Declarant* means owner of the Project and its successors and assigns.

1.08. **Declarant Control Period.** *Declarant Control Period* means the period until the Declarant initially sells one Unit.

1.09. **Declaration.** *Declaration* means this Declaration of Condominium Regime for the **Ceberry & Summit Condominiums** and all that it contains.

1.10. **Development Period.** *Development Period* means the first to occur of: (1) three (3) years from the date of the recording of this Declaration, or (2) Declarant initially selling both Units.

1.11. **Documents.** *Documents* means the Declaration, the Certificate of Formation, Bylaws of the Association and Rules of the Association.

1.12. **General Common Elements.** *General Common Elements*, if any, mean all the Common Elements except the Limited Common Elements, if any, as set forth in **Exhibit E**, which is attached and incorporated by reference.

1.13. **Limited Common Elements.** *Limited Common Elements*, if any, mean the Common Elements allocated for the exclusive use of one or more but less than all of the Units. It is anticipated that this project will not have any Limited Common Elements.

1.14. **Majority.** *Majority* means fifty-one percent (51%) or more.

1.15. **Manager.** *Manager* means the person or corporation, if any, appointed by the Members to manage the Project.

- 1.16. **Member(s).** *Member(s)* means any person that is an Owner of a Unit within the Project and therefore is also a member of the Association.
- 1.17. **Owner(s).** *Owner(s)* means any person that owns a Unit within the Project. Ownership shall be determined by the grantee(s) as set forth on the recorded warranty deed conveying any Unit.
- 1.18. **Person.** *Person* means an individual, firm, corporation, partnership, association, trust, other legal entity, or any combination of persons or entities.
- 1.19. **Project or Property.** *Project or Property* means the entire parcel or the Property described in **Exhibit A**, including the land, all improvements and structures on the Property, and all easements, rights, and appurtenances belonging to the Property that are divided or are to be divided into Units to be owned and operated as a Condominium. The Project shall be divided into no more than two (2) Units.
- 1.20. **Rules.** *Rules* mean and refer to the Rules and Regulations for the Project adopted by the Members pursuant to this Declaration.
- 1.21. **Unit.** *Unit* means an individual condominium unit, as described below in Section 2.03. Each Unit shall consist of all improvements within the allocated areas, which are shown on the survey or plat of the Property attached hereto as **Exhibit E**.
- 1.22. **Addressing of Units.** In the Documents, the Units shall be described as follows: Unit 1/8106 Ceberry with a City of Austin address of 8106 Ceberry Drive, Austin, Texas 78759, and such Unit may be referred to in the Documents and other sources as Unit 1, Unit A, Building 1, or the Property address; Unit 2/3600 Summit with a City of Austin address of 3600 Summit Bend, Austin, Texas 78759, Building 2, and such Unit may be referred to in the Documents and other sources as Unit 2, Unit B, or Building 2.

## **Article 2 – The Property**

- 2.01. **Property Subject to Declaration.** All the real property described in **Exhibit A** to this Declaration, including the land; all improvements and structures on the property; and all easements, rights, and appurtenances belonging to the property (referred to as the “Property”) shall be subject to this Declaration.
- 2.02. **Exclusive Ownership and Possession.** Each Owner shall be entitled to the exclusive ownership and possession of the Owner’s Unit, as further set forth in **Exhibit E**. Any Unit may be jointly or commonly owned by more than one Person. No Unit may be subdivided.
- 2.03. **Unit Boundaries.** The boundaries and identifying number of each Unit are shown on the survey or plat attached hereto as Exhibit E. The boundaries of each Unit are further described as follows:
- (a) **Lower Boundary.** The horizontal plane corresponding to the finished grade of the land within the Unit, as described on Exhibit E, except as expressly provided in Section 2.04 below.
  - (b) **Upper Boundary.** The horizontal plane parallel to and two hundred fifty feet (250’) above the lower boundary the Unit.

- (c) **Lateral Boundaries.** A vertical plane corresponding to the boundaries of the Unit, as described on Exhibit E. The center-line or midpoint of the party or common wall shall be the lateral boundary between the Units in that plane.

2.04. **Description of Unit.** Each Unit includes the spaces and improvements now or hereafter constructed within the lower, upper, and lateral boundaries defined in Section 2.03 above, including without limitation: (1) all improvements, fixtures, installations and equipment exclusively serving the Unit; (2) roofs, foundations, below-grade foundations, piers, structural supports and elements, any other below-grade item that serves or supports the Unit exclusively; (3) utility installations and meters, plumbing and drainage installations, sewerage installations, pipes, drains, conduits, lines, cabling, and irrigation system installations to the extent such installations exclusively serve such Unit; (4) retaining walls, walls, porches, decks, patios, balconies, terraces, garages and/or carports, outbuildings or sheds, driveways, parking areas, sidewalks, walkways, hardscapes, mailboxes, fences; (5) yards, landscaping, subterranean components of plant material; and (6) all other improvements of any kind located within the Unit. **Declarant does not warrant or guaranty that the Units are soundproof or that sounds and/or vibrations may not be transmitted between the Units.**

2.05. **Changes to a Unit.** A Unit Owner may make changes to a Unit unless prohibited or restricted in this Section 2.05, Section 5.01, and as otherwise set forth in this Declaration.

- (a) **Changes During Development Period.** During the Development Period, Declarant shall have the right to make any changes to the General Common Elements, if any, and a Unit owned by Declarant, including but not limited to changes to the style, design, size and/or color, of the improvements within a Unit owned by Declarant.
- (b) **Changes to Units.** Any changes to Units shall be completed in compliance with local building codes and ordinances. Subject to the restrictions of Sections 2.06, 5.01, 5.02 below, and as otherwise contained herein, each Owner shall be entitled to the exclusive right to change the interior and exterior size or shape of the improvements located within his or her Unit. Such changes to a Unit may be done through remodeling to increase the square footage of the improvements located within a Unit, tearing down and constructing new improvements within a Unit, or other allowable means. Any addition of square footage to the improvements located within a Unit shall not alter a Unit Owner's percentage ownership or voting rights as otherwise set forth in this Declaration or other Documents.
- (c) **Compliance with City of Austin Ordinances and Prohibition Against Interference with Water Flow and Drainage.** Any change to a Unit or Common Element shall be in compliance with all applicable city, county, state or other laws, ordinances and/or codes, and the Unit Owner or Association is required to obtain a City of Austin permit for any change to a Unit or Common Element that requires a permit. Furthermore, any alteration or improvement to a Unit shall not interfere with the drainage systems and drainage design of the Project, and they shall not impede or alter the natural flow of drainage and/or surface run-off water on the Project. Declarant shall not be responsible for damages, including but not limited to flooding, pooling of water, and/or erosion resulting from any Owner's alterations, changes and/or improvements to a Unit or a Common Element.

