

**DECLARATION
OF
BTX CONDOMINIUM
ASSOCIATION**

Johnson County, Texas

Declarant

BTX Old Town, LLC

Address

135 West Ellison Street, Burleson, TX 76028

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**DECLARATION
OF
BTX CONDOMINIUM ASSOCIATION**

This Declaration of BTX Condominium Association is made by BTX Old Town, LLC (“**Declarant**”), on the date signed below. Declarant owns the real property described in Appendix A of this Declaration, together with the improvements thereon. By recording this Declaration, Declarant submits the property described in Appendix A to the provisions of the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code, for the purpose of creating BTX Condominium Association.

Declarant desires to develop the real property with a commercial condominium to be known as BTX Condominium Association, Declarant further desires to provide for the preservation and maintenance of portions of BTX Condominium Association, and to protect the value, desirability, and attractiveness of BTX Condominium Association. As required by State law, Declarant is creating a condominium association to perform the functions and activities more fully described in this Declaration.

Declarant DECLARES that the property described in Appendix A will be held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant’s rights and reservations in the attached Appendix F, which run with the real property and bind all parties having or acquiring any right, title, or interest in the property, their heirs, successors, and assigns, and inure to the benefit of each owner of the property.

ARTICLE 1

DEFINITIONS

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

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

1.2 **“Additional Land”** means real property which may be added to the Property and subjected to this Declaration by Declarant and the owner of such property, as described in Section F.5.1.

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

1.4 **“Architectural Reviewer”** means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is

Declarant, Declarant's designee, or Declarant's delegate. Thereafter, the Association's board of directors is the Architectural Reviewer.

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

1.6 **"Association"** means the association of owners of all units in the Property and serving as the "association" defined by the Act, and as the "property owners' association" defined in applicable law, such as Section 202.001(2) of the Texas Property Code. The initial name of the Association is BTX Condominium Association, Inc.

1.7 **"Board"** means the board of directors of the Association.

1.8 **"Burleson"** shall mean the City of Burleson, Texas.

1.9 **"Bylaws"** means the bylaws of the Association, as they may be amended from time to time.

1.10 **"Chapter 380 Economic Development and Performance Agreement"** means the "Chapter 380 and Economic Development and Performance Agreement for Public and Private Improvements in Tax Increment Financing Reinvestment Zone Number Two Between the City of Burleson, the Burleson, 4A Economic Development Corporation, the Tax Increment Financing Reinvestment Zone Number Two and BTX Old Town, LLC" entered into as of December 14, 2020. A copy is attached as Appendix G.

1.11 **"Common Element"** means all of the Property, save and except the units. All Common Elements are **"General Common Elements"** except, if any **"Limited Common Elements"** allocated by this Declaration for the exclusive use of one or more but less than all of the units.

1.12 **"Community Manual"** means the initial compilation of policies and rules pertaining to the use, operation, and maintenance of the Property. In the event of conflict between this Declaration and the Community Manual, this Declaration controls.

1.13 **"Declarant"** means BTX Old Town, LLC, which is developing the Property, or the successors and assigns of Declarant, which acquire any portion of the Property or the Additional Land described in Section F.5.1 for the purpose of development and which are designated a Successor Declarant by BTX Old Town, LLC or by any such successor and assign, in a recorded document.

1.14 **"Declarant Control Period"** is defined in Appendix F of this Declaration.

1.15 **"Declaration"** means this document, as it may be amended from time to time.

1.16 **"Development Period"** is defined in Appendix F of this Declaration.

**During the Development Period,
Appendix F has priority over the main body of this Declaration.**

1.17 **"Governing Documents"** means, singly or collectively as the case may be, this Declaration, the Plat and Plans recorded pursuant to the Act, the Bylaws of the Association, the Association's Certificate of Formation, and any amendments thereto. An appendix, exhibit, schedule, or certification accompanying a Governing Document is a part of the Governing Document.

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

1.19 **“Member”** means a member of the Association, each member being an owner of a unit, unless the context indicates that member means a member of the board or a member of a committee of the Association.

1.20 **“Mortgagee”** means a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a unit.

1.21 **“Owner”** means a holder of recorded fee simple title to a unit. Declarant is the initial owner of all units. Sellers under contracts for deed are owners. Mortgagees who acquire title to a unit through a deed in lieu of foreclosure or through judicial or nonjudicial foreclosure are owners. Persons or entities having ownership interest merely as security for the performance of an obligation are not owners. Every owner is a member of the Association.

1.22 **“Property”** means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is BTX Condominium Association. The Property is located entirely in Johnson County. The Property is located on land described in Appendix A to this Declaration, as it may be amended or supplemented from time to time, and includes every unit and common element thereon.

1.23 **“Occupant”** means an occupant of a unit, regardless of whether the person owns the unit.

1.24 **“Rules”** means rules and regulations of the Association adopted in accordance with the Governing Documents or the Act. The initial Rules may be adopted by Declarant for the benefit of the Association.

1.25 **“Underwriting Lender”** means a national institutional mortgage lender, insurer, underwriter, guarantor, or purchaser on the secondary market, such as Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), Federal Housing Administration (HUD/FHA), or Government National Mortgage Association (Ginnie Mae), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an owner’s financing options nor as a representation that the Property is approved by any institution.

1.26 **“Unit”** means a physical portion of the Property designated by this Declaration for separate ownership, the boundaries of which are shown on the Plat and Plans attached hereto as Appendix D, as further described in the Unit Boundaries Section of this Declaration.

ARTICLE 2

PROPERTY SUBJECT TO DOCUMENTS

2.1 **Subject to Documents.** The real property described in Appendix A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant’s rights and reservations in the attached Appendix E, which run with the Property, bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of the Property.

2.2 **Additional Property.** Additional real property may be annexed to the Property and subjected to the Declaration and the jurisdiction of the Association on approval of owners representing at least two-thirds of the units in the Property, or during the Development Period, by Declarant as permitted in Appendix F. Annexation of additional property is accomplished by recorded a declaration of annexation, including an amendment or Appendix A, in the Real Property Records of Johnson County, Texas. If units are added to the Property, amendment of Appendixes B and D is also required.

NOTICE

This Declaration and the other Governing Documents are subject to change from time to time. By owning or occupying a unit, you agree to remain in compliance with the published restrictions and rules as they change.

2.3 Merger. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by owners representing at least two-thirds of the total votes. On merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Governing Documents within the Property, together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

2.4 Land Use. Although this Declaration contains a limited number of disclosures about the Property and its location on the date of this Declaration, neither Declarant nor the Association makes any representation that these are the only noteworthy features of the Property or its location. A prospective owner or occupant must make his own inspection of the Property and its location, and make inquiries of anything that concerns him. Except for the express disclosures stated in this Declaration, Declarant makes no representation of any kind as to current or future uses – actual or permitted – of any land that is adjacent to or near the Property, regardless of what the plat shows as potential uses of adjoining land. Declarant, Builders, and the Association cannot and do not guaranty scenic views, volumes of traffic on streets around the Property, availability of schools or shopping, or any other aspect of the Property that is affected by the uses or conditions of adjacent or nearby land, water, or air.

2.5 Change of Circumstance. This Declaration discloses some characteristics of the Property that may change or that may cease to apply because of acts or decisions by authorities external to the Property. If the change of circumstance is of public record or is capable of independent verification by any interested person, the board of directors, without a vote of the owners, may issue a Notice of Change that references the provision of this Declaration that ceases to apply to the Property. The Notice may be recorded in the Real Property Records of Johnson County, Texas, and does not constitute an amendment of this Declaration. If such a Notice is issued, the Association will notify owners of its existence and will make it available to owners as a record of the Association. This provision may not be construed to give the board unilateral amendment powers, nor to prevent an amendment of this Declaration by a vote of the owners to achieve the same purpose.

2.6 Restrictions, Easements & Plat Dedications. In addition to the easements and restrictions contained in this Declaration, the Property is subject to all restrictions, easements, licenses, leases, and encumbrances of record, including those described in or shown or referenced on a recorded plat, each of which is incorporated herein by reference. Each owner, by accepting an interest in or title to a unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by prior-recorded restrictions, easements, licenses, leases, and encumbrances, and further agrees to maintain any easement that crosses his unit and for which the Association does not have express responsibility.

ARTICLE 3

PROPERTY EASEMENTS AND RIGHTS

3.1 General. In addition to other easements and rights established by the Governing Documents, the Property is subject to the easements and rights contained in this Article

3.2 Notice of Different Property Uses. In the era in which this declaration is drafted, BTX Condominium Association is expected to attract owners with different commercial uses. Each occupant is expected to be cognizant of the other uses and respectful towards and tolerant of other owners.

3.3 Owner's Easement of Enjoyment. Every owner is granted a right and easement of enjoyment over the general common elements and to use of improvements therein, subject to other rights and easements contained in the Governing Documents. Notwithstanding the foregoing, if apportion of the general common elements is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

3.4 Fire Sprinkler Easement. Each owner, by accepting an interest in or title to a unit, whether or not it is so expressed in the instrument of conveyance, grants to public fire safety personnel and to the Association an easement across his unit for access to and testing of all systems and equipment located therein for the purposes intended by public fire safety authorities. Owners must cooperate with such activities.

3.5 Owner's Maintenance Easement. Every owner is granted an easement over adjoining units and common elements for the maintenance or reconstruction of their unit, subject to the consent of the owner of the adjoining unit, or the Association in the case of common elements, and provided the owner's use of this easement does not damage or materially interfere with the use of the adjoining unit or common element. Requests for entry to an adjoining unit or common element will be made in advance for a time reasonably convenient for the adjoining owner, who may not unreasonably refuse without consent. If an owner damages an adjoining unit or common element in exercising this easement, the owner is obligated to restore the damaged property to its original condition, at his expense, within a reasonable period of time.

3.6 Owner's Ingress/Egress Easement. Every owner is granted a perpetual easement over the Property, as may be reasonably required, for vehicular and pedestrian ingress to and egress from his unit or the appurtenant limited common elements.

3.7 Owner's Encroachment Easement. Every owner is granted an easement for the existence and continuance of any encroachment by his unit on any adjoining unit or common element now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the improvement stands.

3.8 Unit-to-Unit Maintenance & Access Easement. By acquiring an interest in a BTX Condominium Association unit, each owner acknowledges the possibility that the owner may need access to an adjoining unit or common element for certain limited purposes related to the support, maintenance, repair, and improvements of his unit. Similarly, the owner of an adjoining unit may need access to the owner's unit for the support, maintenance, repair, and improvements of a component of the adjoining unit. Also, each owner acknowledges that wires, cables, conduit, and pipes serving one unit may run through another unit. For the foregoing reasons, each owner covenants and agrees as follows:

3.8.1 Owner Grants Easement. Each owner hereby grants an easement across and through his unit – as necessary – for the support, maintenance, repair,

replacement and improvements of wires, cables, conduit, and pipes as initially installed or replacements thereof, that serve another unit, but only to the extent that use of this easement is reasonable and necessary. The owner of a unit containing wire, cables, conduit, or pipes that serve one or more other units or common elements has a duty to refrain from interfering with or damaging those items.

3.8.2 Owner Benefitted by Easement. Every owner is granted an access easement over adjoining units and common elements for the support, maintenance, repair, reconstruction, or improvement of his unit, provided exercise of the easement does not damage or materially interfere with the use of the adjoining unit or common element.

3.8.3 Permission. Requests for entry to an adjoining unit or common element must be made to the owner of the adjoining unit, or the Association in the case of common elements, in advance for a time reasonably convenient for the adjoining owner. If an owner damages an adjoining unit or common element in exercising this easement, the owner is obligated to restore the damaged property to its original condition, at his expense, within a reasonable period of time.

3.8.4 Bona Fide Need. This Section anticipates that an owner's need for access to an adjoining unit will rarely if ever occur, and that the necessity will be determined by a license contractor or building trade professional after evaluating options, if any, that do not require access. In the event of dispute between owners regarding the exercise of this easement the board is the arbiter of whether the anticipated use of this easement is reasonable and necessary. Each owner and occupant with endeavor to cooperate with the owners of other units in the building to affect the purposes and intent of this section.

3.9 Association's Access Easement. Each owner, by accepting an interest in or title to a unit, whether or not is it so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation all common areas and the owner's unit and all improvements thereon for the below-describes purposes. In exercising this easement on an owner's unit, the Association is not liable to the owner for trespass.

- a. To perform inspections and/or maintenance that is permitted or required of the association by the governing Documents or by applicable law.
- b. To perform maintenance that is permitted or required of the owner by the Governing Documents or by applicable law, if the owner fails or refuses to perform such maintenance.
- c. To enforce the Governing Documents, including without limitation the architectural standards and use restrictions.
- d. To exercise self-help remedies permitted by the Governing Documents or by applicable law.
- e. To respond to emergencies.
- f. To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- g. To perform any and all functions or duties of the Association as permitted or required by the Governing Documents or by applicable law.

3.10 Easement of Cooperative Support. The purpose of this Section is to encourage a harmonious community environment for occupants and to prevent diminution of property values. This Declaration cannot anticipate every possible event in the life of the Property that will require the cooperation of owners. Accordingly, every owner is granted an easement of cooperative support over each adjoining unit and common element as needed for the common benefit of the Property, or for the benefit of units in a building, or units that share any aspect of the Property that requires cooperation. By accepting and interest in or title to a unit, each owner (1) acknowledges the necessity for cooperation in a condominium, (2) agrees to try to be responsible and civil in communications pertaining to the Property and to the Association, (3) agrees to provide access to his unit and limited common elements, if any, when needed by the Association to fulfill its duties, and (4) agrees to try refraining from actions that interfere with the Association's maintenance and operation of the Property.

3.11 Utility Easement. The Association may grant permits, licenses, and easements over the common elements for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property in ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

**READERS, PLEASE PAY PARTICULAR HEED TO
THE PROVISIONS TITLED "SECURITY" & "RISK".**

3.12 Security. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each owner and occupant acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each owner and occupant acknowledges and accepts his sole responsibility to provide security for his owner person and property, and assumes all risks for loss or damage to same. Each owner and occupant further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the owner or occupant relied on any representation or warranty, express, or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglary, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each owner and occupant acknowledges and agrees the Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

3.13 Risk. Each occupant uses all common areas at his own risk. All common amenities are unattended and unsupervised. Each occupant is solely responsible for his own safety and that of his guests. The Association disclaims any and all liability or responsibility or injury or death occurring from use of the common amenities.

3.14 Easement to Inspect & Right to Correct. For a period of 10 years after the expiration of the Development Period, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, builder, materials manufacturer, and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct, relocate, and replace any structure, improvement, material, or

condition that may exist on any portion of the Property, including the units, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a utility meter may be warranted by a change of circumstance, imprecise siting of the original meter, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant or the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each owner, by accepting an interest in or title to a unit, hereby grants to Declarant an easement of access and entry over, across, under, and through the Property, including without limitation all common elements and the owner's unit and all improvements thereon for the purposes contained in this Section.

ARTICLE 4

UNITS, COMMON ELEMENTS & ALLOCATIONS

4.1 Unit Boundaries. The boundaries and identifying number of each unit are shown on the Plat and Plans attached as Appendix D. The boundaries are further described as follows:

- 4.1.1 Lower Boundary: The bottom surface of the concrete subflooring is the horizontal plane defining the unit's lower boundary. Although the concrete subflooring is part of the unit, the owner may not remove the concrete subflooring without replacing it because it is part of the fire protection system for the Property.
- 4.1.2 Upper Boundary: The unit's roof is the unit's upper horizontal boundary. In other words, the unit's roof is part of the unit.
- 4.1.3 Lateral Boundaries – Party Walls: On party walls – walls between 2 units – the unit's lateral boundaries are the planes defined by the midpoints of the party wall. The unit on each side of a party wall extends to the middle of the party wall.
- 4.1.4 Lateral Boundaries – Exterior Walls: On perimeter walls other than party walls between 2 units, the unit's lateral boundaries are the planes defined by (1) the exterior (outside) surfaces of the brick, stucco, or any other outmost material comprising the perimeter walls; (2) the exterior (outside) surfaces of window glass and window frames; (3) the exterior (outside) surfaces of closed perimeter doors. In other words, the perimeter walls, as well as windows and doors, are part of the unit.
- 4.1.5 Unit's Windows, Walls, and Doors. **Although the windows, exterior walls, and doors are part of the unit, they are exterior components of the building that may not be modified in appearance without the Architectural Reviewer's prior written approval.**
- 4.1.6 Inconsistency with Plans: If this Section's description of unit boundaries is inconsistent with the Plat and Plans, then this Section will control. Owners should refer to other portions of this declaration, particularly the Maintenance Responsibility Chart, for their maintenance responsibilities as related to Unit Ownership.
- 4.1.7 What the Unit Includes: Each unit includes the spaces and improvements within the above-described vertical and horizontal boundaries of the unit. Each unit also includes improvements and equipment serving the unit exclusively, whether located inside or outside the physical boundaries of the unit, whether or not

attached to or contiguous with the physical boundaries of the unit, including the following: electricity meter, fuse box, electrical switches, wiring, pipes, ducts, conduits, smoke or fire detectors, security systems, television antenna, cable equipment, satellite equipment, shower pans, wall safes, door and window locks, peepholes, lighting fixtures, telephone and electrical receptacles, heating and cooling equipment and systems, and any other utility-related item from the point of its connection with common lines or systems. In other words, in addition to the inside of his unit, an owner also owns certain physical components of the Property that exclusively serve the unit even though located outside the boundaries of the unit.

