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(Reserved for Clerk of Court)

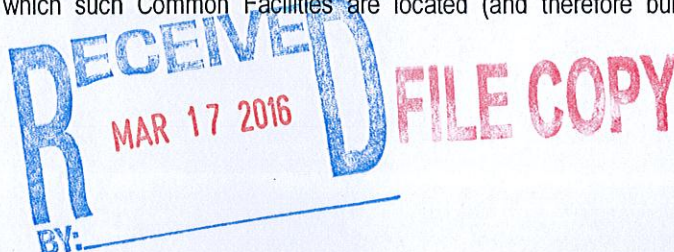
**DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR
DANIA POINTE**

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made as of the ____ day of _____, 20__, by DANIA LIVE 1748, LLC, a Delaware limited liability company, which declares hereby that "Dania Pointe" (also known as "The Properties" described in Section 1.1(ww) of this Declaration) are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions. The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Architectural Standards" shall mean the architectural standards and guidelines set forth in Exhibit "__" attached hereto and made a part hereof, as revised, modified, supplemented and/or otherwise amended from time to time by the Common Facilities Manager, provided that the architectural standards shall at all times meet the Development Guidelines.
- (b) "Assessments" shall mean and refer to the various forms of payment to Common Facilities Manager which are required to be made by Owners, as more particularly described in Article 17 of this Declaration.
- (c) "Benefitted Parcel" shall mean and refer to, with respect to each of the Common Facilities, each Parcel that is a beneficiary of the use and enjoyment of such Common Facilities located on another Parcel.
- (d) "Burdened Parcel" shall mean and refer to, with respect to each of the Common Facilities, each Parcel in which such Common Facilities are located (and therefore burdened thereby).



- (e) "City" shall mean and refer to the City of Dania Beach, located within the County.
- (f) "Common Facilities" shall mean and refer to the portions of The Properties (or adjacent to or in the vicinity thereof), whether by purpose, nature, intent or function, that afford benefits or impose burdens shared by the Owners of all of the Parcels, as same may be modified, supplemented or replaced from time to time. Given the intention to develop, integrate and design Dania Pointe as a unified mixed-use project with consistent and compatible components, and notwithstanding the legal descriptions or graphic depictions contained in any exhibits attached hereto, or the legal descriptions or graphic depictions of any Parcels added hereto or redrawn by Supplemental Declaration, there is a necessity to share and/or unify responsibility for certain areas within and facilities serving The Properties. Those common or shared areas and facilities shall be identified as the "Common Facilities", which may include, without limitation, the following areas and/or facilities (together with a license for reasonable pedestrian access thereto) intended for use by and/or enjoyment of all of the Parcel Owners (and their Tenants and other Permitted Users), as modified, supplemented or replaced from time to time:
- (i) all sidewalks, drives, roads, boulevards, drives, paths and other areas serving all Parcels or included in the Common Facilities Parcel;
 - (ii) all parking areas serving all Parcels or included in the Common Facilities Parcel;
 - (iii) any entry feature at any entrance to The Properties (as distinguished from any entry feature for any particular Parcel or Parcels, but not all Parcels) or included in the Common Facilities Parcel;
 - (iv) any landscaping or street scape around and/or serving any exterior portion of The Properties; excluding, however, exterior landscaping on any amenities area (such as, by way of example and not limitation, swimming pools and spa areas, pool decks, shade decks, sun decks and related amenity areas within any Residential Parcel or Hotel Parcel, courtyards included within any Office Parcel, etc.), and plants, shrubbery or other landscaping materials on balconies, terraces or patios included within a Parcel or attached appurtenant to improvements constructed thereon;
 - (v) any non-standard improvements to the right-of-ways adjacent to The Properties, including without limitation pavers, lighting and landscaping in excess of the standard improvements customarily installed by the applicable Governmental Authority (e.g., the City, County or Florida Department of Transportation) with jurisdiction over such right-of-ways;
 - (vi) all exterior project lighting and all street or exterior lighting fixtures, installations equipment serving or part of the Common Facilities and/or which are part of an exterior lighting scheme applicable to more than one Parcel;
 - (vii) any project-wide directional, wayfinding or other internal signage system and all project identification signage, including without limitation signage at entrances to Dania Pointe and monument signs serving all Parcels;

- (viii) the Master Life Safety Systems;
- (ix) all drainage, utility, mechanical, electrical, telephonic, telecommunications, plumbing and other systems serving the Common Facilities or all of the Parcels, including, without limitation, the Surface Water Management System, water and sanitary sewer system facilities, and all wires, conduits, pipes, ducts, transformers, cables and other apparatus used in the delivery of the utility, mechanical, telephonic, telecommunications, electrical, plumbing and/or other services, and all areas, rooms or facilities in which any of the foregoing are located;
- (x) all environmentally-sensitive areas and facilities that are subject to the Environmental Protection Plan;
- (xi) all trash areas, rooms or facilities, and any and all trash collection and/or disposal systems or areas serving all Parcels or included in the Common Facilities Parcel; and
- (xii) *[insert other Common Facilities]*.

All Common Facilities shall be subject to such regulations and restrictions as may be imposed from time to time by Common Facilities Manager in accordance with the provisions of this Declaration. For the avoidance of doubt, the Common Facilities include all areas and/or facilities comprising the Common Facilities Parcel. The foregoing list of Common Facilities identify the types or areas and facilities that may be included in Common Facilities under this Declaration (without creating an obligation to do so), and no portion of The Properties shall be deemed Common Facilities for purposes of this Declaration unless and until same are designated as such herein or in a Supplemental Declaration duly executed and recorded in the Public Records of the County from and after the date of such designation only. The Common Facilities may be legally described or graphically depicted on the Common Facilities Plans. As of the Effective Date, the portions of The Properties legally described and/or depicted on Exhibit "C-1" attached hereto are deemed Common Facilities for purposes of this Declaration.