- (d) **Fencing.** If one does not exist, any Unit Owner may erect a fence on the dividing line of a Unit, or within their Unit, as set forth in Exhibit E. No Unit Owner may install fencing along driveways or other ingress and egress of another Unit that impedes or prohibits ingress and egress to another Unit over driveways, driveway strips or other ingress or egress areas by consumer or non-commercial automobiles, including but not limited to cars, sedans, sports utility vehicles and trucks. Declarant discourages the installation of fencing in drainage areas, and any fencing in drainage areas shall have a minimum of 24 inches of open wire at the bottom, which is regularly cleaned and cleared of debris. If on the dividing line of a Unit, each Unit Owner must agree on the style and/or type of fence to be erected, and such agreement must not be unreasonably withheld. If the Unit Owners are unable to agree on a style and/or type of fence, any style or type of fence currently existing on the Property shall be considered reasonable and shall be allowed. If the Unit Owners agree to erect a fence on a dividing line of a Unit, the costs and expenses of the construction of such a fence shall be borne equally by each Unit. If the Unit Owners do not agree to erect a fence, the Unit Owner desiring to erect the fence shall bear the costs and expenses of the construction of such a fence, however, the Unit Owner erecting the fence shall have the exclusive right to construct the fence so that he or she receives the benefit of the construction and has the most preferable side of the fence facing his or her Unit.
- (e) **Access.** A Unit Owner shall be allowed reasonable access to the yard areas of another Unit for the limited purpose of access to any utility controls or meters serving his or her Unit, and any purpose reasonably related to construction of fencing, or a remodel, alteration or addition to the improvements of a Unit, including but not limited to access for permitting, surveying, inspections, access to utilities, and/or the drafting of plans.

**2.06. Allocation of Remaining Impervious Cover, Building Coverage, FAR and Building Size.**

The Unit Owners understand that the total amount of impervious cover, building coverage, floor area ratio ("FAR"), building size and other similar allocations on the Property ("Allocations") is limited by the codes and ordinances of the City of Austin in place at the time of permitting, and that the total percentage of remaining allowable Allocations may increase or decrease over time. The total amount of remaining Allocations allowed on the Property under City of Austin Codes and ordinances at any time (the "Allocated Remaining Coverage and Size") is hereby allocated between the Units as follows:

**Unit 1/8106 Ceberry: Fifty Percent (50%)**

**Unit 2/3600 Summit: Fifty Percent (50%)**

**Declarant makes no representations, warranties, promises or guaranties about the amount of impervious cover, building coverage, FAR and/or building size used or remaining, if any, on the Property.** Each Unit Owner is responsible for making an independent determination as to existing and remaining Allocations prior to or at the time of requesting any permit on the Property. Each Unit shall be allowed to utilize up to the above percentages of Allocated Remaining Coverage and Size of the total allowed remaining Allocations, if any, at the time of any permitting relating to alterations, additions, improvements and/or construction to improvements located within a Unit

by a Unit Owner, provided that any such alteration, addition, improvement and/or construction shall be subject to the terms, conditions and approvals as provided in Section 2.05 above.

**2.07. Disclosure Regarding Future Permitting.** Each Owner understands that the permitting of remodels, improvements, reconstruction, repairs and other similar activities on the Units as allowed or required in the Documents, will likely require the cooperation of the Owners of both Units, and as such the Owners of both Units specifically agree to use their best efforts of cooperation related to the obtaining of such permits. The City of Austin will likely consider the Property one lot for future permitting purposes, as a condominium regime is not a re-subdivision of the Property into two or more lots. The City of Austin may have permitted the structures and improvements differently from their use and/or Unit designations in this Declaration. If an Owner desires or needs to obtain a permit from the City of Austin or other governing agency for remodels, improvements, reconstruction, repairs and/or other similar activities on his or her Unit, the Owners shall use their best efforts to cooperate in the preparation (to the extent information about a Unit and/or approval by an Owner is needed by the other Unit Owner for the permit) and execution of any documentation required to obtain such permits, and each Unit Owner specifically agrees to consent and execute any documents evidencing such consent if consent of a Unit Owner is required for any work to a Unit allowed under these Documents. The cost and expense of the permits and any related documentation shall be the sole responsibility of the Owner seeking the permit.

**2.08. Common Elements.** Each Owner shall be entitled to an undivided interest in the Common Elements, and obligated for the Common Expenses of the Association, in the percentages expressed in **Exhibit B**. The percentage of the undivided interest of each Owner in the Common Elements, as expressed in **Exhibit B**, shall have a permanent character and shall not be altered without the consent of all Owners, expressed in an amended, duly recorded Declaration. The percentage of the undivided interest in the Common Elements shall not be separated from the Unit to which it pertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though the interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Elements in accordance with the purpose for which they are intended as long as the lawful rights of the other Owners are not hindered or encroached upon.

**2.09. Partition of Common Elements.** The Common Elements shall remain undivided and shall not be the object of an action for partition or division of ownership so long as the Property remains a Condominium Project. In any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained.

**2.10. No Parking.** No vehicle may be parked, even temporarily, in another Unit.

**2.11. Nonexclusive Easements.** The easements in this Article shall be appurtenant to and shall pass with the title to each Unit and shall be subordinate to the exclusive easements granted elsewhere in this Declaration, as well as to any rights reserved to the Association to regulate time and manner of use, and to perform its obligations under this Declaration.

2.12. **Access Easement.** The Association hereby grants to every Owner, an easement in, on, and over the Units and Common Elements for the purpose of constructing, installing, repairing, replacing, or maintaining necessary utilities, meters, lines, services, fixtures, equipment and maintenance of portions of the exterior of any Unit not accessible through its own Unit. No Owner shall interfere with utilities, meters, lines, services, fixtures, installations and/or equipment contained in his or her Unit or the Common Elements that serves the other Unit. Furthermore, the Association requires that all Owners allow reasonable access to his or her Unit for the Owners, agents and contractors of the adjoining Unit, if necessary, for the completion of any repair, maintenance, remodel, addition or other construction of an adjoining Unit. Any Owner accessing another Unit shall leave such Unit in the same or better condition after such access in a timely manner and at the accessing Owner's expense. Each Owner, in accepting the deed to a Unit, expressly consents to such easements. Additionally, present easements and/or restrictions exist on the Property, as more fully described in **Exhibits D and E**.

2.13. **Easements for Maintenance of Encroachments.** None of the rights and obligations of the Owners created in this Declaration or by the deeds granting the Units shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments so long as they shall exist provided, however, that in no event shall a valid easement for an encroachment be created in favor of any Owner if the encroachment occurred because of the willful conduct of the Owner.

2.14. **Mailboxes and Access Easement.** The Owners understand that Declarant, Owners and/or the Association does not have control over the manner of mail and package delivery. Therefore, the mailboxes for the Units may be located on the Units or General Common Elements, if any, and such locations may change over time. All Owners shall have a limited easement for pedestrian ingress and egress to the mail and package delivery locations in, on and over the yard areas of the other Unit and General Common Elements, if any, as needed to retrieve mail or packages delivered to the Owner(s) of a Unit. The Owners shall cooperate in the moving of mailboxes or package delivery areas if requested or required by the post office or other package delivery service.