- 4.1.8 Exclusions: Except as specifically included above, each unit excludes the spaces and improvements lying outside of the perimeter boundaries of the unit. Each unit also excludes any chute, pipe, flue, duct, wire, or conduit running through a unit for the purpose of furnishing utility and similar services to other units and/or common elements. In other words, an air conditioning duct that serves another unit is not part of the unit. However, under the preceding subparagraph, the length of duct that serves the unit exclusively is part of the unit.
- 4.1.9 Representations of Size. The space contained within the unit's vertical and horizontal boundaries is not related to the size of the unit's living areas. Similarly, the units are initially marketed on the basis of a limited number of representation floorplans, each of which is marked with a rounded and estimated sizes taken from pre-construction architectural drawings. Those marketing sizes may vary from the size of the actual space contained within the unit's vertical and horizontal boundaries.

SIZE OF UNIT

The Size of a unit may be measured different ways for different purposes, such as for tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under roof, or the air conditioned space, or the area within the unit's legal boundaries. The unit's partition wall cavities and/or its perimeter wall cavities may or may not be included.

4.2 Parking Spaces. The Association may contract with a third party to allow for parking spaces to be available for the Unit Owners. The Parking Lot and the Parking Spaces located therein are not owned by the Association or the Unit Owners. They are not General Common Elements, Limited Common Elements, or Units. The Association reserves the right to assign parking spaces for each unit within the Association within any parking lot leased by the Association. The Declarant and the Association expressly reserves the right at any time to assign and re-assign parking spaces to unit owners within any parking lot leased by the Association.

4.3 Common Elements. The common elements of the Property consist of all of the Property, save and except the units. As a general rule, all of the common elements are owned collectively by the unit owners in undivided interest. The Association, as a legal entity, does not own the common elements.

4.3.1 Ownership & Maintenance. The designation of common elements is determined by this Declaration. Declarant may install, construct, or authorize certain improvements on common elements in connection with the original construction of the Property, and the cost thereof is not a common expense of the Association, thereafter, all costs attributable to common elements, including maintenance, insurance, and enhancements, are automatically the responsibility of the Association, unless this Declaration elsewhere provides for a different allocation for a specific common element.

4.3.2 Acceptance. By accepting an interest in or title to a unit, each owner is deemed (1) to accept the common elements of the Property, and any improvements thereon, in its then-existing condition; (2) to acknowledge the authority of the Association, acting through its board of directors, for all decisions pertaining to the common elements; (3) to acknowledge that transfer of a common element's title (if any) to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the common elements, regardless of changes in the Association's board of directors or management.

4.4 Limitations of Plats and Plans. That a plat or plan in Appendix D shows a particular use for a general common element does not limit or determine the actual use of the general common element by the Association. All parts of the Property that are not units are common elements, whether or not they are so labeled on the plat or plan. Also, all common elements that are not limited common elements are general common elements, whether or not they are so labeled on the plat or plan.

4.5 Subsequent Allocation of Limited Common Elements. A common element not allocated by this Declaration as a limited common element may be so allocated only pursuant to the provisions of this Article. Declarant reserved the right in Appendix F of this Declaration, to create, assign, and reassign limited common elements within the Property. Once a common element is designated as "limited" and its use is assigned to a particular unit, any reassignment requires amendment of this Declaration.

4.6 Reallocation of Limited Common Elements. An amendment of reallocation of limited common element requires the approval of all owners of units whose interest are to be allocated or reallocated. The parties executing the amendment will provide an executed copy of the amendment to the Association, which will record it, provided that the amendment complies with the provisions of this Declaration and the Act. The amendment must contain words of conveyance and must be recorded and indexed in the names of the parties and the Property. The amendment will specify to which unit or units the limited common element is allocated. The parties executing the amendment are responsible for the preparation of the amendment and will reimburse the Association for its reasonable attorneys' fees in connection with review and recording of the amendment.

4.7 Allocation of Interests. The table showing the identifying number and allocated interests of each unit is attached as Appendix B. The same formulas are to be used in reallocating interest if units are added to the Property. The date on which the amendment creating additional units is recorded in the Real Property Records of Johnson County, Texas, is the effective date or reassigning allocated interests to those units. The interests allocated to each unit are calculated by the following formulas.

4.7.1 Common Element Interests. The percentage of undivided interest in the common elements allocated to each unit is based on estimated square footage of architectural drawings for each plan type, compared to the total estimated

square footage for all units (by plan type) in the Property. Percentages may be rounded up or down to facilitate calculations. Also, units of the same plan type may have allocations that differ slightly to facilitate the calculation of 100 percent.

- 4.7.2 Common Expense Liabilities. The percentage of liability for common expenses allocated to each unit is based on the same formula for common element interests.
- 4.7.3 Votes. Members of any class(es) entitled to vote shall have one (1) vote on each matter submitted to a vote of the Members. The weight of each member's vote is based upon each unit's fractional interest in the common elements as set forth within Appendix B to the Declaration.

ARTICLE 5

COVENANT FOR ASSESSMENTS

5.1 Purpose of Assessments. The Association will use assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of owners and occupants, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the board's decision with respect to the use of assessments is final.

IF YOU OWN A BTX CONDOMINIUM ASSOCIATION UNIT, YOU MUST PAY ASSESSMENTS TO THE ASSOCIATION.

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

5.3 Control for Assessment Increases. This Section of the Declaration may not be amended without the approval of owners representing at least 67 percent of the total allocated interest in the Association. In addition to other rights granted to owners by this Declaration, owners have the following powers and controls over the Association's budget. At least 30 days prior to the effective date of a special assessment or increase in regular assessments, the board will notify an owner of each unit of the amount of, the budgetary basis for, and the effective date of the special assessment or increase. The special assessment or increase will automatically become effective unless owners representing at least a majority of the allocated interest in the Association disapprove the special assessment or increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved by the board.

5.4 Types of Assessments. There are 5 types of Assessments: Regular, Utility, Special, Individual, and Deficiency.

5.5 Regular Assessments.

- 5.5.1 Purpose of Regular Assessments. Regular assessments are used for the common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:
- a. Maintenance, repair, and replacement, as necessary, of the common elements, and improvements, equipment, signage, and property owned by the Association.
 - b. Utilities billed to the Association.
 - c. Services obtained by the Association and available to all units.
 - d. Taxes on property owned by the Association and the Association's income taxes.
 - e. Management, legal, accounting, auditing, and professional fees for services to the Association.
 - f. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
 - g. Insurance premiums and deductibles.
 - h. Contributions to the reserve funds.
 - i. Any other expense which the Association is required by law or the Governing Documents to pay, or which in the opinion of the board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Governing Documents.
- 5.5.2 Annual Budget. The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and common expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The board will make the budget or its summary available to an owner of each unit, although failure to receive a budget or summary does not affect an owner's liability for assessments. The board will provide copies of the detailed budget to owners who make written request and pay a reasonable copy charge.
- 5.5.3 Basis of Regular Assessments. Regular assessments will be based on the annual budget, minus estimated income from sources other than regular assessments. Each unit will be liable for its allocated share of the annual budget. If the board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, owners will continue to pay the regular assessment as last determined.
- 5.5.4 Supplemental Increases. If during the course of a year the board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency.

5.6 Utility Assessments. This Section applies to any utility serving the individual units and consumed by the occupants that are billed to the Association by the utility provider, and which may or may not be submetered by or through the Association. In addition to regular assessments, the board may levy a utility assessment against each unit. If the units are actively submetered for consumption of a utility

and if the Association reads the submeters, the utility assessment will be based on the submeter reading. If the units are not submetered or if the submeters are not in use, the board may allocate the Association's utility charges among the units by any conventional method for similar types of properties. The levy of a utility assessment may include a share of the utilities for the common elements, as well as administrative and processing fees, and an allocation of any other charges that are typically incurred in connection with utility or submetering services. The board may, from time to time, change the method allocation, provided the same type of method or combination of methods is used for all units.

5.7 Special Assessments. In addition to regular assessments, and subject to the owners' control for assessment increases, the board may levy one or more special assessments against all units for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the owners, except that special assessments for the following purposes must be approved by at least a majority of the votes in the Association: (1) acquisition of real property, (2) construction of additional improvements to the property – not repair or replacement of existing improvements, and (3) any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

5.8 Individual Assessments. In addition to regular and special assessments, the board may levy an individual assessment against a unit and its owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an owner or his unit into compliance with the Governing Documents; fines for violations of the Governing Documents; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; insurance deductibles; submetered utilities serving the unit; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the units, which may be assessed according to benefit received; fees or charges levied against the Association on a per-unit basis; and "pass through" expenses for services to units provided through the Association and which are equitably paid by each unit according to benefit received.

5.9 Deficiency Assessments. The board may levy a deficiency assessment against all units for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

5.10 Due Date. Regular Assessments are due on the first calendar day of each month unless otherwise specified by the Board of Directors, and are delinquent if not received by the Association on or before the first day of the month. Utility, special, and individual assessments are due on the date stated in the notice of assessment or, if not date is states, within 10 days after notice of the special or individual assessment is given.

5.11 Reserve Funds. The Association's reserve funds are not intended to cover unforeseeable expenses or every foreseeable future expense. They are intended to reduce the amount or frequency of special assessments and dramatic increases in regular assessments.

5.11.1 Monitoring Laws and Lender Requirements. On the date of this Declaration, condominium associations are in a dynamic environment regarding replacement reserve funds. The board should periodically monitor the reserve requirements established by institutional lenders, in addition to ay created by public law, to try and maintain the Property's eligibility for mortgage financing.

5.11.2 Required Reserves. The Association will establish, maintain, and accumulate reserves for operations and for anticipated major repairs or periodic replacement

of significant improvements to the common elements, to be used as needed. During the early years of the Property, when major components of the common elements are new and unlikely to require replacement, the reserve accounts are not expected to be fully funded.

- 5.11.3 Discretionary Reserves. In addition to reserves for replacement and repair of common elements, the board may create as many types of reserve accounts as it desires, such as the following types of reserves.
- a. Operations reserves at a level determined by the board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies.
 - b. Deductible reserves at a level determined by the board to be sufficient to cover the full amount of deductibles on insurance policies maintained by the Association.
- 5.11.4 Owners Contribute. The reserve accounts are funded by monies paid by owners other than Declarant. Owners' contributions may be in the form of initial contributions at time of purchase, special assessments, and/or set-asides from regular assessments.

The Association hereby establishes a reserve fund in an amount that is equal to 2 months of regular assessments for all units or in any other amount as specified by the Association's Board of Directors. Each unit's contribution will be collected when the sale of the unit closes or on termination of the Declarant Control Period, whichever occurs first. **Contributions to this fund are not advance payments of regular assessments and are not refundable.**

The Directors of the Association may increase or decrease the number of months assessments that must be contributed to the reserve upon the closing of the unit by resolution of the Directors.

- 5.11.5 Replacement Reserve Study & Schedule. At the end of the Declarant Control Period, and periodically thereafter, the board elected by the owners will adopt a replacement reserve schedule as the basis for the Association's reserve accounts. The replacement reserve schedule may be based on a replacement reserve study approved by the board. The board will use the replacement reserve study to determine which common elements and repairs are to be covered by the replacement reserve schedule, and which are to be addressed as routine maintenance within the annual operating budget. The board will also determine:
- a. What percentage or portions of the replacement reserve schedule to fund on an ongoing basis, and which to fund by special assessment or an increase in the regular assessment at the time work is performed.
 - b. Whether to levy a special assessment to establish, increase, or replenish the reserve accounts.
 - c. Whether to dedicate some or all of the reserve funds to specific uses.
- 5.11.6 Adequacy of Reserve Fund. A reserve fund is deemed to be adequate if (1) the fund identifies at least the major components of the common elements, estimates the remaining useful life of each major component, and estimates the

cost of repairing or replacing each major component using current costs (without cost of living or inflation factors), and (2) there is a schedule for infusing the fund with monetary contributions from owners, even if years or decades are required to reach full funding.

5.11.7 Declarant Does Not Contribute. Declarant has no duty to contribute to the Association's reserve accounts. If the Declarant-controlled Association does not collect initial reserve contributions from owners at time of purchase, after the Declarant Control Period, the Association will levy a special assessment to establish initial reserve accounts, and will thereafter collect initial reserve contributions in connections with transfers of title.

5.12 Declarant's Right to Inspect & Correct Accounts. For a period of 5 years after termination of the Declarant Control Period, Declarant reserved for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association's financial books, records, and accounts from the Declarant Control Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of the Declarant. By way of illustration but not limitation, Declarant may find it necessary to recharacterize an expense or payment to conform to Declarant's obligations under the Governing Documents or applicable State Law. This Section may not be construed to create a duty for declarant or a right for the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each owner, by accepting an interest in or title to a unit, hereby grants Declarant a right of access to the Association's books, records, and accounts that is independent of Declarant's rights during the Declarant Control and Development Periods, for the limited purpose of this Section and only to the extent necessary to enable Declarant to exercise its rights under this Section.

5.13 Association's Right to Borrow Money. The Association is granted the right to borrow money, subject to the consent of owners representing at least 67% of the allocated interest in the Association and the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to adding its right to future income, as security for money borrowed or debt incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.

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

5.15 HOA Sale Fees. This Section addresses the expenses, fees, charges, and contributions (hereafter, collectively, the "**HOA Sale Fees**") that are charged by the Association or its manager, and that arise at the time of a unit's sale or purchase. As used in this Section, "HOA Sale Fees" does not include a buyer's prepaid and/or pro-rata assessments. HOA Sale Fees are not refundable by the Association or the Association's manager, and may not be regarded as a prepayment of or credit against assessments. HOA

Sale Fees generally fall into two types of categories – budget enhancing fees, such as contributions to the reserve or operating funds of the Association, and administrative fees, such as fees for resale certificates, estoppel certificates, copies of Governing Documents, compliance inspections, ownership record changes, and priority processing.

- 5.15.1 Notice of HOA Sale Fees. The Association may, but is not required to, publicly record a Notice of HOA Sale Fees. The initial Notice may be recorded with the Community Manual or the Condominium Management Certificate. The Notice as amended or restated may be recorded independently of the Community Manual or Condominium Management Certificate.
- 5.15.2 Manager's Fees. HOA Sale Fees of an administrative nature may be charged by the Association's manager, managing director, or managing agent (collectively "**manager**"), pursuant to a contract between the Association and the manager, and provided there is no duplication of fees by type or amount with fees charged by the Association. This Article does not obligate the manager to levy HOA Sale Fees. The number, types, and amounts of HOA Sale Fees charged by a manager (1) must have the prior written approval of the board, (2) are not subject to the Association's assessment lien, (3) should not exceed what is customary in amount, kind, and number for the local marketplace, and (4) are not payable by the Association unless the management contract so stipulates.
- 5.15.3 Amendment of Notice. After the Development Period, the board, without a vote of the owners, may amend the Notice of HOA Sale Fees for the following three purposes: (1) to restate the Notice without reference to New Commercial Unit Sales if every unit in the Property has been sold at least once; (2) to change a stated amount or formula for an HOA Sale Fees that applies to resales, or (3) to conform the Notice of HOA Sale Fees with applicable law regarding HOA Sale Fees. Any amendment pertaining to New Commercial Unit Sales must be approved in writing by Declarant as long as any unit qualifies as a New Commercial Unit. Any other amendment of the Notice requires the approval of owners of two-thirds of the units represented at a meeting of the Association at which a quorum is present, provided notice of the proposed amendment is given with the notice of meeting. During the Development Period, the Notice of HOA Sale Fees may be amended by Declarant only.
- 5.15.4 Effective. To be effective, an amendment or restatement of the Notice of HOA Sale Fees must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, the recording data of this Declaration, and the recording data of the most recent previously recorded Notice of HOA Sale Fees, (2) signed and acknowledged by Declarant during the Development Period, and thereafter by an officer of the Association, certifying the requisite approval of owners or directors, and (3) recorded in the Real Property Records of Johnson County, Texas.
- 5.15.5 Applicability. If the amended or restated Notice of HOA Sale Fees results in an overall reduction of HOA Sale Fees for a conveyance that is pending at the time of the amendment, the lower rate is effective immediately for any closing that occurs after the date the amendment is publicly recorded. If the amended or

restated Notice of HOA Sale Fees result in an overall increase of HOA Sale Fees for the unit being conveyed, the increased amount is not effective until the 90th day after the date on which the amended or restated Notice of HOA Sale Fees is publicly recorded.

- 5.15.6 Distribution. Within 60 days after the amended or restated notice of HOA Sale Fees is publicly recorded, a copy or report of, or electronic link to, the recorded amended Notice of HOA Sale Fees must be delivered or made available to an owner of each until.

ARTICLE 6

ASSESSMENT LIEN

6.1 Assessment Lien. Each owner, by accepting an interest in or title to a unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment is a charge on the unit and is secured by a continuing lien on the unit. Each owner, and each prospective owner, is placed on notice that his title may be subject to the continuing lien for the assessments attributable to a period prior to the date he purchased his unit.

YES, THE HOA CAN FORECLOSE!

If you fail to pay assessments to the Association, you may lose title to your unit if the Association forecloses its assessment lien against your unit.

6.2 Superiority of Assessment Lien. The assessment lien is superior to all other liens and encumbrances on a unit, except only for (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a deed of trust or vendor's lien recorded before this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original unit, and (4) a purchase money vendor's lien or purchase money deed of trust lien recorded before the date on which the delinquent assessment became due. The assessment lien is superior to a lien for construction of improvements to the unit, regardless of when recorded or perfected. It is also superior to any recorded assignment of the right to insurance proceeds on the unit, unless the assignment is part of a superior deed of trust lien. The assessment lien is subordinate and inferior to a recorded deed of trust lien that secures a purchase money mortgage, an FHA-insured mortgage, or a VA-guaranteed mortgage.

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

6.4 Notice and Release of Notice. The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the Real Property Records of Johnson County, Texas. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense

of the curing owner. The Association may require reimbursement of its costs of preparing and recording the notice before granting the release.

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

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

ARTICLE 7

EFFECT OF NONPAYMENT OF ASSESSMENTS

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

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

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

7.3 Collection Expenses. The owner of a unit against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorney's fees and processing fees charged by the manager.

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

7.5 Suspension of Use and Vote. If an owner's account has been delinquent for at least 30 days, the Association may suspend the right of the owner and the occupants of the owner's unit to use common elements and common services during the period of delinquency. Services include master-metered or sub-metered utilities serving the unit. The Association may not suspend and owner or occupant's right of access to the unit. Subject to the below-described limitations, the Association may also suspend the owner's right to vote appurtenant to the unit during the period of delinquency. Suspension

does not constitute a waiver or discharge of the owner's obligation to pay assessments. When the Association suspends a member's right to vote, the suspended member may nevertheless participate as a member for the following activities: (1) be counted toward a quorum, (2) attend meetings of the Association, (3) participate in discussion at Association meetings, (4) be counted as a petitioner for a special meeting of the Association, and (5) vote to remove a director, and for the replacement of the removed director. If the number of suspended members exceeds 30 percent (30%) of the total members (co-owners of a unit constituting one member), all members are eligible to vote. These limitations are imposed to prevent a board from disenfranchising a large segment of the membership and to preserve the membership's right to remove and replace directors.

7.6 Assignment of Rents. Every owner hereby grants to the Association a continuing assignment of rents to secure the payment of assessments to the Association. If a unit's account becomes delinquent during a period in which the unit is leased, the Association may direct the tenant to deliver rent to the Association for application to the delinquent account, provided the Association gives the owner notice of the delinquency, a reasonable opportunity to cure the debt, and notice of the owner's right to a hearing before the board. The Association must account for all monies received from a tenant and must remit to the owner any rents received in excess of the past-due amount. A tenant's delivery of rent to the Association under the authority hereby granted is not a breach of the tenant's lease with the owner and does not subject the tenant to penalties from the owner.

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

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

7.9 Application of Payments. The Association may adopt and amend policies regarding the application of payments. The Association may refuse to accept partial payment or payment to which the payer attaches conditions or directions contrary to the Association's policy or applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the unit's account.

ARTICLE 8

MAINTENANCE AND REPAIR OBLIGATIONS

8.1 Association Maintenance. The Association's maintenance obligations will be discharged when and how the board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, all general and limited common elements of the Property. The Association also maintains, as a common expense, any component of a unit delegated to the Association by this Declaration.

8.2 Owner Responsibility. Every owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:

- a. To maintain, repair, and replace his unit, as needed.
- b. To periodically clean the windows and screens of his unit, and to keep his unit's window treatments in a clean and attractive condition.
- c. To keep the exterior walls, roof, and other exterior components of his unit in a neat, clean, odorless, orderly, and attractive condition.

- d. To maintain, repair, and replace all portions of the Property for which he is responsible under this Declaration or by agreement with the Association. This includes the exterior of the Unit.
- e. To not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value thereof, or impair any easement or real property right thereto.
- f. To be responsible for his owner willful or negligent acts and those of his or the occupant's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of common elements or the property of another owner, or any component of the Property for which the Association has maintenance or insurance responsibility.

8.3 Exterior Walls, Sheetrock, and Roofs. The Association is responsible for the repair, maintenance, and replacement of exterior walls. Notwithstanding anything to the contrary in the Governing Documents, the Association is not responsible for the repair and replacement of interior sheetrock or roofs, including those roofs used as a patio or patio bar. Unit owners shall be responsible for the maintenance, repair and replacement of sheetrock or roofs, including roofs used as a patio or patio bar. Any insurance proceeds received by the Association related to damage shall be allocated in accordance with Section 82.111 of the Texas Property Code.

8.4 Concrete.

- a. Cracks. Minor cracks in poured concrete, including foundations, sidewalks, and patios, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of a Structure.
- b. Exposed Concrete Floors. This Section applies to residences or Structures with exposed concrete floors. This notice is given because Owners may be inexperienced with concrete and expect it to be as forgiving as wood or sheetrock. In deciding whether, when, and how to fill cracks in exposed concrete floors, and Owner is hereby made aware that the color and texture of the fill material may not match the rest of the concrete floor. On some exposed concrete floors, fill materials make minor cracks more noticeable than if the cracks had been left in their natural state. In addition, an Owner is hereby made aware that any specification for polished concrete means that the concrete will be polished, but this does not mean and Owner will be able to actually see their reflection in the floor.

8.5 Mold. In the era in which this Declaration is written, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. Because many insurance policies do not cover damages related to mold, owners should be proactive in identifying and removing visible surface mold, and in identifying and repairing sources of water leaks in and around the unit. To discourage mold in his unit, each occupant should maintain an inside humidity level under 60 percent (60%). For more information about mold, the owner should consult a reliable source, such as the U.S. Environmental Protection Agency.

- 8.5.1 Owner's Duties. To reduce the risks associated with concentrations of mold, owners should be proactive in preventing conditions or circumstances conducive

to mold, identifying mold, and eliminating mold. To that end, each owner is responsible for:

- a. Regularly inspecting his entire Unit for evidence of water leak or penetration.
- b. Repairing promptly any water leaks, breaks, or malfunctions of any kind of his Unit that may cause damage to another Unit or Common Element.
- c. Reporting promptly to the Association any water leak, penetration, break, or malfunction in any portion of his Unit or any adjacent Common Elements for which the Association may have maintenance responsibility.

8.6 Party Walls. Each wall which is built as a part of the original construction and placed on the dividing line between the Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No alterations may be made to any party wall other than non-structural alterations to the interior surfaces of such walls (i.e., the surfaces of such walls facing the interior of a commercial unit); provided, however, that under no circumstances shall any alterations or attachments be made to any party wall surface that would create or may result in any physical damage, cosmetic or otherwise, to the party wall.

8.6.1 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

8.6.2 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, it shall be repaired under the provisions of Article 15. However, the Association may call for a contribution from either or both owners under any rule of law regarding liability for negligent or willful acts or omissions that contributed to the destruction of the party wall.

8.6.3 Weatherproofing. Notwithstanding any other provision of this Article, and Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

8.6.4 Right to Contribution Runs with Land. The right of any Owner to Contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

8.7 Warranty Claims. If the owner is the beneficiary of a warranty against major structural defects of any portion of the Property that is the responsibility of the Association to maintain, the owner may NOT appoint the Association or its officers and directors as his attorney-in-fact to file, negotiate, receive, administer, and distribute the proceeds of any claim against the warranty that pertains to that component of the Property. This prohibition is warranted by the possibility that the Association may become a party to this dispute because of its duty to maintain the Property.

8.8 Owner's Default in Maintenance. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, that maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which is an individual assessment against the owner and his unit. Such assessments may include, but are not limited to, cost of maintenance and repair, costs of a locksmith, and costs of security. In case of an emergency,

however, the board's responsibility to give the owner written notice may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense.

8.9 Disputes. If a dispute arises regarding the allocation of maintenance responsibilities by this Declaration, the dispute will be resolved by delegating responsibility to the individual owners. Unit maintenance responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this Article that all components and areas not expressly delegated to the Association are the responsibility of the individual owners. The board is expressly authorized to amend the Maintenance Responsibility Chart, from time to time, without further amendment of this Declaration.

ARTICLE 9

ARCHITECTURAL COVENANTS AND CONTROL

9.1 Purpose. Because the units are part of single, unified community, the Association, subject to the terms and conditions of the Chapter 380 Economic Development and Performance Agreement related to exterior design and appearance of the Property, has the right to regulate the exterior design, use, and appearance of the units and common elements in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be racial, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A Third purpose is to regulate the appearance of every aspect of proposed or existing improvements to the Property, including replacements or modifications of original construction or installation. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control. Lastly, this Article is to ensure the Property complies with Burleson's vision of the Property as set forth in the Chapter 380 Economic Development and Performance Agreement.

9.2 Exercise of Architectural Control. During the Development Period, Declarant or its delegate is the sole architectural authority for the Property, subject to the terms and conditions of the Chapter 380 Economic Development and Performance Agreement related to the exterior design and appearance of the Property and pursuant to the architectural control provisions that may be enacted by the Association. After the Development Period, the board or a committee appointed by the board exercises architectural control over the Property. Whomever exercises architectural control pursuant to this Declaration is hereafter referred to as the "**Architectural Reviewer**."

9.3 Limits on Liability. The Architectural Reviewer has sole discretion with respect to taste, design, and all standards specified by this Article. The Architectural Reviewer and each of its members has no liability for its decisions made in good faith by the Architectural Reviewer, and which are not arbitrary or capricious. The Architectural Reviewer is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the Architectural Reviewer, or (2) the compliance of the owner's plans and specification with city codes and ordinances, State and federal laws. Approval of a modification or improvement by the Architectural Reviewer may not be deemed to constitute a waiver of the Architectural Reviewer's right to without approval for similar proposals, plans, or specifications that are subsequently submitted.

**DON'T MAKE CHANGES (*no matter how pretty*) TO THE
PROPERTY UNLESS YOU HAVE WRITTEN
ARCHITECTURAL APPROVAL**

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

9.5 Architectural Approval. To request architectural approval, an owner must make written application and submit to the Architectural Reviewer TWO identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the owner may but is not required to submit letters of support or non-opposition from owners of units that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "more Information Required." The Architectural Reviewer may retain the other set of plans and specifications, together with the application, for the Association's files. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction and property use that may alter or adversely affect the value, use, or appearance of the Property.

- 9.5.1 No Verbal Approval. Verbal approval by the Architectural Reviewer, the Declarant, and Association's director or officer, or the Association's manager does not constitute architectural approval by the Architectural Reviewer, which must be in writing.
- 9.5.2 No Deemed Approval. The failure of the Architectural Reviewer to respond to an application may not be construed as approval of the application. **Under no circumstance may approval of the Architectural Reviewer or of the Association be deemed, implied, or presumed.**
- 9.5.3 No Approval Required. Approval is not required for an owner to remodel or repaint the interior of a unit, provided the work (1) does not impair the structural soundness of the building, (2) is not visible from the street, another unit, or a common element, and (3) does not adversely affect the common elements of another unit.
- 9.5.4 Hearing Before the Board if Request is Denied. In the event that an Owner's Architectural Request is denied, that Owner may request, and shall be given, a hearing in front of the board to discuss the denial and any changes that may be made so that the Architectural Request may be approved.
- 9.5.5 Building Permit. If the application is for work that requires a building permit from a governmental body, approval by the Architectural Reviewer is conditioned on the issuance of the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, governmental approval does not ensure approval by the Architectural Reviewer.

- 9.5.6 Neighbor Input. The Architectural Reviewer may solicit comments on the application, including from owners or occupants of units that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant is solely at the discretion of the Architectural Reviewer. The Architectural Reviewer is not required to respond to the commenters in ruling on the application.
- 9.5.7 Declarant Approved. Notwithstanding anything to the contrary in this Declaration, any improvements to the property made or approved by Declarant during the Development Period is deemed to have been approved by the Architectural Reviewer.

If you don't get an "OK" in writing, you can't do it. Sorry.

9.6 Owner's Duties. If the Architectural Reviewer approved and owner's application, the owner may proceed with the improvement, provided:

- a. The owner must adhere strictly to the plans and specifications which accompanied his application.
- b. The owner must initiate and complete the improvement in a timely manner.
- c. If the approved application is for work that required a building permit from the city, the owner must obtain the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that they comply with the city's requirement. Alternatively, approval by the city does not ensure approval by the Architectural Reviewer.

9.7 Control for Variances. This Section of the Declaration may not be amended without the approval of owners of at least 75 percent (75%) of the allocated interest in the Association and approval by Burleson which shall not be unreasonably withheld. If the Architectural Reviewer is considering approval of an application that seeks a variance or which, in the Architectural Reviewer's opinion, would constitute a variance of the Property's established standards, the Architectural Reviewer will so notify the board which, in turn, must notify an owner of each unit of the nature of the proposed variance at least 20 days before the Architectural Reviewer approved the application. The Architectural Reviewer may approve the variance unless owners of at least a majority of the units disapprove the proposed variance by petition or at a meeting of the Association.

ARTICLE 10

USE RESTRICTIONS

10.1 Variance. The use of the Property is subject to the restrictions contained in this Article which includes Article 4.03 of the Chapter 380 Economic Development and Performance Agreement, and subject to Rules adopted pursuant to this Article. The board or the Architectural Reviewer, as the case may be, may grant a variance or waiver of a restriction or Rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not affect a waiver or estoppel of the Association's right to deny a variance in other circumstances.

10.2 Association's Right to Promulgate Rules. The Association, acting through the board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions

thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. The right to make rules, or to regulate, includes the right to prohibit or to restrict.

10.3 Subjective Standards. Standards for some rules and restrictions are inherently subjective, such as what is unattractive or offensive. The Association is not required to honor every occupant's individual tolerances. On lifestyle-related rules, the Association may refrain from acting on a perceived violation unless the board determines the violation to be significant or a community-wide problem. The Association may not be compelled by one occupant to enforce rules and restrictions against another occupant. Occupants are expected to deal directly and peaceably with each other about their differences.

10.4 Rules and Regulations. In addition to the restrictions contained in this Article, each unit is owned and occupied subject to the right of the board to establish Rules, and penalties for infractions thereof, governing:

- a. Use of common elements.
- b. Hazardous, illegal, or annoying materials or activities on the Property.
- c. The use of Property-wide services provided through the Association.
- d. The consumption of utilities billed to the Association.
- e. The use, maintenance, and appearance of anything visible from the street, common elements, or other units.
- f. The occupancy of leasing of units.
- g. Animals.
- h. The installation of Signs within the Association.
- i. Vehicles.
- j. Disposition of trash and control of vermin, termites, and pests.
- k. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for occupants.

10.5 Animals. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property. Dogs shall be kept on a leash when outside the property or appurtenant limited common element. It is the pet owner's responsibility to keep the Common Elements clean and free of pet debris and to pick up and properly dispose of pet waste wherever deposited. Any animal that in the judgment of the Board represents a hazard or annoyance, or risk to the Association Members must be removed within a proper time frame determined by the Board.

10.6 Annoyance. No unit or limited common element may be used in any way that: (1) may reasonably be considered annoying to neighboring units; (2) may be calculated to reduce the desirability of the Property as a commercial neighborhood; (3) may endanger the health or safety of occupants; (4) may result in the cancellation of insurance on any portion of the Property; or (5) will violate any law. The board has the sole authority to determine what constitutes an annoyance.

10.7 Appearance. Both the exterior and interior of the units must be maintained in a manner so as not to be unsightly when viewed from the street, common elements, or neighboring units. The board will be the sole arbitrator or acceptable appearance standards.

10.8 Declarant Privileges. In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other owners and occupants, as provided in Appendix F of this Declaration. Declarant's exercise of a Development Period right that appears to violate a rule or a use restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

10.9 Drainage. No person may interfere with the established drainage pattern over any part of the Property unless an adequate provision for property drainage has been approved by the board.

10.10 Walkways, Passageways, and Sidewalks. Walkways, Passageways, Sidewalks and other pedestrian areas may not be used for any purpose that interferes with their ongoing use as routes of vehicular or pedestrian access. Some outdoor areas, walkways, and passageways may be use for outdoor dining and recreation if approved by the Board of Directors.

10.11 Energy Conservation. Although energy conservation may be consistent with public policy, without the board's prior written authorization, which may be denied, no energy conservation device may be places on or affixed to a common element. Without limitation, energy conservation devices include solar panels, rain barrels, compost devices, and clotheslines.

10.12 Fire Safety. On the date of this Declaration, public authorities require the buildings to be constructed with a fire safety water sprinkler system in each unit. No person may use, misuse, cover, disconnect, tamper with, or modify the fire safety equipment of the Property, including the sprinkler heads and water lines in and above the ceilings of the unit, or interfere with the maintenance and/or testing of same by the Association or public officials, or by their respective representatives.

10.13 Flags. Although public policy encourages the flying of flags as a display of pride and patriotism, without the board's prior written authorization, which may be denied, no flag display may be installed or affixed in or on the common element, to the extent such limitation is permitted by public law. Any installation of a flag or flagpole is subject to approval by the Architectural Review Authority.

10.14 Landscaping. No person may perform landscaping, planting, or gardening anywhere upon the Property without the board's prior written authorization.

Although music is a universal language, no one type or volume of music is universally loved – not even your favorite music, as wonderful as it is. Please be mindful to respect all City and Local noise ordinances.

10.15 Noise & Odor. An occupant must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy occupants of neighboring units. The Rules may limit, discourage, or prohibit the use of noise-producing activities and items in the units on the common elements, such as security devises and windchimes.

All Owners and occupants shall take care to abide by the Noise Ordinance for the City of Burluson. The Association maintains the right and ability, but shall not be required, to enforce the terms and provisions of the City of Burluson Noise Ordinance against an Owner should the City of Burluson fail to enforce said Ordinance.

Any fine assessed against the Association by the City of Burluson due to the actions of an Owner may be assessed against the Owner or guest responsible for said violation as an individual assessment.

Although the units are constructed to reduce the transmission of sound between adjoining units, the units are not soundproofed. Some noise transmission between adjoining units is possible.

10.16 Noise & Odor – Common Area. Occupants of units in close proximity to any common area must anticipate (and tolerate) a certain amount of periodic noise and activity in connection with occupants' customary use of the area.

10.17 Occupancy. No part of the property may be used for purposes other than for the units of a commercial business enterprise. Nothing in this declaration shall prevent an owner from leasing or renting out the unit owned by the owner, subject to the terms and provisions of the Declaration.

10.18 Religious Display. To the extent permitted and protected by applicable law (such as TX Prop Code Sec 202.018), an owner or occupant may display or affix one or more religious items to the outside surface of the unit provided (1) the display is motivated by the owner or occupant's sincere religious belief; (2) the display does not violate a law or threaten public health or safety; and (3) the display is not patently offensive to a passerby of average sensibilities. A unit owner may not affix a religious display to a common element or limited common element. In addition to remedies available to the Association for a violation of the Governing Documents, the Association may exercise self-help to remove a religious display that violates this Section.