2.15. **Allocation of Reserved General Common Elements.** There are currently no reserved General Common Elements, and no portion of the Condominium is reserved or may be further allocated as General Common Elements.

2.16. **Condemnation.** If any Unit or part of a Unit, or any portion of a Common Element is acquired by condemnation, the Section 82.007 of the Texas Property Code shall control.

### Article 3 – Unit Owners' Association

3.01. **Association.** The Association, organized as a nonprofit corporation under the Texas Business Organizations Code, operating under the name **Ceberry & Summit Condominium Association**, is charged with the duties and vested with the powers prescribed by law and set forth in this Declaration and in the Association's Certificate of Formation and Bylaws.



3.02. **Membership.** Membership in the Association is automatically granted to the Owner or Owners of each Unit in the Project. On the transfer of title to any Unit, the membership of the transferor automatically ceases and each new Owner becomes a Member.

3.03. **Voting Rights.** Each Unit in the Condominium is entitled to the following percentage of votes in the Association:

**Unit 1/8106 Ceberry: Fifty Percent (50%)**

**Unit 2/3600 Summit: Fifty Percent (50%)**

Each Owner within a Unit is entitled to an equal percentage of the Unit's voting percentage. For example, in the situation where each Unit is owned by an individual, each Owner shall be entitled to fifty percent (50%) of the vote; and in the situation where Unit 1/8106 Ceberry has one Owner and Unit 2/3600 Summit has two Owners, the Owner of Unit 1/8106 Ceberry has fifty percent (50%) of the vote and each Owner of Unit 2/3600 Summit has twenty-five percent (25%) of the vote. The votes cast by a Majority vote of the Units shall control, provided that if the Owners are deadlocked and any Unit is owned by Declarant, the vote of Declarant shall control.

3.04. **Membership Meetings.** Meetings of the Members shall be called, held, and conducted in accordance with the requirements and procedure set forth in the Bylaws.

3.05. **General Powers and Authority.** The affairs of the Condominium shall be managed and administered by the Association. The Association shall have all of the rights, powers and duties established by the Texas Uniform Condominium Act ("TUCA"), which is codified in Chapter 82 of the Texas Property Code, as may be amended from time to time, as well as the powers of a nonprofit corporation established under Texas law, subject only to the limitations contained in this Declaration and in the other Documents. The Association shall have the right, power, and obligation to provide for the maintenance, repair and replacement of the General Common Elements, if any, to the degree and in the manner as provided in the Texas Property Code, except as and to the extent otherwise provided in this Declaration and the other Documents. The Association shall not be responsible for the maintenance, repair and replacement of the Units, or for any maintenance obligations of the Unit Owners as provided herein. The Association may perform all acts that may be necessary for, or incidental to, the performance of the obligations and duties imposed on it by this Declaration. The powers of the Association shall include, but are not limited to, the following:

- (a) The power to establish, fix, and levy assessments against Owners in accordance with the procedures and subject to the limitations set forth in this Declaration and the Documents.
- (b) The right to discipline Owners for violation of any of the provisions of the Documents or Association Rules by suspension of the violator's voting rights or privileges for use of the Common Elements or by imposition of monetary penalties, subject to the following limitations:
  - i) The accused Owner must be given written notice of the violation or property damage, stating the amount of any proposed fine or damage charge and that the

Owner may request a written hearing before the Members within thirty (30) days of the notice.

- ii) The accused Owner must be given a reasonable time, by a date specified in the notice, to cure the violation and avoid the fine, unless the Owner was given notice and reasonable opportunity to cure a similar violation within the preceding twelve (12) months.
- iii) The accused Owner must be given written notice of a levied fine or damage charge within thirty (30) days after the date of levy.
- iv) Any suspension of privileges or imposition of monetary penalties shall be reasonably related to the Owner's violation.

**3.06. Members and Officers of the Association.** The affairs of the Association shall be managed by the Members. Provisions regulating the Members shall be set forth in the Bylaws of the Association. The Members shall appoint officers, who shall include a President, Secretary, and Treasurer, and such other officers as the Members may deem proper. Provisions regulating the officers shall be set forth in the Bylaws of the Association.

**3.07. Consent of Members.** Any provisions herein requiring the consent of the Members requires a Majority vote, unless set forth specifically otherwise in the Declaration or Documents.

**3.08. Duties of the Association.** In addition to the duties delegated to the Association or its agents and employees elsewhere in these Documents, the Association shall be responsible for the following:

- (a) The repair, maintenance or replacement of the items listed below and all General Common Elements, if any, including but not limited to the following:
  - i) Roof, foundation, structural walls, bearing walls and columns, and structural components of the Condominium, if such work affects both Units, and is determined necessary by a third-party expert, unless otherwise agreed by the Unit Owners, subject to Section 1.05;
  - ii) The shared fence on the dividing line of the Units, if any, subject to Section 1.05; and
  - iii) Utility service installations that are located on the Property and serve both Units, if any.
- (b) Operation and maintenance of any General Common Elements. This duty shall include, but shall not be limited to, maintenance, repair, replacement and landscaping of General Common Elements, if any, as the Members shall determine are necessary and proper. In the event that there are no General Common Elements, the Association shall have no duty under this provision.
- (c) Acquisition of and payment from the maintenance fund for the following:
  - i) Each Unit shall be responsible for reimbursing the Association for the cost of any water, sewage, garbage, gas, or other utility service incurred as a result of usage in a Unit, if the Association is billed for any such service.
  - ii) Each Unit shall be responsible for reimbursing the Association for their portion of the cost of any Common Expense defined as such herein, or otherwise approved as such.

- iii) The services of personnel that the Members shall determine to be necessary or proper for the operation and maintenance of the Common Elements.
- (d) Legal and accounting services necessary or proper for the maintenance of the Association with the Texas Comptroller and Texas Secretary of State and operation of the Association or Common Elements or the enforcement of this Declaration or Documents, subject to Section 1.05.
- (e) Drafting and recording of a Management Certificate not later than the 30<sup>th</sup> day after the date the Association has notice of a change in any information in a recorded certificate. Each Management Certificate must include:
  - i) the name of the Condominium;
  - ii) the name of the Association;
  - iii) the location of the Condominium;
  - iv) the recording data for the Declaration;
  - v) the mailing address of the Association, or the name and mailing address of the person or entity managing the Association.

**3.09. Property Taxes.** Each Unit Owner understands that the taxing authorities may have already made appraisals and/or sent property tax bills for the year in which this Declaration is recorded, and as such there may be a delay in time prior to each Unit receiving a separate appraisal and/or property tax bill. Therefore, each Unit Owner shall be responsible for the payment of any and all property taxes that accrue for his or her Unit for his or her period of ownership that are billed to the Project, the Association, the Declarant or another Unit Owner. If any tax bill is sent without individual Unit appraisals, then each Unit's obligation shall be the percentages as set forth in **Exhibit B**. If any Unit Owner fails to make timely payment of any property taxes for which he or she is obligated, that Unit Owner additionally has the responsibility and obligation to reimburse any third party, the Association or any other Owner who pays property taxes assessed to a Unit for a time period in which such Unit Owner owned the Unit, including but not limited to any penalties, late fees and/or interest assessed by a taxing authority. If the mortgage holder of any Unit mistakenly pays property taxes on an entire lot, and the other Unit Owner has not yet paid his or her property taxes for that year, then the Unit Owner who has not yet paid taxes shall pay his or her share of taxes directly to the Unit Owner who has overpaid.