10.19 Commercial or Governmental Use. The use of a unit is limited exclusively to commercial or governmental purposes or any other use permitted by this Declaration. Units may not be used for residential use.

10.20 Signs. No signs, including signs advertising the units for sale or lease, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows, or doors in the units without written authorization of the board. The board's authorization may specify the location, nature, dimensions, number, and time period of any advertising sign. As used in this Section, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message. The Association may affect the immediate removal of any sign or object that violates this Section or which the board deems inconsistent with Property standards without liability for trespass or any other liability connected with the removal.

10.21 Specific Uses. A common element that has a specific use may not be used for any other purpose without the prior written consent of the board. In particular, sidewalks, walkways, stairwells, elevators, and other passageways may not be used for any purpose that interferes with their ongoing use as routes of pedestrian access. Some common areas, walkways, and passageways may be use for outdoor dining and recreation if approved by the Board of Directors.

10.22 Structural Integrity. No person may directly or indirectly impair the structural soundness or integrity of a building or another unit, not do any work or modification that will impair an easement or real property right.

**EVERY OCCUPANT OF BTX CONDOMINIUM
ASSOCIATION IS EXPECTED TO COMPLY WITH THESE
RULES AND WITH PUBLISHED RULES ADOPTED BY THE
BOARD OF DIRECTORS.**

10.23 Television & Internet Connectivity. Each occupant of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, internet signal, wifi connectivity, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Without the prior written consent of the Architectural Reviewer, no person may install an antenna, microwave or satellite dish, receiving or transmitting tower on the common elements or the exterior of buildings. Notwithstanding the foregoing and to the extent required by public law, the following items

(hereafter “**Antenna/Dish**”) may be installed subject to this Section: (1) reception-only tv antennas, (2) direct broadcast satellites (DBS) that are one meter or less in diameter, and (3) multipoint distribution service (MDS) antennas that are one meter or less in diameter.

10.23.1 Definitions. As used in this Section “Antenna/Dish Unit” means the unit served by a satellite dish or antenna, or the unit that is obviously intended to be served by a satellite dish or antenna, regardless of whether the service is operational. “Antenna/Dish Owner” means the owner of a unit served by a satellite dish or antenna, regardless of whether the unit owner purchases, uses, or has actual knowledge of the satellite dish or antenna.

10.23.2 Location. Without the prior written approval of the Association, an Antenna/Dish may not be placed on the roof or on any exterior surface of the building; provided, however, an Antenna/Dish may be placed or installed in an area which the owner has exclusive use as a limited common element provided the Antenna/Dish is not visible from the ground and is not attached to the top or exterior surface of a unit.

10.23.3 Owner Responsibility. The installation of an Antenna/Dish on common elements automatically subjects the Antenna/Dish Unit and its owner to this Section, regardless of who installed the Antenna/Dish and regardless of whether the Antenna/Dish Owner has actual notice of the installation. The Antenna/Dish Owner is solely responsible for (1) the cost of maintaining, repairing, replacing, and removing, as necessary, the Antenna/Dish, and (2) the cost of repairing common elements if such repairs are necessitated by the Antenna/Dish or its installation, maintenance, repair, or replacement, irrespective of whether the repairs are undertaken by the Antenna/Dish Owner or the Association. If required by the Association, the Antenna/Dish Owner will remove the Antenna/Dish, as necessary, to permit the Association to maintain, repair, or replace common elements as the Association in its sole discretion, deems necessary or desirable.

10.23.4 Association Controls. To the extent permitted by public law, the Association may adopt and amend reasonable standards to the color, appearance, location, method of installation, maintenance, camouflaging, screening, and use of Antenna/Dishes. The location and installation of an Antenna/Dish on the common elements must have prior written approval of the Association, unless the location and installation comply with the most current standards that have been adopted and published by the Association.

10.23.5 Interference. An Antenna/Dish or the use of an Antenna/Dish may not interfere with satellite or broadcast reception to other units or the common elements, or otherwise be a nuisance to occupants of other units or to the Association. The board of directors may determine what constitutes a nuisance to the Association.

10.23.6 Risk. An Antenna/Dish on the common elements exists at the sole risk of the owner and/or occupant of the Antenna/Dish Unit. The Association does not insure the Antenna/Dish and is not liable to the Antenna/Dish Owner or any other person for any loss or damage to the Antenna/Dish from any cause. The Antenna/Dish Owner will defend and indemnify the Association, its directors, officers, and members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from his Antenna/Dish.

10.24 Vehicles. All vehicles on the Property, whether owned or operated by the occupants or guests, are subject to this Section and any rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The board may prohibit any vehicle which the board deems to be a nuisance, unsightly, or inappropriate. The board may prohibit sales, storage, washing, repairs, or restorations of vehicles on the Property. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the Property. The Association may affect the removal of any vehicle of this Section or the Rules without liability to the owner or operator of the vehicle. Owners within the Association should make every effort to have deliveries within the early morning hours and have delivery trucks not remain greater than 15 minutes per delivery.

10.25 Window Treatments. BTX Condominium Association is designed to have a uniform window appearance for all windows. Therefore, the color and condition of all windows panes, window screens, and window treatments must conform to the building standard and the terms and conditions of the Chapter 380 Economic Development and Performance Agreement. All window treatments in a Building must be uniform in color, style, appearance, and quality. All window treatments must be maintained in good condition and must not detract from the appearance of the Property. The Architectural Reviewer may require an owner to change or remove a window treatment, window film, window screen, or window decoration that the Architectural Reviewer determines to be inappropriate, unattractive, or inconsistent with the Property's uniform window standard. The Architectural Reviewer may prohibit the use of certain colors or materials for window treatments.

ARTICLE 11

UNIT LEASING

11.1 Lease Conditions. The Units may be used for leasing. The leasing of units is subject to the following conditions: (1) whether or not it is so stated in a lease, every lease is subject to the Governing Documents; (2) all leases must be in writing and must be made subject to the Governing Documents; (3) an owner is responsible for providing his tenant with copies of the Governing Documents and notifying him of changes thereto; (4) each tenant is subject to and must comply with applicable provisions of the Governing Documents, federal and State laws, and local ordinances; (5) the owner is responsible and liable for the acts and omissions of the occupants of his unit; (6) Owner is responsible to provide the Association with a copy of the lease and the name and contact information for the tenants/occupants; and (7) no unit may be leased for residential purposes.

11.2 Owner Occupancy. For purposes of this Article, a unit is considered "owner occupied" if at least one occupant of an occupied unit is an owner of the unit or is related by blood, marriage, or adoption to an owner of the unit, or if the unit is vacant – except that a unit being offered for lease may not be considered "owner occupied" even though the unit is then-vacant or then-occupied by an owner. In calculating occupancy, units are counted uniformly regardless of size.

11.3 Eviction of Tenants. Every lease agreement on a unit, whether written or oral, express or implied, is subject to and is deemed to include the following provisions

11.3.1 Violation Constitutes Default. Failure by the tenant or his invitees to comply with applicable provisions of the Governing Documents, federal or State law, or local ordinance is deemed to be a default under the lease. When the Association notifies an owner of his tenant's violation, the owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of

lease. If the tenant's violation continues or is repeated, and if the owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or State law for the default, including eviction of the tenant, subject to the terms of this Section

11.3.2 Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Governing Documents by the Association, each owner appoints the Association as his attorney-in-fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the Governing Documents against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf, provided the Association gives the owner at least 10 days' notice, by certified mail, of its intent to so enforce the Governing Documents

11.3.3 Association not Liable for Damages. The owner of a leased unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Governing Documents against his tenant. The Association is not liable to the owner for any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of the Governing Documents against the owner's tenant.

11.4 Mortgagees & Declarant Exempt. A Mortgagee acquiring possession of or title to a unit by exercise of its rights under a deed of trust is exempt from the effect of this Article. This exemption does not pass to the Mortgagee's successors and assigns. During the Development Period, Declarant is exempt from the effect of this Article.

ARTICLE 12

ASSOCIATION OPERATIONS

12.1 The Association. The existence and legitimacy of the Association is derived from this Declaration and the Bylaws of the Association.

12.1.1 Type. The Association must be a nonprofit organization. As long as Texas law requires the incorporation of condominium associations, the Association will be incorporated as a nonprofit corporation. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association.

12.1.2 Name. A name is not the defining feature of the Association. Although the initial name of the Association is BTX Condominium Association, Inc., the Association may operate under any name that is approved by the board and (1) filed with the Johnson County Clerk as an assumed name, or (2) filed with the Secretary of State as the name of the filing entity. The Association may also change its name by amending the Governing Documents. Another legal entity with the same name as the Association, or with a name based on the name or location of the Property, is not the Association, which derives its authority from this Declaration.

12.1.3 Duties. The duties and powers of the Association are those set forth in the Governing Documents, together with the general and implied powers of a condominium association and, as applicable, an unincorporated nonprofit

corporation or a nonprofit association organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Governing Documents.

12.1.4 Duration. The Association comes into existence on the earlier to occur of the two following events: (1) the date on which the Association's certificate of formation is filed with the Secretary of State of Texas, or (2) the date on which a unit deed is recorded in the Real Property Records of Johnson County, Texas, evidencing diversity of ownership in the Property (that the Property is not owned entirely by Declarant or its affiliates). The Association will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

**EVERY OWNER OF A BTX CONDOMINIUM
ASSOCIATION UNIT AUTOMATICALLY JOINS A
MANDATORY MEMBERSHIP ASSOCIATION.**

12.2 Board. The Association will be governed by a board of directors elected by the members. Unless the Association's bylaws or articles of incorporation provide otherwise, the board will consist of at least 3 persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. Unless the Governing Documents expressly reserve a right, action, or decision to the members/owners, Declarant, or another party, the board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Governing Documents to the "Association" may be construed to mean "the Association acting through its board of directors."

12.3 Membership. Each owner is a member of the Association, ownership of a unit being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the unit. The board may require satisfactory evidence of transfer of ownership before a purported owner is entitled to vote at meetings of the Association. If a unit is owned by more than one person or entity, each co-owner is a member of the Association and may exercise the membership rights appurtenant to the unit. A member who sells his unit under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the board. However, the contract seller remains liable for all assessments attributable to his unit until fee title to the unit is transferred. Unless the Governing Documents provide otherwise, any action requiring approval of the members may be approved in writing by owners of at least a majority of all units, or at a meeting by owners of at least a majority of the units that are represented at the meeting.

12.4 Decision-Making. Any decision or act of the Association may be made by or at the direction of the board, unless the Governing Documents reserve the decision or act to the members, the Declarant, or any other person or group. Unless the Governing Documents or applicable law provide otherwise, any action requiring approval of the members may be approved (1) at a meeting by owners of at least a majority of the voting interests that are represented at the meeting, provided notice of the meeting was given to an owner of each unit, or (2) in writing by owners of at least a majority of all units, provided the opportunity to approve or disapprove was given to an owner of each unit.

12.5 Manager. The board may delegate the performance of certain functions to one or more managers or managing agents of the Association. Notwithstanding any delegation of its functions, the board is ultimately responsible to the members for governance of the Association.

12.6 Communications. This Declaration is drafted in an era of rapidly changing communication technologies. Declarant does not intend to limit the methods by which the Association, owners, and occupants communicate with each other. Such communications may be by any method or methods that are available and customary. For example, if the Association is required by the Governing Documents or applicable law to make information available to owners of all units, that requirement may be satisfied by posting the information on the Association's website or by using electronic means of disseminating the information, unless applicable law requires a specific method of communication. It is foreseeable that meetings of the Association and voting on issues may eventually be conducted via technology that is not widely available on the date of this Declaration. As communication technologies change, the Association may adopt as its universal standard any technology that is used by owners of at least 85 percent of the units. Also, the Association may employ multiple methods of communicating with owners and occupants. The Association may communicate with its members via email unless expressly required to use an alternative means of communication by Texas law.

12.7 Books & Records. The Association will maintain copies of the Governing Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to the requirements of applicable law.

12.7.1 Document Retention Policy. The Association shall maintain the following documents for the following lengths of time:

- a. Certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently by the Association.
- b. Financial books and records shall be retained for a minimum of seven years.
- c. Account records of current owners shall be retained for a minimum of five years.
- d. Contracts with a term of one year or more shall be retained for a minimum of four years after the expiration of the contract term.
- e. Minutes of meetings of the owners and the board shall be retained for a minimum of seven years.
- f. Tax returns and audit records shall be retained for a minimum of seven years.

12.7.2 Records Production and Copying Policy:

- a. All books, records, and financial records shall be open to and reasonably available for examination by an owner within the community or by the owner's designated agent except for those outlined in Paragraph 6 below. An owner or their agent is also entitled to copies of said records. Should an owner designate an agent for inspection of records, such designation must be made in writing and submitted to the Association prior to any inspection or production of any records.
- b. A Records Request must be submitted to the Association in writing, via Certified Mail, Return Receipt Requested to the mailing address of the Association or authorized representative as reflected in the most recent Management Certificate. The owner's request must describe in sufficient detail the records requested and specify whether the owner is requesting to inspect the records or is requesting copies. If the owner requests any of the

records specified under F of this Resolution, then the written request for records must also include a declaration affirming approval of the inspection and/or release of those specific records, either to himself or to the owner's designated agent.

- c. The Association shall reply to such a Records Request by an owner within 10 business days of the receipt of the request. If the Association is unable to produce the records within 10 business days, the Association shall inform the owner of such within 10 business days of the receipt of the owner's request and inform the owner that the information will be available not later than 15 business days from the date of the response to the owner's Records Request.
 1. Inspection Requested: Should the owner submitting the request seek to inspect documents, the Association shall reply with the dates and times during normal business hours that records will be available for inspection as well as the costs the Association will charge for the inspection of said records. If the Association is unable to produce the records within 10 business days, the Association shall inform the owner of such within 10 business days of the receipt of the owner's request and inform the owner that the information will be available not later than 15 business days from the date of the response to the owner's Records Request.
 2. Copies Requested: Should the owner submitting the request seek the production of copies of Association records, the Association shall produce all requested records that are within their possession or control within ten business days. If the Association is unable to produce the records within 10 business days, the Association shall inform the owner of such within 10 business days of the receipt of the owner's request and inform the owner that the information will be available not later than 15 business days from the date of the response to the owner's Records Request.
- d. Records may be produced in hard copy, electronic format, or any other format that is reasonably available to the Association.
- e. The Association shall require the advance payment of estimated costs of compilation and production of records. The Association shall charge the costs outlined under Title 1, Rule 70.3 of the Texas Administrative Code. Once an owner has inspected or received copies under the Records Request, a Final Invoice shall be delivered to the owner within 30 days of the records production. If the owner does not pay the final amount showing on the invoice within 30 days, then the amount on the invoice shall be added to the owner's account as an assessment. An owner may not be foreclosed upon for non-payment of this balance due. If a refund is due to the owner after a Records Request, then the refund shall be sent along within the Final Invoice.
- f. The following records shall be unavailable for copying or inspection without written approval of the owner, or a court order stating that such records must be released:
 1. Attorney files and records;
 2. Personal information of owners;
 3. Violation history of owners;
 4. Personal financial information of an owner;

5. Records of payment or non-payment of an owner;
6. Association Employee Information;
7. Contact information of an owner.

12.8 Indemnification. The Association indemnifies every officer, director, and committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with any threatened or pending action, suit, or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment. A Leader is liable for his willful misfeasance, gross negligence, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a common expense, the Association may maintain general liability and directors and officers liability insurance to fund this obligation.

12.9 Obligations of Owners. Without limiting the obligations of owners under the Governing Documents, each owner has the following obligations:

- 12.9.1 Pay Assessments. Each owner will pay assessments properly levied by the Association against the owner or his unit, and will pay regular assessments without demand by the Association.
- 12.9.2 Transfers. Each owner will pay the applicable HOA Sale Fees at the time of the transfer of their unit.
- 12.9.3 Comply. Each owner will comply with the Governing Documents as amended from time to time.
- 12.9.4 Reimburse. Each owner will pay for damage to the Property caused by the negligence or willful misconduct of the owner, an occupant of the owner's unit, or the owner or occupant's family, guests, employees, contractors, agents, or invitees.
- 12.9.5 Liability. Each owner is liable to the Association for violations of the Governing Documents by the owner, a occupant of the owner's unit, or the owner or occupant's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

12.10 Unit Sales. For purposes of this Declaration, a "resale" is every sale or conveyance of a unit (or of an interest in a unit), other than the initial sale of the unit by Declarant to the initial owner. The sale of a unit by Declarant to an owner is considered a "New Commercial Unit Sale" for purposes of this Declaration. New Commercial Unit Sales are not resales.

- 12.10.1 Resale Certificates. An owner intending to resell his unit will notify the Association and will request a condominium resale certificate from the Association.
- 12.10.2 No Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling owner to convey the owner's unit to the Association.
- 12.10.3 HOA Sale Fees. At time of transfer, the HOA Sale Fees described in Section 5.15 of this Declaration and in the publicly recorded Notice of HOA Sale Fees are due and payable by buyer and/or seller.
- 12.10.4 Information. Within 30 days after acquiring an interest in a resale unit, an owner will provide the Association with the following information: a copy of the settlement statement or deed by which owner has title to the unit; the owner's email address (if any), U. S. postal address, and phone number; any mortgagee's name, address, and loan number; the name and phone number of any occupant

other than the owner; the name, address, and phone number of owner's managing agent, if any.

12.10.5 Exclusions. The requirements of this Section do not apply to the following transfers: (1) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien; (2) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (3) transfer to, from, or by the Association; (4) voluntary transfer by an owner to one or more co-owners, or to the owner's spouse, child, or parent; (5) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; (6) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; or (7) a disposition by a government or governmental agency.

ARTICLE 13

ENFORCING THE DOCUMENTS

13.1 Remedies. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Governing Documents and by law, the Association has the following right to enforce the Governing Documents:

13.1.1 Nuisance. The result of every act or omission that violates any provision of the Governing Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

13.1.2 Fine. The Association may levy reasonable charges, as an individual assessment, against an owner and his unit if the owner or occupant, or the owner or occupant's family, guests, employees, agents, or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the owner's obligations under the Governing Documents. Fine amounts shall be determined by the Board of Directors. The Board of Directors may, but shall not be required to, file a fining policy as a dedicatory instruments.

13.1.3 Suspension. The Association may suspend the right of owners and occupants to use common elements (except rights of ingress and egress) for any period during which the owner or occupant, or the owner or occupant's family, guests, employees, agents, or contractors violate the Governing Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Governing Documents.

13.1.4 Self-Help. The Association has the right to enter a common element or unit to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Governing Documents. In exercising this right, the board is not trespassing and is not liable for damages related to the abatement. The board may levy its costs of abatement, including but not limited to, costs of security, vendors, contractors, and locksmiths, against the unit and owner as an individual assessment. The board will make reasonable efforts to give the violating owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the owner. Prior notice is not required (1) in the case of emergencies, (2) to remove violative signs,

(3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or an eyesore to the neighborhood. Notwithstanding the foregoing, the Association may not alter or demolish an item of construction in a unit without judicial proceedings. By accepting an interest in or title to a unit, each owner grants to the Association all powers and rights necessary to exercise this right of self-help as to property used or owned by the owner or a occupant of the unit, and their respective invitees. Accordingly, this Subsection constitutes an owner's actual written consent if any is required by applicable law.

13.2 Board Discretion. The board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law ; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

13.3 No Waiver. The Association and every owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Governing Documents. Failure by the Association or by any owner to enforce a provision of the Governing Documents is not a waiver of the right to do so thereafter.

13.4 Recovery of Costs. The costs of curing or abating a violation are the expense of the owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Governing Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Governing Documents or the restraint of violations of the Governing Documents, the prevailing party is entitled to recover from the non prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

13.5 Notice and Hearing. Before levying a fine for violation of the Governing Documents, or before levying an individual assessment for property damage, the Association will give the owner written notice of the levy and an opportunity to be heard, to the extent required by applicable law, such as Section 82.102(d) of the Act. The Association's written notice must contain a description of the violation or property damage; the amount of the proposed fine or damage charge; a statement that not later than the 30th day after the date of the notice, the owner may request a hearing before the board to contest the fine or charge; and a stated date by which the owner may cure the violation to avoid the fine – unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months. The Association may also give a copy of the notice to the occupant. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The owner's request for a hearing suspends only the levy of a fine or damage charge. The owner may attend the hearing in person, or may be represented by another person or written communication. The board may adopt additional or alternative procedures and requirements for notices and hearing, provided they are consistent with the Act's requirements.

ARTICLE 14

INSURANCE

14.1 General Provisions. All insurance affecting the Property is governed by the provisions of this Article, with which the board will make every reasonable effort to comply, including the following:

- 14.1.1 Common Expense. The cost of insurance coverages and bonds maintained by the Association is a common expense.
- 14.1.2 Insurer. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas.
- 14.1.3 Insured. The Association must be the named insured on all policies obtained by the Association. The loss payee clause should show the Association as trustee for each owner and Mortgagee.
- 14.1.4 Subrogation. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an owner.
- 14.1.5 Association as Trustee. Each owner irrevocably appoints the Association, acting through the board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.
- 14.1.6 Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. The board will give to Eligible Mortgagees, and the insurer will give to Mortgagees, prior notices of cancellation, termination, expiration, or material modification.

NOTICE

Under some circumstances, a unit owner may be required to pay the deductible on the Association's property insurance policy.

- 14.1.7 Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible. The Association may require that the deductible be paid, in whole or in part, by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an owner or occupant or his invitees, the Association may require the owner to reimburse the Association for the amount of the deductible that is attributable to the act or omission. The Association's property insurance policy must be written with deductibles that meet or exceed the requirements of an Underwriting Lender.
- 14.1.8 Mortgage Clause. The Association's policies should contain the standard mortgagee clause naming either the Mortgagee or its servicer followed by "its successors and assigns."

14.1.9 Prejudice. The insurance will not be prejudiced by the act or omission of any owner or occupant who is not under the Association's control.

14.2 Property Insurance. The Association will obtain blanket all-risk insurance, if reasonably available, for all improvements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. The Federal National Mortgage Association recommends use of a guaranteed replacement cost endorsement, or a replacement cost endorsement, together with an agreed amount endorsement in case of coinsurance.

14.2.1 Common Property Insured. The Association will insure (1) general common elements; (2) limited common elements; and (3) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

14.2.2 Units Insured by Association. In addition to insuring the common elements against casualty loss, the Association will maintain property insurance on the units as originally constructed. The Association may insure betterments and improvements installed by current or previous owners. In insuring units, the Association may be guided by types of policies customarily available for similar types of properties.

14.2.3 Endorsements. To the extent reasonably available, the Association will obtain endorsements to its property insurance policy as required by any Underwriting Lender. The Federal National Mortgage Association requires the following endorsements: Inflation Guard Endorsement, Building Ordinance or Law Endorsement, and a Special Condominium Endorsement.

14.3 Liability Insurance. The Association will maintain a commercial general liability insurance policy over the common elements -- expressly excluding the liability of each owner and occupant within his unit -- for bodily injury and property damage resulting from the operation, maintenance, or use of the common elements. The amount of coverage should be at least that required by an Underwriting Lender. The Federal National Mortgage Association requires a minimum of \$1 million for bodily injury and property damage per single occurrence. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an owner's claim because of negligent acts of the Association or other owners.

14.4 Worker's Compensation. The Association may maintain worker's compensation insurance if and to the extent necessary to meet the requirements of applicable State law or if the board so chooses.

14.5 Fidelity Coverage. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of (1) the estimated maximum funds, including reserve funds, that will be in the Association's custody at any time the policy is in force; or (2) an amount equal to 3 months of regular assessments on all units. A managing agent that handles Association funds should be covered for its own fidelity insurance policy with the same coverages.

14.6 Directors and Officers Liability. The Association may maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

14.7 Mortgagee Required Policies. Unless coverage is not available or has been waived in writing, the Association will maintain any insurance and bond required by an Underwriting Lender for condominium developments as long as an Underwriting Lender is a Mortgagee or an owner.

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

14.9 Owner's Responsibility for Insurance. This Section applies whether or not the unit is occupied by the owner, and whether or not a tenant has "renters insurance."

14.9.1 What Types? Each unit owner must maintain a unit owners condominium policy for owner's personal property AND for "betterments and improvements" to the unit, whether made by owner or by a previous owner. Each unit owner must also maintain liability insurance. Each unit owner should consider adding a "loss assessment" endorsement to the owner's property policy. Cars parked on the Property should also be insured by the owner.

14.9.2 Insurance by Owners. The board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by owners if the insurance is deemed necessary or desirable by the board to reduce potential risks to the Association or other owners. If an owner fails to maintain required insurance, the board may obtain it on behalf of the owner who will be obligated for the cost as an individual assessment.

14.9.3 Owners' Responsibilities. On request, an owner will give the board written notification of any and all structural changes, additions, betterments, or improvements to his Unit, and any other information the board may require to maintain adequate levels of insurance coverage. Each owner will comply with reasonable requests by the board for periodic inspection of the Unit for purposes of insurance appraisal. Each owner, at his expense, will maintain any insurance coverages required of owners by the Association pursuant to this Article and provide a copy of their insurance annually to the Association. Each owner, at his expense, may obtain additional insurance coverage of his real property, improvements, and betterments thereto, or personal property.

14.9.4 Association Does Not Insure. The Association does not insure an owner or occupant's personal property. Each owner and occupant is solely responsible for insuring his personal property in his Unit and on the Property, including furnishings, vehicles, and stored items. The Association strongly recommends that each owner and occupant purchase and maintain insurance on his personal belongings.

ARTICLE 15

RECONSTRUCTION OR REPAIR AFTER LOSS

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

15.2 Restoration Funds. For purposes of this Article, Restoration Funds include insurance proceeds, condemnation awards, deficiency assessments, individual assessments, and other funds received on account of or arising out of injury or damage to the Property. All funds paid to the Association

for purposes of repair or restoration will be deposited in a financial institution in which accounts are insured by a federal agency. Withdrawal of Restoration Funds requires the signatures of at least 2 Association directors or that of an agent duly authorized by the board.

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

15.2.2 Insufficient Proceeds. If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the board, the board may levy a deficiency assessment against the owners to fund the difference.

15.2.3 Surplus Funds. If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows. If deficiency assessments were a source of Restoration Funds, the surplus will be paid to owners in proportion to their contributions resulting from the deficiency assessment levied against them; provided that no owner may receive a sum greater than that actually contributed by him, and further provided that any delinquent assessments owed by the owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing paragraph will be common funds of the Association to be used as directed by the board.

15.3 Costs and Plans.

15.3.1 Cost Estimates. Promptly after the loss, the board will obtain reliable and detailed estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the board deems necessary, to assist in estimating and supervising the repair.

15.3.2 Plans and Specifications. Common elements will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Units will be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and improvements made by owners, in which case the units will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either common elements or units must be approved by owners representing at least two-thirds of the allocated interest in the Association and by certain mortgagees if so required by the Mortgagee Protection article of this Declaration.

15.4 Owner's Duty to Repair.

15.4.1 Uninsured Loss. Within 60 days after the date of damage, the owner will begin repair or reconstruction of any portion of his unit not covered by the Association's blanket insurance policy, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof.

15.4.2 Insured Loss. If the loss to a unit is covered by the Association's insurance policy, the owner will begin repair or restoration of damage on receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the

Association to supervise, approve, or disapprove the repair or restoration during the course thereof.

15.4.3 Failure to Repair. If an owner fails to repair or restore damage as required by this Section, the Association may affect the necessary repairs and levy an individual assessment against the owner and unit for the cost thereof, after giving an owner of the unit reasonable notice of the Association's intent to do so.

15.5 Owner's Liability for Insurance Deductible. If repair or restoration of common elements or units is required as a result of an insured loss, the board may levy an individual assessment, in the amount of the insurance deductible, against the owner or owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

ARTICLE 16

TERMINATION AND CONDEMNATION

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

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

16.2.1 Substantial Taking. In the event of substantially total damage, destruction, or condemnation of the Property, an amendment to terminate must be approved by owners representing at least 80 percent of the allocated interest in the Association and by certain mortgagees pursuant to the Mortgagee Protection article of this Declaration.

16.2.2 Total Taking. In the event of condemnation of the entire Property, an amendment to terminate may be executed by the board without a vote of owners or mortgagees.

16.2.3 Other Circumstances. In all other circumstances, an amendment to terminate must be approved by owners representing at least 80 percent of the allocated interest in the Association and by certain mortgagees pursuant to the Mortgagee Protection article of this Declaration.

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

ARTICLE 17

MORTGAGEE PROTECTION

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

17.1.1 Known Mortgagees. An owner who mortgages his unit will notify the Association, giving the complete name and address of his mortgagee and the loan number. The Association's obligations to mortgagees under the Governing Documents extend only to those mortgagees known to the Association. All actions and approvals required by mortgagees will be conclusively satisfied by the mortgagees known to the Association, without regard to other holders of mortgages on units. The Association may rely on the information provided by owners and mortgagees.

17.1.2 Eligible Mortgagees. "**Eligible Mortgagee**" means the holder, insurer, or guarantor of a first purchase money mortgage secured by a recorded deed of trust lien against a unit who has submitted to the Association a written notice containing its name and address, the loan number, and the identifying number and street address of the mortgaged unit. A single notice per unit will be valid so long as the Eligible Mortgagee holds a mortgage on the unit. The board will maintain this information. The Association will treat the notice as the Eligible Mortgagee's request to be notified of any proposed action requiring the consent of Eligible Mortgagees. A provision of the Governing Documents requiring the approval of a specified percentage of Eligible Mortgagees will be based on the number of units subject to mortgages held by Eligible Mortgagees. For example, "51 percent of Eligible Mortgagees" means Eligible Mortgagees of 51 percent of the units that are subject to mortgages held by Eligible Mortgagees.

17.2 Amendment. This Article establishes certain standards for the benefit of Underwriting Lenders, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the board, without approval of owners or mortgagees, may amend this Article and other provisions of the Governing Documents, as necessary, to meet the requirements of the Underwriting Lender.

17.3 Termination. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by owners representing at least 80 percent of the allocated interest in the Association, and by at least 51 percent of Eligible Mortgagees. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least 67 percent of Eligible Mortgagees.

17.4 Implied Approval. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within 60 days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

17.5 Changing Fannie Mae Requirements. This Section applies during any period in which Fannie Mae's published legal requirements for condominium project documents (1) conflicts with a

provision of this Declaration intended to benefit Underwriting Lenders or (2) is not addressed by this Declaration. In that event, the Association will make a diligent effort to obtain and comply with Fannie Mae's then-current legal requirements for condominium project documents.

17.6 Other Mortgagee Rights.

17.6.1 Inspection of Books. The Association will maintain current copies of the Governing Documents and the Association's books, records, and financial statements. Mortgagees may inspect the Governing Documents and records, by appointment, during normal business hours.

17.6.2 Financial Statements. If the Property consists of 50 units or more, and if a Mortgagee submits a written request, the Association will give the Mortgagee an audited statement for the preceding fiscal year within 120 days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

17.6.3 Attendance at Meetings. A representative of an Eligible Mortgagee may attend and address any meeting which an owner may attend.

17.6.4 Right of First Refusal. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

17.6.5 Management Contract. If professional management of the Association is required by this Article, the contract for professional management may not require more than 90 days' notice to terminate the contract, nor payment of a termination penalty.

17.7 Insurance Policies. If an Underwriting Lender that holds a mortgage on a unit or desires to finance a unit has requirements for insurance of condominiums, the Association must try to obtain and maintain the required coverages, to the extent they are reasonably available, and must try to comply with any notifications or processes required by the Underwriting Lender. Because Underwriting requirements are subject to change, they are not recited here.

17.8 Notice of Actions. The Association may, but shall not be required, to send timely written notice to Eligible Mortgagees of the following actions:

- a. Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged unit.
- b. Any 60-day delinquency in the payment of assessments or charges owed by the owner of the mortgaged unit.
- c. A lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- d. Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.
- e. Any proposed amendment of a material nature, as provided in this Article.
- f. Any proposed termination of the condominium status of the Property.

17.9 Amendments of a Material Nature. A Governing Document amendment of a material nature must be approved by owners representing at least 67 percent of the allocated interest in the Association, and by at least 51 percent of Eligible Mortgagees. This approval requirement does not apply

to amendments effected by the exercise of a Development Right provided in Appendix F hereto. A change to any of the provisions governing the following would be considered material:

- a. Voting rights.
- b. Increases in assessments that raise the previously assessed amount by more than 45 percent, assessment liens, or the priority of assessment liens.
- c. Reallocation of interests in the general or limited common elements, or rights to their use; except that when limited common elements are reallocated by agreement between owners, only those owners and only the Eligible Mortgagees holding mortgages against those units need approve the action.
- d. Redefinitions of boundaries of units, except that when boundaries of only adjoining units are involved, or a unit is being subdivided, then only those owners and the Eligible Mortgagees holding mortgages against the unit or units need approve the action.
- e. Convertibility of units into common elements or common elements into units.
- f. Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property.
- g. Property or fidelity insurance requirements.
- h. Imposition of any restrictions on owners' right to sell or transfer their units.
- i. Any provision that expressly benefits mortgage holders, insurers, or guarantors.

ARTICLE 18

AMENDMENTS

18.1 Consents Required. As permitted by the Act or by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by certain owners alone, or by the board alone. Otherwise, amendments to this Declaration must be approved by owners representing at least 67 percent of the allocated interest in the Association.

18.2 Method of Amendment. This Declaration may be amended by any method selected by the board from time to time, pursuant to the bylaws, provided the method gives an owner of each unit the substance if not exact wording of the proposed amendment, a description in layman's terms of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment. For amendments requiring the consent of Eligible Mortgagees, the Association will send each Eligible Mortgagee a detailed description, if not exact wording, of any proposed amendment. Members may vote for any amendment by use of in person ballot, absentee ballot, electronic ballot, or any other method approved by the board.

18.3 Effective. To be effective, an amendment must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of owners and, if required, Eligible Mortgagees; and (3) recorded in the Real Property Records of Johnson County, Texas.

18.4 Declarant Provisions. During the Declarant Control and Development Periods, Declarant has an exclusive right to **unilaterally** to amend this Declaration as set forth in and for the purposes stated in Appendix F. An amendment that may be executed by Declarant alone is not required to name the

Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration or the Act without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without Declarant's written and acknowledged consent.

ARTICLE 19

DISPUTE RESOLUTION

19.1 Agreement to Encourage Resolution of Disputes Without Litigation.

Introduction and Definitions. The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "**Parties**"), agree to encourage the amicable resolution of disputes involving the Property and the Common Area to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all Claims as hereafter defined. This Article 19 may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding 100% of the votes in the Association.

As used in this Article only, the following words, when capitalized, have the following specified meanings:

- a. "Claim" means:
 - i. Claims by an Owner relating to the rights and/or duties of the Declaration, the Association, or an Owner under the Restrictions.
 - ii. Claims relating to the acts or omissions of the Declarant during control and administration of the Association, any claim asserted against the ACC, and any claims asserted against the Board or a person serving as a Board member or officer of the Association, or the ACC.
 - iii. Claims relating to the design or construction of Improvements on the Common Areas or Units located within the Property.
- b. "Claimant" means any Party having a Claim against any other Party.
- c. "Exempt Claims" shall have the follow meaning. The following Claims ("Exempt Claims") shall be exempt from this Article;
 - i. Any suit by the Association against any Party to enforce the provisions of Article V or VI related to Assessments;
 - ii. Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of the Declaration
 - iii. Any suit by the Association to obtain a temporary restraining order, temporary injunction, or permanent injunction as the Association may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of the Declaration

- iv. Any suit in which all parties to the litigation are not Parties as defined above; and

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in this Article but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of this Article shall require the approval of the Association.