**3.10. Powers and Duties of the Members.** The Members shall act in all instances on behalf of the Association, unless otherwise provided by the Declaration. The Members shall have all of the powers, authority and duties permitted pursuant to the Texas Property Code necessary and proper to manage the business and affairs of the Association and Condominium, including specifically, but not limited to enforcement of the applicable provisions of this Declaration, the Bylaws, and any Rules of the Association.

**3.11. Limitations on Powers of Members.** Notwithstanding the powers set forth in Section 3.08 of this Declaration, the Members shall be prohibited from taking any of the following actions except with unanimous approval of the Members:

- (a) Entering into: (i) a contract with a third person under which the third person will furnish goods or services for a term longer than one (1) year, except for a management contract approved by the Federal Housing Administration or Veteran's Administration; (ii) a

contract with a public utility if the rates charged are regulated by the Public Utilities Commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate; or (iii) prepaid casualty and/or liability insurance of not more than three (3) years duration, provided that the policy provides for short-rate cancellation by the insured.

- (b) Paying compensation to officers of the Association for services rendered in the conduct of the Association's business, provided, however, that the Members may cause an officer to be reimbursed for expenses incurred in carrying out the business of the Association with a Majority vote.

#### **Article 4 - Assessments**

**4.01. Covenant to Pay.** Each Owner by the acceptance of the deed to such Owner's Unit is deemed to covenant and agree to pay to the Association the Regular and Special Assessments levied pursuant to the provisions of this Declaration. All moneys collected shall be put into a maintenance and/or reserve fund to be used to defray expenses attributable to the ownership, operation, and maintenance of the Common Elements incurred by the Association. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Elements or by abandonment of the Owner's Unit.

**4.02. Declarant's Covenant to Pay.** After the initial sale of a Unit, Declarant shall pay dues on any Declarant owned Unit.

**4.03. Payment of Assessments on Conveyance of Unit.** On the sale or conveyance of a Unit, all unpaid assessments against an Owner for the Owner's share in the expenses to which Sections 4.05 and 4.06 of this Declaration refer shall first be paid out of the sale price by the purchaser in preference over any other assessments or charges of whatever nature, except the following:

- (a) Assessments, liens, and charges in favor of the State of Texas and any political subdivisions of the State of Texas for taxes past due and unpaid on the Unit; and
- (b) Amounts due under mortgage instruments duly recorded.

**4.04. Lien and Foreclosure for Delinquent Assessments.** The Association shall have a lien on each Unit for any delinquent assessments attributable to that Unit. The Association is authorized to enforce the lien through any available remedy, including non-judicial foreclosure pursuant to Texas Property Code Section 51.002. The Owners expressly grant to the Association a power of sale, through a trustee designated in writing by the Association, in connection with any such liens. The lien for the assessments provided for herein shall be subordinate to the lien of any recorded mortgage or mortgages granted or created by the Owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing, repairing, reconstructing, and/or improving such Unit.

**4.05. Regular Assessments.** Regular Assessments shall be made in accordance with the following: Within sixty (60) days prior to the beginning of each calendar year, the Members shall estimate the net charges to be paid during that year, including a reasonable provision for contingencies and replacements with adjustments to be made for any expected income and surplus from the prior

years' fund. This estimated cash requirement shall be assessed to each Owner or Owners according to **Exhibit B**. Each Owner is obligated to pay assessments to the Association in equal monthly installments, on or before the first day of each month, unless otherwise decided by the Members.

**4.06. Special Assessments.** Special Assessments shall be made in accordance with the following: If the Members determine that the amount to be collected from the Regular Assessments will be inadequate to defray the Common Expenses for the year because of the cost of any construction, unexpected repairs, or for any other reason, it shall make a Special Assessment for the additional amount needed. Such Special Assessments shall be levied and collected in the same manner as Regular Assessments.

**4.07. Limitations on Assessments.** The Members may not, without the approval of a Majority vote, impose a Regular Assessment per Unit that is more than twenty (20) percent greater than the Regular Assessment for the preceding year. These limitations shall not apply to a Special Assessment levied against an Owner to reimburse the Association for that year. These limitations shall not apply to a Special Assessment levied against an Owner to reimburse the Association for funds expended in order to bring an Owner or Unit into compliance with the provisions of the Association's Documents.

**4.08. Dispute Regarding Repair and/or Maintenance.** If the Owners cannot informally agree upon repair and/or maintenance issues of Common Expense as defined further in Section 1.05, upon the written request of an Owner of a Unit, repair and/or maintenance issues shall be placed on the agenda of a special meeting of the Members. The special meeting shall be convened not less than fifteen (15) days after receipt of the written request for repair and/or maintenance. If the Members are not able to agree upon a course of action to resolve the repair and/or maintenance issues on the agenda, the Owners of each affected Unit shall retain a licensed professional inspection company to inspect the Unit or Units alleged to require repair and/or maintenance, who shall work together to determine needed repairs and/or maintenance. If these inspection companies cannot agree upon all repair and/or maintenance issues, they shall collectively name another inspection company, who shall make a final decision as to all repair and/or maintenance issues necessary at that time. The Members shall immediately implement this decision, provided the Association has sufficient funds on hand to pay for required repair and/or maintenance, if such is not the responsibility of any Unit Owner(s). If there is found to be an Association expense, and if sufficient funds are not on hand, the Members shall approve a Special Assessment based on the estimate obtained under this provision to pay for the required repair and/or maintenance. If the required repair and/or maintenance is required to ensure the safety of the Owners and their invitees or to preserve a Unit or Units from immediate additional damage, the Special Assessment shall be due and payable not less than sixty (60) days from the date approved by the Members.

**4.09. Conflict in Documents.** If there is any conflict between the terms of this Article and any entity documents creating or regulating the Association or Project, the provisions of this Article shall control.

4.10. **Commencement of Assessments.** Regular Assessments shall commence on the first day of the month following the date of the closing of the first sale of a Unit in the Project, with the month of purchase being pro-rated.

4.11. **Liability for Assessments.** Each monthly portion of a Regular Assessment and each Special Assessment shall be a separate, distinct, and personal debt and obligation of the Owner against whom all assessments are assessed. The amount of any assessment not paid when due shall be deemed to be delinquent.