- d. "Respondent" means any Party against which a Claim has been asserted by a Claimant.

19.2 Mandatory Procedures. Claimant may not initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article. As provided in Section 19.09 below, a Claim will be resolved by binding arbitration.

19.3 Claim by the Association – Common Areas. As set forth in this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Unit Owner (whether one or more); or (ii) pertaining to a Claim, as defined in Section 19.01(a) above, relating to the design or construction of a Unit. In the event the Association asserts a Claim related only to the Common Areas, as a precondition to providing the Notice defined in Section 19.05, initiating the mandatory dispute resolution procedures set forth in this Article 19, or taking any other action to prosecute a Claim, the Association must:

- a. Independent Report on the Condition of the Common Areas. Obtain an independent third-party report (the "**Common Area Report**") from a licensed professional engineer which: (i) identifies the Improvements or Common Areas subject to the Claim; (ii) describes the present physical condition of the Improvements or Common Areas; (iii) describes any modification, maintenance, or repairs to the Improvements or Common Areas performed by the Unit Owner(s) and/or the Association; and (iii) provides specific and detailed recommendations regarding remediation and/or repair of the Common Areas subject to the Claim. For the purposes of this Section, an independent third-party report is a report obtained directly by the Association and paid for by the Association, and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Association in the Claim. The Association, as a precondition to providing the Notice described in Section 19.05, must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Common Area Report, the specific Improvements or Common Areas to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Common Area Report shall be provided to each party subject to a Claim. In addition, before providing the Notice described in Section 19.05, the Association shall have permitted each party subject to a Claim the right, for a

period of at least ninety (90) days, to inspect and correct, any condition identified in the Common Area Report.

- b. Owner Meeting and Approval. Obtain approval from Members holding sixty-seven percent (67%) of the allocated interest in the Association to provide the Notice described in Section 19.05, initiate the mandatory dispute resolution procedures set forth in this Article 19, or take any other action to prosecute a Claim, which approval from Members must be obtained at a special meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Area Report; (iii) a copy of any proposed engagement letter, with the terms of such engagement between the Association and an attorney to be engaged by the Association to assert or provide assistance with the Claim (the "**Engagement Letter**"); (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which it may be liable if it is not the prevailing party or that the Association will be required, pursuant to the Engagement Letter or otherwise, to pay if the Association elects to not proceed with the Claim; (v) a summary of the steps previously taken, and proposed to be taken, to resolve the Claim; (vi) an estimate of the impact on the value of each Unit if the Claim is prosecuted and an estimate of the impact on the value of each Unit after resolution of the Claim; (vii) an estimate of the impact on the marketability of each Unit if the Claim is prosecuted and during prosecution of the Claim, and an estimate of the impact on the value of each Unit during and after resolution of the Claim; (viii) the manner in which the Association proposes to fund the cost of prosecuting the Claim; and (ix) the impact on the finances of the Association, including the impact on present and projected reserves, in the event the Association is not the prevailing party. The notice required by this paragraph must be prepared and signed by a person other than, and not employed by or otherwise affiliated with, the attorney or law firm that represents or will represent the Association in the Claim. In the event Members approve providing the Notice described in Section 19.05, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

19.4 Claim by Owners – Improvements and Common Areas. Improvements and Common Areas. In the event an Owner asserts a Claim related to the Unit or Common Elements, as a precondition to providing the Notice defined in Section 19.05, initiating the mandatory dispute resolution procedures set forth in this Article 19, or taking any other action to prosecute a Claim, the Owner must obtain a Common Area Report. The Common Area Report must be prepared by a person unaffiliated with the attorney or law firm that represents or will represent the Owner in the Claim. The Owner, as a precondition to providing the Notice described in Section 15.05, must have provided at least ten (10) days

prior written notice of the date on which the inspection will occur to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Common Area Report, the specific Unit or Common Areas to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Common Area Report shall be provided to each party subject to a Claim. In addition, before providing the Notice described in Section 19.05, the Owner shall have permitted each party subject to a Claim the right, for a period of at least ninety (90) days, to inspect and correct, any condition identified in the Common Area Report.

19.5 Notice. Claimant must notify Respondent in writing of the Claim (the "**Notice**"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Restrictions or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this Section. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in Section 19.06 below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with Section 19.06, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. Section 19.06 does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty day period for mediation set forth in Section 19.07 below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to Section 19.07 is required without regard to the monetary amount of the Claim.

If the Claimant is the Association, the Notice will also include: (a) a true and correct copy of the Common Area Report; (b) a copy of the Engagement Letter; (c) copies of all reports, studies, analyses, and recommendations obtained by the Association related to the Common Area which forms the basis of the Claim; (d) a true and correct copy of the special meeting notice provided to Members in accordance with Section 19.03(b) above; and (e) reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and pertains to Improvements or the Common Area, the Notice will also include a true and correct copy of the Common Area Report.

19.6 Negotiation. The Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the Property to take and complete corrective action.

19.7 Mediation. If the Parties negotiate, but do not resolve the Claim through negotiation within one-hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed upon by the Parties), Claimant will have thirty (30) additional days within which to submit the

Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Respondent will submit the Claim to mediation in accordance with this Section 19.07.

19.8 Termination of Mediation. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was termination. Thereafter, Claimant may file suit or initiate arbitration proceedings on the Claim, as appropriate and permitted by this Article.

19.9 Binding Arbitration-Claims. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this Section 19.09.

- a. Governing Rules. If a Claim has not been resolved after mediation as required by Section 19.07, the Claim will be resolved by binding arbitration in accordance with the terms of this Section 19.09 and the rules and procedures of the American Arbitration Association (“AAA”) or, if the AAA is unable or unwilling to act as the arbitrator, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Johnson County, Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA’s “**Construction Industry Dispute Resolution Procedures**” and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer-Related Disputes. If such Rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any Claim, if the AAA has, by the time of Claim, identified different rules that would specifically apply to the Claim, then those rules will apply instead of the rules identified above. In the event of any inconsistency between any such applicable rules and this Section 19.09, this Section 19.09 will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:
 - i. One arbitrator shall be selected by Respondent, in its sole and absolute discretion;
 - ii. One arbitrator shall be selected by Claimant, in its sole and absolute discretion; and
 - iii. One arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

- b. Exemptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this Section 19.09 will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.
- c. Statutes of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this Section 19.09
- d. Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the applicable substantive law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this Section 19.09 and subject to Section 19.10 below (attorney's fees and costs may not be awarded by the arbitrator); provided, however, that for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code, except that in no event may attorney's fees or costs be awarded to a Party. In all arbitration proceedings the arbitrator shall make specific, written findings of fact and conclusions of law . In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of federal or state law; or (iv) a cause of action or remedy not expressly provided under existing state or federal law. In no event may an arbitrator award speculative, consequential, or punitive damages for any Claim.
- e. Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration by notice from either party to the other. Arbitration proceedings hereunder shall be conducted in Collin County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Each party agrees to keep

all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law or regulation. In no event shall any party discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

19.10 Allocation of Costs. Notwithstanding any provision in this Declaration to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

19.11 General Provisions. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

19.12 Period of Limitation.

- a. For Actions by an Owner or Occupant of a Dwelling. The exclusive period of limitation for any of the Parties to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of Improvements on the Common Areas or Units, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design, four (4) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim
- b. For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of the Common Areas, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Association or its agents discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design of the Common Areas, four (4) years and one (1) day from the date that the Association discovered or reasonably should have discovered evidence of the Claim

ARTICLE 20

GENERAL PROVISIONS

20.1 Compliance. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Governing Documents and all applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.

Users of this instrument should periodically review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by this instrument.

20.2 Higher Authority. The Governing Documents are subordinate to federal and State law, and local ordinances. Generally, the terms of the Governing Documents are enforceable to the extent they do not violate or conflict with local, State, or federal law or ordinance. A law that "voids" a provision of a Governing Document will be narrowly applied to void or render unenforceable only the feature or aspect of a provision that is the focus of the law. In the event of a conflict between the Governing Documents, the hierarchy of authority is as follows: this Declaration (highest), Association's Articles of Association, Bylaws, and the Rules (lowest). Within this Declaration, Appendix F has the highest authority.

20.3 Notice. Any demand or written notice required or permitted by this Declaration may be sent by electronic, ordinary, or certified mail, postage prepaid, or by any other method or combination of methods permitted or required by applicable law. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the member at the address shown on the Association's records. If transmitted by fax or email, the notice is deemed delivered on successful transmission of the facsimile or electronic correspondence. The notice must be sent to the party's last known address as it appears on the records of the Association at the time of transmission. If an owner fails to give the Association an effective address, the notice may be sent to the address of the owner's unit. If the Association properly transmits the notice, the owner is deemed to have been given notice whether or not he actually receives it.

20.4 Changing Technology. The Governing Documents are drafted at the end of an era that uses ink on paper to communicate, to give notice, and to memorialize decisions. The next era of communications may be paperless, relying on electronic communications for many activities that are customarily papered on the date of this Declaration. As technology changes, the terms of the Governing Documents that pertain to communications, notices, and documentation of decisions may be interpreted and applied in ways that are consistent with and customary for the then-current technology for standard business practices, without necessity of amending the Governing Document.

20.5 Liberal Construction. The terms and provision of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved first to give effect to Declarant's intent to protect Declarant's interests in the Property, and second in favor of the operation of the Association and its enforcement of the Governing Documents, regardless which party seeks enforcement.

20.6 Severability. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

20.7 Captions. The captions of Articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer.

20.8 Interpretation. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

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

20.10 Appendixes. The following appendixes are attached to this Declaration and are incorporated herein by reference:

- A- Description of Subject Land
- B- Schedule of Allocated Interests
- C- Maintenance Responsibility Chart
- D- Plats and Plans
- E- None
- F- Declarant Rights & Reservation
- G- Chapter 380 Economic Development and Performance Agreement

[signature page to follow]

SIGNED AND ACKNOWLEDGED BY DECLARANT

EXECUTED this ____, day of November, 2023

BTX Condominium Association, Inc.,
A Texas non-profit corporation

By: _____
Rocky Bransom, President and Director
BTX Condominium Association, Inc.

STATE OF TEXAS

§

COUNTY OF JOHNSON

This instrument was acknowledged before me on the ____, day November, 2023, by Rocky Bransom, President and duly authorized representative of BTX Condominium Association, Inc., a Texas nonprofit corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

After Recording, Return to:
Manning & Meyers, Attorneys at Law
4340 N. Central Expressway, Suite 200
Dallas, TX 75206

Appendix A
Description of Subject Land

LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN THE J.W. HENDERSON SURVEY, ABSTRACT NO. 376, JOHNSON COUNTY, TEXAS, BEING ALL OF LOTS LOTS 1R-6R & 7R2-8R2, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-135, PLAT RECORDS, JOHNSON COUNTY, TEXAS (D.R.J.C.T.), TOGETHER WITH THAT 0.198 ACRE TRACT OF LAND CONVEYED TO BTX OLD TOWN, LLC, IN THAT DEED RECORDED IN INSTRUMENT NO. 2021-25100, D.R.J.C.T., AND TOGETHER WITH TOGETHER WITH THAT TRACT OF LAND CONVEYED TO BTX OLD TOWN, LLC, IN THAT DEED RECORDED IN INSTRUMENT NO. 2022-34795, D.R.J.C.T., AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT AN "X"-CUT FOUND IN THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-0-W) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST ELLISON STREET (80' R-0-W), AT THE NORTHWESTERLY CORNER OF SAID LOT BR2, BLOCK 13, FROM WHICH A 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" IN THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-0-W) AND THE NORTHERLY RIGHT-OF-WAY LINE OF WEST ELLISON STREET (80' R-0-W), AT THE SOUTHWESTERLY CORNER OF SAID LOT 2R, BLOCK 12, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-1, PLAT RECORDS, JOHNSON COUNTY, TEXAS, BEARS N 05°50'09" W, A DISTANCE OF 80.00 FEET;

THENCE N 84°09'51" E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND THE NORTHERLY LINE OF SAID LOTS 1R-6R & 7R2-8R2, BLOCK 13, A DISTANCE OF 250.00 FEET TO A MAG NAIL FOUND WITH A SHINER STAMPED "RPLS 5544" IN THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH WILSON STREET (80' R-0-W) AND SAID SOUTHERLY RIGHT-OF-WAY LINE, ALSO BEING THE NORTHEASTERLY CORNER OF SAID LOT 1R, BLOCK 13;

THENCE S 05°50'09" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND THE EASTERLY LINE OF SAID BLOCK 13, A DISTANCE OF 192.50 FEET TO A 1/2" IRON ROD SET WITH A CAP STAMPED "RPLS 5544" FOR THE SOUTHEASTERLY CORNER OF SAID TRACT CONVEYED TO BTX OLD TOWN, LLC, IN THAT DEED RECORDED IN INSTRUMENT NO. 2022-34795, D.R.J.C.T. AND FOR THE NORTHEASTERLY CORNER OF A TRACT OF LAND CONVEYED TO FREDY A. ROSA IN THAT DEED RECORDED IN INSTRUMENT NO. 2018-14574, D.R.J.C.T.;

THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE S 84°09'51" W ALONG THE COMMON LINE BETWEEN SAID BTX OLD TOWN, LLC, TRACT AND SAID ROSA TRACT, A DISTANCE OF 99.55 FEET TO A 1/2" IRON ROD SET WITH A CAP STAMPED "RPLS 5544" IN THE EASTERLY LINE OF LOT 8R, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN VOLUME 8, PAGE 172, P.R.J.C.T., FOR THE SOUTHEASTERLY CORNER OF SAID BTX OLD TOWN, LLC, TRACT, AND FOR THE NORTHWESTERLY CORNER OF SAID ROSA TRACT;

THENCE N 05°50'09" W ALONG SAID EASTERLY LINE AND THE EASTERLY LINE LOT 7R, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN VOLUME 8, PAGE 172, P.R.J.C.T., A DISTANCE OF 57.50 FEET TO A 1/2" IRON ROD FOUND FOR THE NORTHWESTERLY CORNER OF SAID BTX OLD TOWN, LLC, TRACT, AND FOR THE NORTHEASTERLY CORNER OF SAID LOT 7R, BLOCK 13;

THENCE S 84°09'51" W ALONG THE NORTHERLY LINE OF SAID LOT 7R, BLOCK 13, A DISTANCE OF 75.09 FEET TO A 1/2" IRON ROD FOUND FOR THE NORTHWESTERLY CORNER OF SAID LOT 7R, BLOCK 13, AND FOR THE NORTHEASTERLY CORNER OF SAID BTX OLD TOWN, LLC, TRACT, AND FOR THE NORTHEASTERLY CORNER OF SAID 0.198 ACRE TRACT OF LAND CONVEYED TO BTX OLD TOWN, LLC, IN THAT DEED RECORDED IN INSTRUMENT NO. 2021-25100, D.R.J.C.T.,

THENCE S 05°50'09" E ALONG THE WESTERLY LINE OF SAID LOTS 7R AND 8R, BLOCK 13, AND ALONG THE EASTERLY LINE OF SAID 0.198 ACRE TRACT, A DISTANCE OF 115.00 FEET TO A MAG NAIL SET WITH A SHINER STAMPED "5544" IN THE NORTHERLY RIGHT-OF-WAY LINE OF WEST BUFFORD STREET (80' R-0-W) FOR THE SOUTHEASTERLY CORNER OF SAID 0.198 ACRE TRACT AND FOR THE SOUTHWESTERLY CORNER OF SAID LOT 8R, BLOCK 13;

THENCE S 84°09'51" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND THE SOUTHERLY LINE OF SAID 0.198 ACRE TRACT, A DISTANCE OF 75.36 FEET TO 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE AND THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-0-);

THENCE N 05°50'09" W ALONG SAID EASTERLY RIGHT-OF-WAY LINE, THE WESTERLY LINE OF SAID 0.198 ACRE TRACT AND ALONG THE WESTERLY LINE OF SAID LOT 8R2, BLOCK 13, A DISTANCE OF 250.00 FEET TO THE POINT OF BEGINNING, AND CONTAINING 1.105 ACRES OF LAND, MORE OR LESS.

Appendix B
SCHEDULE OF ALLOCATED INTERESTS

BTX Condominium Association

<u>Building Letter</u>	<u>Unit Number</u>	<u>Square Footage in Unit</u>	<u>Voting Share/Interest Percentage</u>
A	1	7,098	15.84%
A	2	2,750	06.14%
A	3	11,870	26.50%
A	4	3,574	07.98%
A	5	4,743	10.59%
B	6	6,037	13.47%
B	7	4,345	09.70%
B	8	4,381	09.78%
Total:		44,798	100.00%

Two Total Buildings
Building A- 5 Total Units
Building B- 3 Total Units
8 Total Units.

***THIS SCHEDULE OF ALLOCATED INTEREST WILL BE AMENDED IF UNITS ARE ADDED.**

Each Condominium Unit's undivided interest shall be computed by taking as a basis the square footage of each Unit in relation to the total square footage of all Units in this section of the Condominium as a whole and shall also bear the Common Expenses of the Association as defined herein on said percentage basis.