### Article 5 – Restrictions and Covenants

5.01. **General Restrictions on Use.** The right of an Owner and the Owner's guests to occupy or use the Owner's Unit is subject to the following restrictions, in addition to those in the Rules and Regulations:

- (a) **Storage in Common Elements.** Nothing shall be stored in the yard areas of the Units, except that items may be stored in the yard areas of Units if they are substantially behind fencing or an enclosure, so such stored items are substantially blocked from view from the street.
- (b) **Rules Governing Common Elements.** There shall be no violation of the Rules adopted by the Members and furnished in writing to the Owners pertaining to the use of Units and the Common Elements. The Members are authorized to adopt such Rules.
- (c) **Temporary Structures.** No structure of a temporary character, shack, or other outbuilding shall be permitted on the Property at any time, temporarily or permanently; provided, however, any Unit Owner may install a storage shed in accordance with City of Austin regulations, in his or her Unit in an area behind fencing and temporary structures may be erected for use in connection with the repair or rebuilding of the buildings or structures or any portion thereof.
- (d) **No Change to Exterior of Units.** Any alterations to the exterior of the improvements in a Unit, including but not limited to alterations necessary for repairs, reconstruction or updating, shall be completed in a reasonable manner so that such alterations are substantially similar to the existing style or design of the Units, except by the written consent of the other Unit Owner(s), and except as otherwise specifically allowed in this Declaration, with Unit Owners understanding that reasonable alterations from the existing Units will likely be necessary when replacing, repairing or reconstructing portions of the Units.
- (e) **No Change of Exterior Color.** No Unit shall be allowed to substantially change the exterior paint color of the Units, roofs, or fences, without the written consent of the other Unit Owner(s), with the exception of Declarant to a Declarant owned Unit, during the Development Period.

5.02. **Maintenance of Unit and Common Elements.**

- (a) **Maintenance of Units.** Each Unit Owner shall, at the Owner's sole cost and expense, reasonably maintain, repair and replace his or her Unit and yard areas of the Unit so as to keep it in good condition and repair, including, but not limited to, all fixtures, appliances, equipment, pipes, lines, wires, computer cables, cable wires, and conduits

used in the production, heating, cooling and/or transmission of air, gas, water, electricity, communications, waste, water, and sewage, that serve only or are a part of the Unit Owner's Unit, and all interior and exterior walls, roofs, foundations and structural components of the Unit in a clean, safe and good condition. Without limitation on the generality of the foregoing, a Unit Owner shall reasonably maintain and keep in good repair any fire or smoke alarms and the electrical and plumbing lines, utilized in and for the Unit.

- (b) **Repair of Windows and Doors.** A Unit Owner shall be obligated to reasonably repair and replace promptly any broken or cracked exterior windows, doors, or glass within a Unit.
- (c) **Repair of Damage Caused by Unit Owner.** A Unit Owner shall be obligated to repair and replace promptly any damage to a Unit or Common Element, if such damage was caused by the Unit Owner, or an agent, guest, or invitee of such Unit Owner.
- (d) **Pest Control.** Each Owner shall be reasonably responsible for eliminating any insects, termites, vermin, rodents, squirrels, birds or other animals (excluding pets) from his or her Unit, and for repairing any damage caused by such insects or animals.
- (e) **Maintenance of Exterior Appearance.** Notwithstanding anything to the contrary contained in herein, a Unit Owner when exercising his right and responsibility of repair, maintenance, replacement, or remodeling of the improvements in his or her Unit shall use reasonable efforts to substantially maintain the exterior appearance of the improvements, except as otherwise allowed herein. Each Owner shall also reasonably maintain, repair and replace all lawns, landscaping, trees, shrubs and fencing in a neat and clean condition.
- (f) **Maintenance of General Common Elements.** The Association shall reasonably maintain, repair and replace all portions of any General Common Elements, if any, and items or improvements defined herein as Common Expenses.
- (g) **Access for Shared Utilities and Maintenance.** In such cases where utilities, equipment, meters, sewer lines, water lines, gas lines, electric lines, or other utility infrastructure passes through a Unit, but serve another Unit, each Owner shall allow access to such infrastructure, not to be unreasonably withheld, in order to allow the other Owner access to such utilities, equipment, meters, sewer lines, water lines, or other utility infrastructure, in order that such utility infrastructure may be repaired, maintained, upgraded, expanded and/or serviced. When such access is granted, the Unit Owner needing access shall use reasonable efforts to not substantially alter the Unit to which access is granted and shall at his or her sole cost and expense, promptly upon completion of such work, return the accessed Unit to substantially the same condition as when any such work commenced.
- (h) **Tree Maintenance.** Each Owner shall be responsible for the maintenance, trimming and/or removal, and all associated costs and expenses, of any trees located in his or her Unit. Unit Owners shall be allowed reasonable access to the yard areas of other Units for the purpose of tree trimming and tree maintenance or removal, as further set forth herein.
- (i) **Irrigation.** Each Unit Owner shall be responsible for the maintenance, repair and replacement of sprinkler heads, piping, and other components of the irrigation system

that serves his or her Unit, if any. Any Unit which supplies electricity to an irrigation system control shall be solely responsible for the cost of such electricity.

- (j) **Moisture.** The improvements in a Unit may trap humidity created by general use and occupancy. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and residents, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, woodwork and sheetrock, and potentially, mildew and/or mold. Mold and/or mildew can grow in any portion of the Property that is exposed to elevated levels of moisture.

**5.03. Unit Owner's Failure to Maintain.** In the event a Unit Owner fails to reasonably maintain such his or her Unit in accordance with Section 5.02 above or fails to reasonably repair any damage for which the Unit Owner is responsible under Section 5.04 below, and such maintenance and/or repair is reasonably necessary to preserve another Unit, the other Unit Owner may access the improvements in a Unit as may be reasonably necessary after giving at least three (3) days prior written notice to the Unit Owner and occupant of the Unit, to perform such maintenance, repair or replacement. The expense incurred by that Unit Owner in connection with such maintenance and repair work conducted thereon shall be a personal obligation of the Unit Owner of the affected Unit, shall constitute a lien upon such Unit, and shall be enforced in the same manner and to the same extent as provided under Texas Property Code Section 82.113.

**5.04. Damage Liability.** Each Owner shall be liable to the Association for all damage to the Common Elements or to other Association property that is sustained by reason of the negligence or willful misconduct of that Owner or the Owner's family, guests, or tenants.

**5.05. Exemption.** Declarant shall be exempt from the restrictions of Section 5.01 of this Declaration to the extent reasonably necessary for completion of construction, sales, or additions to the Project. Such exemption includes, but is not limited to, maintaining Units as model homes, placing advertising signs on Project property, and generally making use of the Property as is reasonably necessary to carry on construction and sales activities.

#### **Article 6 – Damage or Destruction**

The Unit Owners shall cooperate with each other and the Association and shall obtain any modification to required insurance and/or additional insurance required by a lender in a purchase or refinance of a Unit order to make the Project warrantable or in order to comply with current governmental lending regulations. If such additional insurance benefits both Units, it shall be considered a Common Expense.

**6.01. Insurance Requirement – Separate Hazard and Liability Policies on the Units.**

- (a) Unless otherwise determined by a Majority vote or as required by a lender as set forth above:



- (i) **Hazard Insurance.** Each Unit is required to maintain an individual policy or policies of property insurance, insuring against all risks of direct physical loss commonly insured against, including fire insurance with extended coverage endorsement for the full insurable replacement value (as of the effective date and at each renewal date of the policy) of the improvements in his or her Unit.
  - (ii) **Liability Insurance.** Each Owner is required to maintain a general liability insurance policy, including medical payments insurance, in an amount not less than \$500,000.00 per occurrence, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of his or her Unit.
  - (iii) **Other Insurance.** The Members may elect to have such other fire and casualty insurance policy or policies as the Members shall determine gives substantially equal or greater protection to the Owners and their mortgagees, as their respective interests may appear. Such policy or policies shall be payable as provided in Section 3.08 and Article 6 of this Declaration, if applicable.
- (b) **Rebuilding, Insufficient Insurance Proceeds.** If the Project is damaged or destroyed by fire or any other disaster, each Unit Owner shall use any of his or her insurance proceeds as set forth herein, and shall reconstruct, repair or replace: (1) the exterior of the improvements in his or her Unit within: (i) one-hundred eighty (180) days from the date the Owner receives any insurance proceeds related to the damage to his or her Unit, (ii) within one-hundred eighty days from commencing reconstruction, repairs or replacements, or (iii) within one-year from the date of the damage to his or her Unit, whichever is sooner; (2) the interior of his or her Unit, (3) his or her percentage of any General Common Elements, and (4) any other portion of the Project owned or assigned to his or her use, unless the Condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least one-hundred (100) percent of the Unit Owners vote not to rebuild. A vote not to rebuild does not increase an insurer's liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement of a Unit in excess of the insurance proceeds is an expense of the Unit Owner to which such is assigned (or if referring to a General Common Element, an expense of the Unit Owner in the same percentage as his or her ownership).
- (c) **Quality of Repairs.** All reconstruction, repairs and replacements of a Unit shall be of the quality and to the standards and specifications of the Unit and other Units prior to the damage.
- (d) **Removal of Damaged Improvements.** If the Owners so vote as to not rebuild any Unit, or if Section 6.01(b)(1) is not completed, all damaged improvements shall be removed within thirty (30) days.
- (e) **Reconstruction or Repair of Party or Common Wall.** In the event of damage or destruction to the common wall between the Units, each Unit Owner shall cooperate with the other Unit Owner in the timing of the repair or rebuilding of such common wall.

**Article 7 – Rights to Beneficiaries Under Deeds of Trust**

**7.01. Rights to Beneficiaries Under Deeds of Trust.** Beneficiaries under deeds of trust to Units in the Project shall be entitled to the following rights and guaranties:

- (a) Should any of the Association’s Documents provide for a “right of first refusal,” such rights shall not impair the rights of a beneficiary under a deed of trust to the following:
  - i) To exercise the power of sale, foreclosure, or take title to a Unit pursuant to the remedies provided in the deed of trust.
  - ii) To accept a deed or assignment in lieu of sale or foreclosure in the event of default by a grantor.
  - iii) To interfere with a subsequent sale or lease of a Unit so acquired by a beneficiary.
- (b) A beneficiary under a deed of trust is entitled, on request, to written notification from the Association of any default in the performance by the grantor of any obligation under the Association’s Documents that is not cured within sixty (60) days.
- (c) A beneficiary under a deed of trust is entitled, within ten (10) days, to written notification from the Association of any condemnation or casualty loss that affects either a material portion of the Project or the unit securing its mortgage;
- (d) A beneficiary under a deed of trust is entitled, within ten (10) days, to written notification from the Association of a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- (e) A beneficiary under a deed of trust is entitled, on request, to written notification from the Association of any proposed action that requires the consent of a specified percentage of mortgagees.
- (f) Any beneficiary under a deed of trust who obtains title to a Unit pursuant to the remedies provided in the deed of trust will not be liable for such Unit’s unpaid assessments that accrue prior to the acquisition of title to the Unit by the beneficiary.
- (g) Unless fifty-one percent (51%) or more of the beneficiaries under deeds of trust (based on one (1) vote for each deed of trust owned) or Owners other than Declarant give their prior written approval, the Association shall not be entitled to the following:
  - i) By act or omission, to seek to abandon or terminate the Project.
  - ii) To change the pro rata interest or obligations of any individual Unit for the purpose of: (1) Levying assessments or charges; (2) Allocating distributions of hazard insurance proceeds or condemnation awards, or (3) Determining the pro rata share of ownership of each Unit in the Common Elements and in the improvements in the Common Elements.
  - iii) To partition or subdivide any Unit.
  - iv) By act or omission, to seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements. The granting of easements for utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause.
  - v) In case of loss to a Unit and/or Common Elements of the Project, to use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Elements) for other than the repair, replacement, or reconstruction of such property, except as provided by statute.

- (h) All taxes, assessments, and charges that may become liens prior to the mortgage under local law shall relate only to the individual Units and not to the Project as a whole.
- (i) No provision of the Documents gives any Owner, or any other party, priority over any rights of a beneficiary under a deed of trust to a Unit pursuant to its deed of trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or the Common Elements or portions of the Common Elements.
- (j) Association assessments shall be large enough to provide for an adequate reserve fund for maintenance, repairs, and replacement of those Common Elements that must be replaced on a periodic basis. The reserve fund will be funded through the regular monthly assessments rather than by special assessments.

### **Article 8 – General Provisions**

#### **8.01. Amendment and Reservation of Development Rights.**

- (a) During the Development Period, this Declaration may be amended in the sole discretion of Declarant for any of the following reasons:
  - i) The right to exercise any development right permitted in the Declaration and by the Texas Uniform Condominium Act (“TUCA”), which is codified in Chapter 82 of the Texas Property Code, as may be amended from time to time;
  - ii) to correct any defects or errors in the Documents and/or exhibits, to resolve conflicts in the Documents and/or exhibits, to clarify ambiguities in the Documents and/or exhibits, and to correct misstatements, errors, or omissions in the Documents and/or exhibits;
  - iii) to meet the requirements, standards, or recommended guidelines of an underwriting lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units, including but not limited to making amendments to the Documents and insurance coverages of the Association, Units and Common Elements;
  - iv) to subdivide, divide, create, reconfigure, combine, consolidate, or alter the boundaries of a Declarant owned Unit;
  - v) to make changes in the Documents and/or exhibits as Declarant deems necessary in its sole discretion to finalize the development plan of the Property; and
  - vi) For any other purpose, provided the amendment has no material adverse effect on any right of any non-Declarant Owner.
- (b) Declarant may amend the Declaration as allowed by Texas Property Code Section 82.067(f).
- (c) After the Development Period ends, this Declaration may be amended only at a meeting of the Unit Owners at which the amendment is approved by a Majority vote.
- (d) If any provision of the Documents, including but not limited to this Declaration, the Bylaws and the Rules, results in a purchaser of a Unit not being approved for a mortgage solely as a result of such provision not complying with government agency regulations for mortgage loans, with the exception of and specifically excluding FHA and VA mortgages, then within a reasonable time of a request by Declarant or the selling Unit Owner, the Owners agree to use their best efforts to cause an amendment

to these Rules altering the non-compliant provision to become conforming with the existing regulations at the time of the amendment to be recorded with the county clerk in the county in which the property is located. The cost of the preparation and recording of such amendment shall be the expense of the selling Unit Owner.