Appendix C
MAINTENANCE RESPONSIBILITY CHART

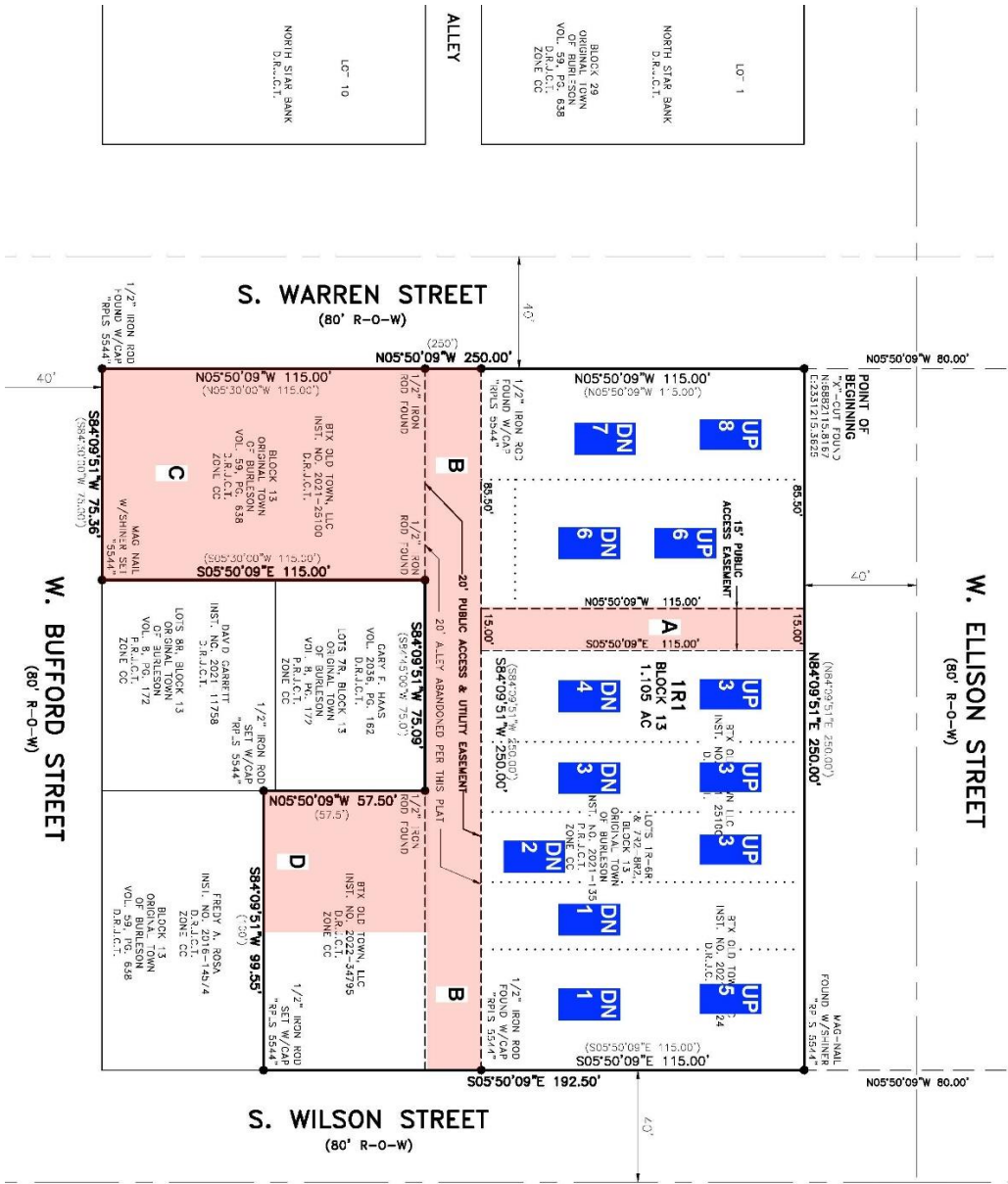
BTX Condominium Association

<u>Component of Property</u>	<u>Association Responsibility</u>	<u>Owner Responsibility</u>
Exterior numbers on units	All aspects, except those noted for owner.	Owner is responsible for making contact with the USPS mail to ensure proper delivery.
Sidewalk, Public Patio, and Walkways (Including Public Walkway between Buildings A & B). Does not include Rooftop Patios or Areas where Unit Owners Provide Outdoor Seating for Patrons.	All other aspects, including deep cleaning, power washing, and maintenance. Except when caused by owner negligence.	Daily Basic Cleaning.
Retaining Walls	All aspects.	None.
Exterior Doors	Exterior door trim replacement.	All aspects, includes door, glass panes, weather stripping, painting of door and threshold, hardware, locks, and peepholes. Door frame trim color must match other trim on property. Owner shall promptly repair and replace any broken or cracked glass in doors.
Heating and Cooling Systems	Shared Condensation Lines	All other aspects, including operation, maintenance and repair of Air Conditioning and Heating Units.
Exterior Light Fixtures on Units	Lights located in the common areas, unless located over or near the front or back door of a unit.	All other lights other than those located in the common areas, including bulb replacement over and near front or back doors of units.
Foundations	Slab failure	All other aspects including repair for minor cracks that result from the natural movement of soil (expansion & contraction), shrinkage during the concrete, and settling of dwelling.
Irrigation	All aspects.	None.
Grounds- Outside and Inside Patios	All aspects.	None. Lawn maintenance will be provided by the Association.
Plumbing, Faucets, Grease Traps, and Sewer Lines	Maintenance of shared condensation lines and shared	All aspects of lines, pipes, faucets, and appliances within a

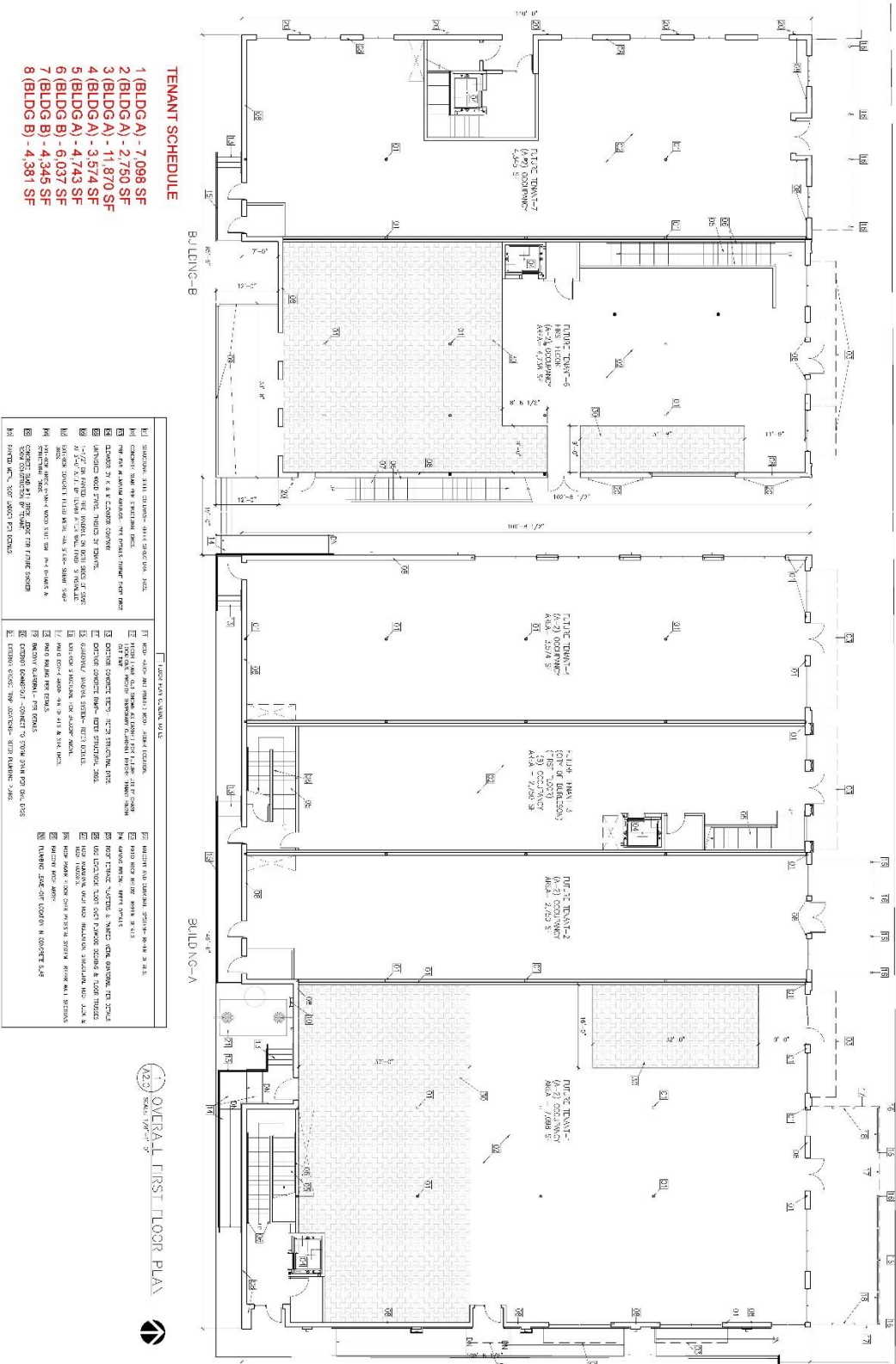
	grease traps. ***see also heating and cooling systems.	unit. Grease Traps in common areas and in units. Damage to the unit, another unit or common elements from a cause initially within the unit.
Roofs (Includes rooftop bars or roofs where pedestrian foot traffic will occur)	Structural Maintenance Only	All aspects. Report any leaks to the Property Manager in a timely manner. Repairing the leaks is the responsibility of the Owner. Nothing can be installed or placed on the roof without Board approval of modification requests (includes roof vents, Christmas lights, solar tubes, TV Antennas, Satellite dishes) that may void roof warranty.
Exterior Vertical Walls of Buildings, Gutters and Downspouts	Outermost materials only, such as brick, stucco, and masonry cement.	All other aspects, including wall cavities and insulation. Regular Cleaning.
Sheetrock Inside and Bordering Unit, Including Walls	None.	All aspects, including damage caused by negligence or willful acts by the unit owner or their guests.
Fire Suppression System	All aspects. ***NOTE: Fire suppression includes sprinklers, fire alarm, fire panel and monitoring as well as maintenance.	Allow access for inspections, maintenance and repairs. Report any issues to the Association in a timely manner.
Intrusion Alarm on Doors and Windows, if installed.	None.	All aspects. Owner maintains smoke detector and batteries.
Trees and Shrubs, if any.	Installation, maintenance and/or replacement.	Owner has the responsibility to report issues to the Association in a timely manner.
Attics, if any.	None	All aspects.
Insulation Weather-Stripping	None.	All aspects.
Television Antennas & Satellite Dishes	Standards for location and appearance of exterior mounted devices. Please see Roofs above. No installation on roofs allowed.	All other aspects.
Air Conditioning Vents	None.	All aspects.
Water Heaters (Serving Units)	None.	All aspects.
Dwelling Interiors, Including Improvements, Fixtures, Partition Walls, Sheetrock,	None.	All aspects.

Treatments and Floors Within the Dwelling		
Windows of Units	Periodic exterior caulking in connection with exterior painting.	All aspects, except those noted for Association. Includes window frames, window sill flashings, window seals and sealants, screens, window locks, glass panes, glazing and interior caulking. Specifically, the owner shall promptly repair and replace any broken or cracked glass in windows. Notify the Association in any defective caulking on the exterior of the windows.
Water, Sewer, Electrical Lines, and Systems	All other aspects unless maintained by a utility.	All aspects for lines and systems located on and serving the Lots.
Community Dumpster	All Aspects	None.
2 nd Floor Balconies	All other aspects, including painting, deep cleaning, power washing, and maintenance. Except when caused by owner or owner's guest negligence.	Daily Basic Cleaning.

Appendix D PLATS AND PLANS



<p>LOT 7</p> <p>NASHVILLE TEXAS INC VOL. 2027, PG. 845 D.R.L.C.T.</p>	<p>20' ALLEY</p> <p>NASHVILLE TEXAS INC VOL. D.R.L.C.T.</p>
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TENANT SCHEDULE

1 (BLDG A) - 7,098 SF
2 (BLDG A) - 2,750 SF
3 (BLDG A) - 11,870 SF
4 (BLDG A) - 3,574 SF
5 (BLDG A) - 4,743 SF
6 (BLDG B) - 6,037 SF
7 (BLDG B) - 4,345 SF
8 (BLDG B) - 4,381 SF

<ul style="list-style-type: none"> 1. STRUCTURE SHALL CONFORM WITH STRUCTURE CODE. 2. CONCRETE SHALL BE CAST IN PLACE. 3. REINFORCING SHALL BE CAST IN PLACE. 4. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 5. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 6. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 7. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 8. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 9. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 10. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 11. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 12. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 13. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 14. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 15. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 16. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 17. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 18. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 19. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 20. ALL CONCRETE SHALL BE FINISHED TO THE FINISH SURFACE. 	<ul style="list-style-type: none"> 1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FOLLOWING CODES AND STANDARDS: <ul style="list-style-type: none"> A. INTERNATIONAL BUILDING CODE (IBC) B. INTERNATIONAL RESIDENTIAL CODE (IRC) C. INTERNATIONAL MECHANICAL AND ELECTRICAL PLUMBING CODE (IMC) D. INTERNATIONAL FIRE CODE (IFC) E. INTERNATIONAL ENERGY CONSERVATION CODE (IECC) F. INTERNATIONAL PLUMBING AND MECHANICAL CODE (IPMC) G. INTERNATIONAL ELECTRICAL CODE (IEC) H. INTERNATIONAL MECHANICAL AND PLUMBING EXAMINER'S HANDBOOK (IMPEH) I. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) HAZARDOUS MATERIAL HANDLING AND STORAGE CODE (NFPA 704) J. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 701 K. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 703 L. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 705 M. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 706 N. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 707 O. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 708 P. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 709 Q. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 710 R. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 711 S. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 712 T. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 713 U. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 714 V. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 715 W. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 716 X. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 717 Y. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 718 Z. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 719 2. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FOLLOWING CODES AND STANDARDS: <ul style="list-style-type: none"> A. INTERNATIONAL BUILDING CODE (IBC) B. INTERNATIONAL RESIDENTIAL CODE (IRC) C. INTERNATIONAL MECHANICAL AND ELECTRICAL PLUMBING CODE (IMC) D. INTERNATIONAL FIRE CODE (IFC) E. INTERNATIONAL ENERGY CONSERVATION CODE (IECC) F. INTERNATIONAL PLUMBING AND MECHANICAL CODE (IPMC) G. INTERNATIONAL ELECTRICAL CODE (IEC) H. INTERNATIONAL MECHANICAL AND PLUMBING EXAMINER'S HANDBOOK (IMPEH) I. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) HAZARDOUS MATERIAL HANDLING AND STORAGE CODE (NFPA 704) J. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 701 K. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 703 L. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 705 M. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 706 N. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 707 O. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 708 P. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 709 Q. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 710 R. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 711 S. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 712 T. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 713 U. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 714 V. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 715 W. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 716 X. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 717 Y. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 718 Z. NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 719
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OVERALL FIRST FLOOR PLAN

SHEET NO. A2.0
06.28.28

rashmi C
ARCHITECTURE, PLANNING, INTERIORS
4803 CAPITOL HILL DR. ARLINGTON, TEXAS 76017
PH. NO. (817) 891-7918 EMAIL: rashmi@rashmic.com

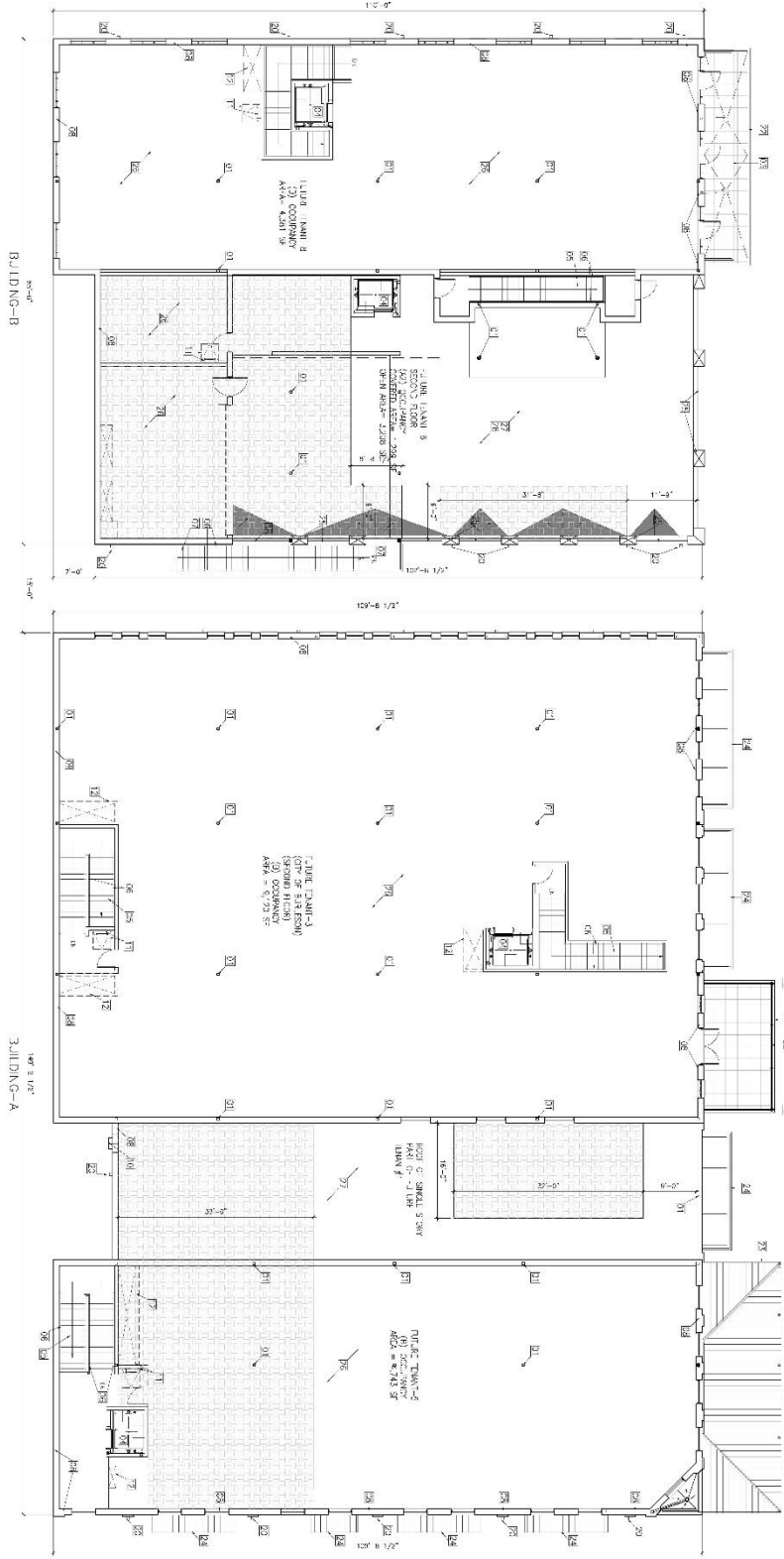


ELLISON ON THE PLAZA
BUILDING - A & BUILDING - B
BURLESON, TEXAS-76028

DATE: 12/10/2028
DRAWN BY: [Signature]