- (e) After the expiration of the Development Period, an amendment of the Declaration may not alter or destroy a Unit without the consent of the affected Owner and the Owner's mortgagee.
- (f) Any amendment shall be evidenced by a writing that is prepared, signed, and acknowledged by Declarant, if executed during the Development Period, or by a Majority vote. The amendment shall be effective on filing in the office of the county clerk in the county where the Property is located.

**8.02. Dispute Resolution.**

- (a) Subject to the provisions hereof and the Texas Property Code, in the event of any controversy, dispute, claim, question, non-payment or disagreement arising out of or relating to this Declaration, or the Documents of the Association, or the breach thereof, the parties to such controversy, dispute, claim, question, non-payment, or disagreement shall use their best efforts to settle such controversy, dispute, claim, question or disagreement. Towards that end, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interest, attempt to reach a just and equitable solution satisfactory to all parties.
- (b) The Declarant shall be exempt from the provisions in the remainder of this Section 8.02 below, and in its sole discretion during the Development Period may exercise any remedy available if a dispute arises.
- (c) To the extent allowed by the Texas Property Code and applicable Texas law, if the parties to any controversy, dispute, claim, question, non-payment or disagreement do not reach a negotiated solution within a period of thirty (30) days after the dispute arises, then upon notice by any party to the other parties, such controversy, dispute, claim, question, non-payment, or disagreement shall be submitted to mediation before resort to binding arbitration. The consent or approval of the Association, Members or Owners shall not be required to permit an Owner to require mediation and any subsequent arbitration.
- (d) Any party shall initiate mediation, by notifying the other parties, in writing, of his or her intent to mediate a dispute. Such notification shall set forth the nature of the dispute, the amount involved, if any, and the remedy sought. The date that the written notice is received is the Notification Date. Mediation shall be held not later than thirty (30) days from the Notification Date. A Mediator shall be jointly agreed upon between the parties, within five (5) days of the Notification Date. If the parties are unable to agree upon a Mediator, then each party shall appoint a Mediator, and those Mediators will select a disinterested Mediator who shall mediate the dispute. The fees of the Mediator and all costs of Mediation shall be shared equally by the parties.
- (e) If the parties are unable to resolve all of their disputes through mediation, then any and all remaining disputes shall immediately be submitted to arbitration. The parties shall proceed with arbitration under the rules and guidelines set forth by the American

Arbitration Association. Any court with competent jurisdiction may enter any judgment resulting from arbitration.

- (f) If the need for arbitration arises, any party shall initiate arbitration, by notifying the other parties, in writing, of his or her intent to arbitrate the dispute. Such notification shall set forth the nature of the dispute, the amount involved, if any, and the remedy sought. The date that the written notice is received by the other party is the Notification Date. Arbitration shall be held not later than thirty (30) days from the Notification Date. An arbitrator shall be jointly agreed upon by the parties, within five (5) days of the Notification Date. If the parties are unable to agree upon an arbitrator, then each party shall appoint a disinterested arbitrator, and those arbitrators will select an arbitrator who shall arbitrate the dispute. The arbitration award shall include a determination as to which party or parties should incur all or a portion of the cost of arbitration, and any related fees and expenses.
- (g) Each Mediator and Arbitrator appointed hereunder shall be an unbiased, third party, with no personal interest in the outcome of the dispute.
- (h) Each party shall continue performance of its obligations under the Documents pending resolution of the dispute. Nothing herein shall be construed as limiting a party's right to seek injunctive relief to prevent a breach or anticipated breach of the Documents, pending a resolution of the controversy pursuant to the provisions of this Section.

**8.03. Nonwaiver of Remedies.** Each remedy provided for in this Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

**8.04. Severability.** The provisions of this Declaration and the Documents shall be deemed independent and severable. The invalidity, partial invalidity, or unenforceability of any one provision shall not affect the validity or enforceability of any other provision.

**8.05. Binding.** This Declaration, as well as any amendment to this Declaration, and any valid action or directive made pursuant to it shall be binding on the Declarant and the Owners and their heirs, grantees, tenants, successors, and assigns.

**8.06. Interpretation.** The provisions of this Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce the provision or any other provision of this Declaration.

**8.07. Limitation of Liability.** The liability of any Owner for performance of any of the provisions of this Declaration shall terminate on sale, transfer, assignment, or other divestment of the Owner's entire interest in the Owner's Unit with respect to obligations arising from and after the date of such divestment.

**8.08. Fair Housing.** Neither Declarant nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Unit to any person on the basis of race, color, sex, religion, ancestry, sexual orientation, or national origin.

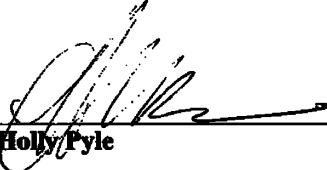
**8.09. Notices.**

- (a) Notices provided for in this Declaration shall be in writing and shall be deemed sufficiently given when delivered personally at the appropriate address, or seventy-two (72) hours after deposit in any United States Postal Service post office box, postage prepaid, certified mail, return receipt requested, addressed to appropriate address.
- (b) Any notice to an Owner required under this Declaration shall be addressed to the Owner at the last address for the Owner appearing in the records of the Association or, if there is none, at the address of the Owner's Unit in the Project. Notice to the Association shall be addressed to the address designated by the Association and in a written notice to all Owners. Notices to the Manager shall be addressed to the address designated by the Manager, if any. Notices to Declarant shall be addressed to the address for Declarant set forth above.

**8.10. Number, Gender, and Headings.** As used in this Declaration, the singular shall include the plural and the masculine shall include the feminine, unless the context requires the contrary. All headings are not a part of this Declaration and shall not affect the interpretation of any provision.

*[Signature appears on following page.]*

**DECLARANT'S SIGNATURE:**

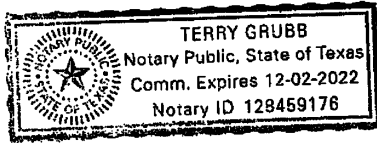
  
\_\_\_\_\_  
Holly Pyle

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**  
**COUNTY OF** Travis

§  
§

This instrument was acknowledged before me on the 23 day of March, 2022,  
by Holly Pyle.



  
\_\_\_\_\_  
Notary in and for the State of Texas

**Exhibit A**

8106 Ceberry Drive and 3600 Summit Bend, Austin, Texas 78759, otherwise known as,

Lot 4, Block B, Balcones Summit, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 44, Page 40, of the Plat Records of Travis County, Texas.

**Exhibit B**

**Percentage Interests**

Each Unit Owner's percentage of undivided interest in the Common Elements is:

Unit 1/8106 Ceberry: Seventy-Eight Percent (78%)

Unit 2/3600 Summit: Twenty-Two Percent (22%)

Each Unit Owner's percentage of responsibility for the Common Expenses of the Association is:

Unit 1/8106 Ceberry: Fifty Percent (50%)

Unit 2/3600 Summit: Fifty Percent (50%)

Each Unit Owner's percentage of votes in the Association is:

Unit 1/8106 Ceberry: Fifty Percent (50%)

Unit 2/3600 Summit: Fifty Percent (50%)

Each Owner's Unit is the following percent of the entire Project:

Unit 1/8106 Ceberry: Fifty Percent (50%)

Unit 2/3600 Summit: Fifty Percent (50%)

Declarant does not control the assessment of each Unit for property tax purposes, as assessments are made by Travis Central Appraisal District. Typically, Travis Central Appraisal District makes separate appraisals of Units as of January 1<sup>st</sup> in the year following the recording date of the Declaration. Until Travis Central Appraisal District has issued separate appraisals and tax bills for the Units, each Unit Owner's percentage of responsibility for any property taxes assessed against the Project in its entirety, including but not limited to assessments made in the year in which this Declaration is recorded, shall be paid as follows:

Unit 1/8106 Ceberry: Sixty-Seven Percent (67%)

Unit 2/3600 Summit: Thirty-Three Percent (33%)

**Exhibit C**

Intentionally omitted.



**Exhibit D**

The Property is subject to the easements and restrictive covenants of record in Travis County, Texas, according to the commitment for title insurance issued by Stewart Title Guaranty Company, dated to be effective July 31, 2002, including but not limited to the following:

Volume 44, Page 40, of the Plat Records of Travis County, Texas; and

Volume 3837, Page 1146, of the Deed Records of Travis County, Texas.

**Exhibit E**

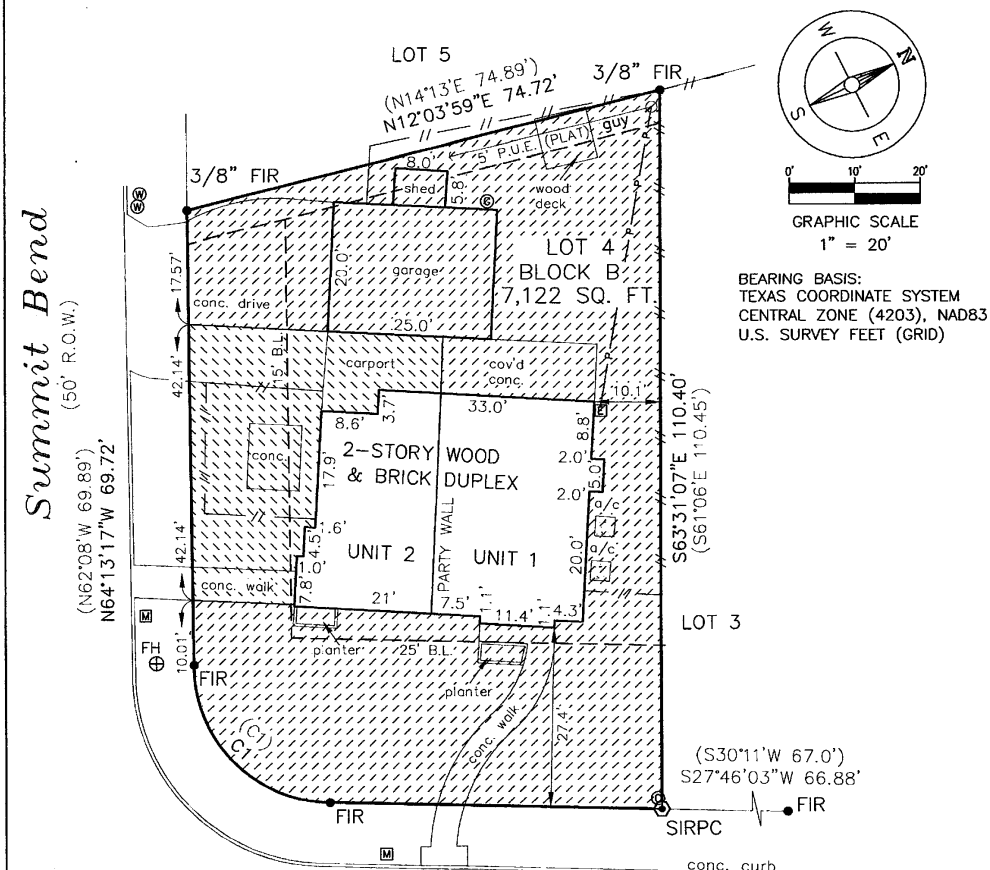
**Condominium Plat**

*[on following page]*

Condominium Plat for Ceberry & Summit Condominiums, a site condominium

**EXHIBIT "E"**

THIS SURVEY IS INTENDED TO SERVE AS A PLAT OF THE CEBERRY & SUMMIT CONDOMINIUMS, A SITE CONDOMINIUM LOCATED ON LOT 4, BLOCK B, BALCONES SUMMIT, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 44, PAGE 40 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AND CONVEYED IN DOCUMENT NO. 2002176864, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND CONTAINS ALL THE INFORMATION REQUIRED FOR THE PURPOSE OF COMPLIANCE WITH CHAPTER 82.059 OF THE UNIFORM CONDOMINIUM ACT OF TEXAS PROPERTY CODE.



BEARING BASIS:  
TEXAS COORDINATE SYSTEM  
CENTRAL ZONE (4203), NAD83  
U.S. SURVEY FEET (GRID)

**LEGEND**

- |                         |         |
|-------------------------|---------|
| SET IRON W/CAP          | SIRPC ⊙ |
| 1/2" FOUND IRON ROD     | FIR ●   |
| RECORD INFORMATION      | ( )     |
| WOOD FENCE              | — // —  |
| UTILITY POLE            | ⊙       |
| UTILITY/POWER LINE      | — P —   |
| ELECTRIC METER          | ⊠       |
| WATER METER             | ⊞       |
| MAIL BOX                | ⊞       |
| GUY WIRE                | guy →   |
| GAS METER               | ⊙       |
| FIRE HYDRANT            | FH ⊕    |
| CLEANOUT                | ⊙       |
| BUILDING LINE (PLAT)    | B.L. ⊙  |
| PUBLIC UTILITY EASEMENT | P.U.E.  |

S27°46'03"W 50.77'  
(S30°11'W 50.83')

**#8106 Ceberry Drive**  
(60' R.O.W.)

**CURVE TABLE**

C1  
R=20.82' (20.82')  
Δ=90°09'39" (87°41')  
L=32.76' (31.87')  
CH= S71°44'14"W 29.49' (S74°01'W 28.83')



**AREA SUMMARY:**

LOT AREA = 7,122 SQ. FT.  
UNIT 1 AREA = 5,529 SQ. FT.  
UNIT 2 AREA = 1,593 SQ. FT.



The Undersigned Surveyor certifies that this Plat conforms to Section 82.059 of the Texas Property Code

*Todd Blenden*  
Todd Blenden, R.P.L.S. 6186  
Commercial Engineering, PLLC