- TENANT SCHEDULE**
- 1 (BLDG A) - 7,098 SF
 - 2 (BLDG A) - 2,750 SF
 - 3 (BLDG A) - 11,870 SF
 - 4 (BLDG A) - 3,574 SF
 - 5 (BLDG A) - 4,743 SF
 - 6 (BLDG B) - 6,037 SF
 - 7 (BLDG B) - 4,345 SF
 - 8 (BLDG B) - 4,381 SF

<ul style="list-style-type: none"> □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 	<ul style="list-style-type: none"> □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 	<ul style="list-style-type: none"> □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200 □ STAIRWAY: -CTRS FINISHES, 200 □ ELEVATOR SHAFT: -CTRS FINISHES, 200 □ MECHANICAL ROOMS: -CTRS FINISHES, 200 □ ELEVATOR PIT: -CTRS FINISHES, 200
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OVERALL SECOND FLOOR PLAN

SHEET NO. A2 OF 18

rashmi
ARCHITECTURE, PLANNING, INTERIORS
8805 CAPITAL BOULEVARD, SUITE 200, DALLAS, TEXAS 75243
PH. NO. (817) 851-7918 EMAIL: rashmi@rashmiinc.com



ELLISON ON THE PLAZA
BUILDING - A & BUILDING - B
BURLESON, TEXAS-76028

DATE: 12/27/2022
REVISION:

Appendix F
DECLARANT RIGHTS & RESERVATIONS

BTX Condominium Association

F.1. General Provisions.

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

F.1.2. General Reservation & Construction. Notwithstanding other provisions of the Governing Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Appendix and any other Governing Document, this Appendix controls. This Appendix may not be amended without the prior written consent of Declarant and the approval of Burleson which will not be unreasonably withheld. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property and to comply the Chapter 380 Economic Development and Performance Agreement and Burleson's vision for the Property.

F.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of owners and mortgagees. Declarant may not use its control of the Association and the Property for an advantage over the owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with 90 days' notice.

F.2. Definitions. As used in this Appendix and elsewhere in the Governing Documents, the following words and phrases have the following specified meanings:

F.2.1. **"Declarant Control Period"** means that period of time during which Declarant controls the operation and management of the Association, pursuant to the provisions of this Appendix. The duration of the Declarant Control Period is from the date this Declaration is recorded for a maximum period not to exceed the earliest of (1) 20 years from date this Declaration is recorded; (2) 120 days after the conveyance of 75 percent of the units in the Property has been conveyed to owners other than Declarant; or (3) when, in the sole opinion of Declarant, the Association is viable, self-supporting, and operational, as evidenced by a written notice executed by Declarant and recorded in the Real Property Records of Johnson County, Texas.

F.2.2. **"Development Period"** means the 15-year period beginning the date this Declaration is recorded, during which Declarant has certain rights pursuant to this Appendix, including rights relating to development, construction, expansion, and marketing of the Property and the Additional Land. The Development Period is for a term of years and does not require that Declarant own any portion of the property described in Appendix A. No act, statement, or omission by the Association may effect termination of the Development Period earlier than the term stated in this Subsection. Declarant, however, may terminate the Development Period at any earlier time by recording a notice of termination.

F.2.3. **“Unilaterally”** means that the Declarant may take the authorized action without the consent, approval, vote, or joinder of any other person, such as owners, mortgagees, Builders, and the Association. Certain provisions in this Appendix and elsewhere in the Governing Documents authorize the Declarant to act unilaterally. Unilateral action by Declarant is favored for purposes of efficiency and to protect the interests of Declarant.

F.3. Declarant Control Period Reservations- Governance. Declarant reserves the following powers, rights, and duties during the Declarant Control Period:

F.3.1. Officers & Directors. During the Declarant Control Period, the board may consist of 3 persons. Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be members or owners, and each of whom is indemnified by the Association as a "Leader," subject to the following limitation. Within 120 days after the conveyance of 75 percent of the units that may be created (including property subject to annexation, if any) to owners other than Declarant, at least one-third of the board must be elected by owners other than Declarant.

F.3.2. Transition Meeting. Before the end of the Declarant Control Period or within 120 days after the conveyance of 100 percent of the units that may be created (including property subject to annexation) to owners other than Declarant, the owners will elect directors to the board at the transition meeting of the members of the Association. Declarant or the Association will give written notice of the transition meeting to an owner of each unit at least 10 days before the meeting. For the transition meeting, owners of 10 percent of the units constitute a quorum. The board elected at the transition meeting will elect the officers of the Association not later than 30 days after the end of the Declarant Control Period. The directors elected at the transition meeting will serve until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin.

F.3.3. Management Contract. If Declarant enters into a professional management contract on behalf of the Association during the Declarant Control Period, the Association has the right to terminate the contract without cause or penalty, but with at least 60 days' notice to the manager, at any time after a board elected by the owners takes office.

F.3.4. Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any common element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the common element will be free of encumbrance except for the property taxes, if any, accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the owners.

F.4. Declarant Control Period Reservations- Financial. Declarant reserves the following powers, rights, and duties during the Declarant Control Period:

F.4.1. Association Budget. During the Declarant Control Period, the Declarant-appointed board will establish a projected budget for the Property as a fully developed, fully phased, fully constructed, and fully occupied commercial community with a level of services and maintenance that is typical for similar types of developments in the general area of the Property, using cost estimates that are current for the period in which the budget is prepared.

F.4.2. Obligation for Assessments. During the Declarant Control Period, Declarant has the following obligation for assessments and the common expenses of the Association:

- a. Until the Association first levies regular assessments, Declarant must pay all the expenses of the Property as they accrue, as required by Section 82.112(a) of the Act
- b. Following termination of the Declarant Control Period, Declarant (for each unit owned by Declarant) is liable for assessments in the same manner as any owner, as required by Section 82.112(b) of the Act.
- c. Beginning 3 years after the date on which Declarant first conveys (closes) a unit, Declarant (for each unit owned by Declarant) is liable for assessments in the same manner as any owner, even if the Declarant Control Period is in effect, as required by Section 82.112(b) of the Act.
- d. In the interim - between the time the Association starts levying assessments and the termination of Declarant Control or the 3-year period - Declarant solely at Declarant's discretion, and to the extent permitted by Section 82.112(b) of the Act, has the following options:
 - i. Declarant will be liable for assessments in the same manner as any owner, and is not individually liable for operating deficits, if any; or
 - ii. Alternatively, at Declarant's sole discretion, Declarant will periodically pay to the Association an amount equal to the Association's actual paid operational expenses (hence, not reserves), less the operational portion of the assessments received from the other unit owners
- e. If Declarant elects option (2) in Subparagraph d above, the Association will reimburse Declarant for any amounts paid by Declarant that can be attributed to the assessment delinquency of one or more owners - if and when the delinquency is cured.

F.4.3. Obligation for Reserves. During the Declarant Control Period, neither the Association nor Declarant may use the Association reserve funds to pay operational expenses of the Association

F.4.4. Enhancements. During the Declarant Control and Development Periods, Declarant - solely at Declarant's discretion - may voluntarily provide enhancements for the Property, such as higher levels of maintenance, management, insurance, and seasonal color in landscaping. Such enhancements are not included in the Association's annual operating budget or, alternatively, if included are identified as Declarant enhancements.

F.4.5. Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.

F.4.6. Budget Control. During the Declarant Control Period, the right of owners to veto special assessments or increases in regular assessments is not effective and may not be exercised.

F.5. Development Period Rights, Representations & Reservations. Declarant makes the following representations and reservations regarding Declarant's development of the Property:

F.5.1. Phasing. The Property is subject to expansion by phasing for 15 years from the date this Declaration is recorded. During the Development Period, Declarant may - but is not required to - annex any real property, any portion of which is contiguous with, adjacent to, or within 1,000 feet of any real property that is subject to this Declaration. The annexation instrument must include a legal description of the additional real property or a reference to the recorded plat that describes the additional real property and a revised schedule of allocated interests if units are annexed. When created, the Property contains 6 units. Declarant reserves

the right to create up to and including 30 units. This Section does not require Declarant to expand the Property. Declarant's right to annex land is for a term of years - the length of the Development Period - and does not require that Declarant own the Additional Land the time of the filing of this Declaration. The concepts and requirements of phasing, expansion, and annexation also apply to the creation of additional units on land already subject to the Declaration.

F.5.2. FNMA Compliance. If Declarant desires the Property to be approved by FNMA for financing, Declarant will comply with FNMA's guidelines for phasing, which may include the following requirements:

- a. All improvements must be substantially completed prior to annexation.
- b. The structure, type, and quality of construction of buildings and improvements will be consistent with that of the buildings and improvements constructed in the phase initially made subject to this Declaration.
- c. All units and common elements created pursuant to Development Rights will be restricted to commercial use in the same manner and to the same extent as the units created under this Declaration.
- d. On annexation, owners of units on the additional land will be granted undivided interests in the Property's total common elements. If not, the amendment of annexation must provide reciprocal easements for specified common elements in various phases of the Property.

F.5.3. Withdrawal. The Property described in the initial Appendix A is not subject to a right of withdrawal of real property by Declarant.

F.5.4. Leasehold. No part of the Property is a leasehold condominium, as defined by the Act.

F.5.5. Conversion. None of the improvements in the Property are conversion buildings as defined by the Act.

F.5.6. Changes in Development Plan. During the Development Period, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, changes in the sizes, styles, configurations, materials, and appearances of units, buildings, and common elements.

F.5.7. Transfer Fees. During the Development Period, Declarant may not be required to pay transfer-related and resale certificate fees.

F.5.8. Fines and Penalties. During the Development Period, neither Declarant nor units owned by Declarant are liable to the Association for late fees, fines, administrative charges, or any other charge that may be considered a penalty.

F.5.9. Statutory Development Rights. As permitted by the Act, Declarant reserves the following Development Rights which may be exercised during the Development Period: (1) to add real property to the Property; (2) to create units, general common elements, and limited common elements within the Property; (3) to subdivide units or convert units into common elements; (4) to withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved," provided that no unit in the portion to be withdrawn has been conveyed to an owner other than Declarant.

F.5.10. Development Rights Reserved. Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved," if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

F.5.11. Adoption of Governing Documents. During the Development Period, Declarant may, with the approval of Burleson which shall not be unreasonably withheld, adopt additional Governing Documents for the Association and for the Property, such as the initial rules, regulations, policies, and procedures for use and maintenance of the Property.

F.5.12. Amendment. During the Development Period, Declarant may, with the approval of Burleson which shall not be unreasonably withheld, amend this Declaration and the other Governing Documents, without consent of other owners or any mortgagee, for the following limited purposes:

- a. 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.
- b. To correct any defects in the execution of this Declaration or the other Governing Documents.
- c. To add real property to the Property, in the exercise of statutory Development Rights.
- d. To create units, general common elements, and limited common elements within the Property, in the exercise of statutory Development Rights.
- e. To reassign limited common elements, subject to the written and acknowledged consent of the owner of the unit to which the limited common element has been or will be assigned.
- f. To subdivide, combine, or reconfigure units or convert units into common elements, in the exercise of statutory Development Rights.
- g. To withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved," in the exercise of statutory Development Rights.
- h. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Governing Documents.
- i. To change the name or entity of Declarant.
- j. For any other purpose, provided the amendment has no material adverse effect on any right of any owner.

F.6. Architectural Control During Development Period. During the Development Period, Declarant has the absolute right and power of architectural control over the Property.

F.6.1. Declarant's Rights Reserved. Each owner, by accepting an interest in or title to a unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a condominium developer and do not impair Declarant's ability to market its property. Accordingly, each owner agrees that - during the Development Period - no structural or visible improvements will be started or progressed in or on the Property, including the owner's unit, without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization other than Burleson and its obligations under the Chapter 380 Economic Development and Performance Agreement. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

F.6.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Artic

le to (1) a modifications or architectural committee appointed by Declarant or by the board, (2) a modifications or architectural committee elected by the owners, or (3) a committee comprised of architects, engineers, or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

F.6.3. **Caveat. A modifications committee may not involve itself with the approval of new units, common elements, or units owned or leased by Declarant.**

F.7. **Special Declarant Rights.** As permitted by the Act, Declarant reserves the below-described Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, w here applicable, anywhere within the Property during the Development Period. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right may be exercised by Declarant so long as Declarant holds a Development Right to create additional units or common elements or Declarant owns a unit, whichever ceases last. Earlier termination of certain rights may occur by statute.

- a. The right to complete or make improvements indicated on the Plat and Plans.
- b. The right to exercise any Development Right permitted by the Act and this Declaration.
- c. The right to make the Property part of a larger condominium or planned community.
- d. The right to use units owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or other projects of Declarant or Declarant's affiliates.
- e. For purposes of promoting, identifying, and marketing the Property, Declarant reserves an easement and right on and in the Property to place or install, move, and remove anything that pertains to marketing, management, maintenance, customer service, construction, and leasing of the Property, such as signs, banners, flags, display lighting, potted plants, decorative items, furnishings, seasonal decorations, temporary window treatments , and seasonal landscaping, including items and locations that are prohibited to other owners and occupants. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property.

Different Rules

The Developer has rights and privileges to use to property in ways that are not available to other owners and occupants.

- f. Declarant has an easement and right of ingress and egress in and through the common elements and units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the

- Property and/or other projects of Declarant or Declarant affiliates, and for discharging Declarant's obligations under the Act and this Declaration.
- g. The right to appoint or remove any Declarant-appointed officer or director of the Association during the Declarant Control Period consistent with the Act.

F.8. Additional Easements & Rights. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, for the duration of the Development Period:

- a. An easement and right to erect, construct, and maintain on and in the common elements and units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property.
- b. The right to sell or lease any unit owned by Declarant. Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained elsewhere in this Declaration or the other Governing Documents.
- c. The right of entry and access to all units to perform warranty-related work, if any, for the benefit of the unit being entered, adjoining units, or common elements. Requests for entry must be made in advance for a time reasonably convenient for the owner who may not unreasonably withhold consent.
- d. The right to temporarily enhance any aspect of the Property for purposes of making the Property attractive to purchasers, such as increased levels of landscape maintenance, increased on-site staffing, and the temporary use of upgraded common area furnishings and decorative accessories.
- e. An easement and right to make structural changes and alterations on common elements and units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered common elements and units to conform to the architectural standards of the Property.

F.9. Marketing Other Locations. This Declaration grants to Declarant a number of significant rights to market the Property. Declarant hereby reserves for itself and its affiliates the right to use each and every such right and privilege for the additional purposes of promoting, identifying, and marketing off-site developments of Declarant or its affiliates for the duration of the Development Period, even though Declarant may have completed the marketing of units in the Property. Additionally, Declarant - at Declarant's sole option and discretion - may extend the effect of this Section for up to 12 months after the end of the Development Period by paying the Association \$4,000.

F.10. Unit Buyer's Contributions at Closing. Declarant may establish a working capital fund for the Association in an amount that is at least equal to 2 months of regular assessments for all units. If Declarant establishes this fund, each unit's contribution will be collected when the sale of the unit closes or on termination of the Declarant Control Period, whichever occurs first. **Contributions to the fund are not advance payments of regular assessments and are not refundable.**

F.10.1. Frozen Assets. During the Declarant Control Period, working capital contributions from the owners may not be used by Declarant or by the Association to pay the Association's operational expenses, as required by Section 82.112(a) of the Act. This means that Declarant may

not use the fund to defray Declarant's expenses, reserve contributions, or construction costs, or to cover the Association's budget deficits during the Declarant Control Period.

F.10.2. Fannie Mae Requirement. Not later than termination of the Declarant Control Period, the fully funded working capital fund will be transferred to the Association for deposit to a segregated fund. If Declarant has unsold units on termination of the Declarant Control Period, Declarant may reimburse itself for a unit's pre- pa id contributions from monies collected at the unit's closing.

F.10.3. New Sales Only. This Section applies only to unit sales by Declarant, and does not apply to Resales as defined in Section 12.10 of this Declaration

F.11. Successor Declarant. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Real Property Records of Johnson County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

(end of Appendix F)

Appendix G

Chapter 380 and Economic Development and Performance Agreement for Public and Private Improvements in Tax Increment Financing Reinvestment Zone Number Two Between the City of Burleson, the Burleson, 4A Economic Development Corporation, the Tax Increment Financing Reinvestment Zone Number Two and BTX Old Town, LLC