- (g) "Common Facilities Costs" shall have the meaning given in Section 17.3.
- (h) "Common Facilities Manager" shall mean the Common Facilities Parcel Owner or the person or entity designated by the Common Facilities Parcel Owner from time to time to manage the operation of the Common Facilities and to perform the administrative responsibilities of Common Facilities Manager under this Declaration. Notwithstanding anything herein contained to the contrary, any and all releases, waivers and/or indemnifications of Common Facilities Manager set forth in, or arising from, this Declaration, shall be deemed to be releases, waivers and/or indemnifications, as applicable, of Common Facilities Manager and Common Facilities Parcel Owner, and its or their successors and assigns.
- (i) "Common Facilities Parcel" shall have the meaning given in paragraph 1.1(pp).

- (j) "Common Facilities Parcel Owner" shall mean the owner from time to time of the Common Facilities Parcel. Common Facilities Parcel Owner shall be Declarant for so long as Declarant owns the Common Facilities Parcel.
- (k) "Common Facilities Plans" shall mean, collectively, full size plans entitled *Dania Pointe – Common Facilities Plans* that graphically depict the Common Facilities, which plans, if prepared, shall be maintained at the office of Common Facilities Manager located at Dania Pointe, as same may be revised, modified, supplemented and replaced from time to time.
- (l) "Construction Parcel" shall have the meaning given in paragraph 1.1(pp).
- (m) "Construction Practices" shall have the meaning given in Section 5.3.
- (n) "County" shall mean and refer to Broward County, Florida.
- (o) "Declarant" shall mean and refer to Dania Live 1748, LLC, a Delaware limited liability company, its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned. Declarant may assign all or a portion of its rights or obligations hereunder, or all or a portion of such rights or obligations in connection with specific portions of The Properties. In the event of any partial assignment, the assignee shall not be deemed "Declarant", but may exercise such rights of Declarant as are specifically assigned to it and shall perform such obligations of Declarant as are specifically assigned to it (with all other Declarant rights and all Declarant obligations remaining with the assignor, unless expressly provided to the contrary). Any such assignment may be made on a nonexclusive basis, with the allocation of Declarant's rights and obligations to be as set forth in the instrument of assignment (failing which Declarant and each such assignee shall, during any period while multiple such assignees exist, be jointly and severally obligated for all obligations of Declarant, and shall jointly share all shared rights of Declarant). Notwithstanding anything herein contained to the contrary, any and all releases, waivers and/or indemnifications of Declarant set forth in, or arising from, this Declaration, shall be deemed to be releases, waivers and/or indemnifications, as applicable, of Declarant and any direct or indirect beneficial owners, partners, shareholders, members, managers, of Declarant and its successors and assigns.
- (p) "Declarant's Mortgagee" shall mean and refer to any lender and/or mortgagee having a mortgage upon any portion of The Properties at the time of the recordation of this Declaration, for as long as they hold a mortgage or mortgages on any Parcel, Unit or other portion of The Properties owned by Declarant, and thereafter such mortgagee as Declarant shall designate by notice to Common Facilities Manager as being "Declarant's Mortgagee".
- (q) "Declaration" shall mean this instrument and all exhibits attached hereto, as same may be amended from time to time.
- (r) "Default Rate" shall mean the lesser of (i) eighteen percent (18%) per annum, (ii) the then current rate of interest published from time to time by Citibank, N.A. (or any successor to it, or if none, such financial institution as Common Facilities Manager may designate) as

its "prime" or "bank" (or comparable) lending rate, plus ten percent (10%) per annum, or (iii) the maximum rate allowed by applicable law.

- (s) "Development Guidelines" shall mean and refer to the Dania Pointe Master Development Plan, including without limitation the Development Design Guidelines and Development Standards for Dania Pointe, as same may be revised, modified, supplemented and replaced from time to time.
- (t) "Effective Date" shall mean the date this Declaration is recorded in the Public Records of the County.
- (u) "Environmental Laws" shall mean any federal, state, regional, or local (a) law, statute, ordinance, provision, regulation, rule, court order, judicial or administrative order, decision, determination, decree, consent order, consent decree, consent agreement, or other legal requirement, (b) permit, license, authorization, or approval, or (c) administrative policy, guideline, or standard required or legally imposed by any Governmental Authority, whether now existing or hereinafter enacted, promulgated, issued, or ordered (including as they may be amended from time to time) relating to protection of the outdoor environment (concerning any and all environmental media), public health, or any Hazardous Substance.
- (v) "Environmental Protection Plan" shall mean *[describe remedial action plan and/or other integrated environmental plan affecting The Properties or any portion thereof adopted or imposed pursuant to the Brownfields program or any Environmental Laws.]*
- (w) "Facilities Records" shall have the meaning given in paragraph 17.9.
- (x) "FDEP" shall mean the Florida Department of Environmental Protection (and any successor thereto).
- (y) "Future Development Property" shall mean and refer to any and all property contiguous to The Properties (and for purposes hereof, any property separated from The Properties only by public rights of way, shall be deemed contiguous), and/or within proximity to The Properties (in the reasonable determination of Declarant), any or all of which may, but none of which shall be obligated to, be brought within The Properties. Notwithstanding anything herein contained to the contrary, the Future Development Property shall not be deemed burdened by the terms and conditions of this Declaration unless and until same (or any portion thereof) is brought hereunder by a Supplemental Declaration duly executed by Declarant (and joined in by the owner of such Future Development Property, if different from Declarant) and recorded in the Public Records of the County.
- (z) "Future Development Property Owner" shall mean and refer to the owners from time to time of the Future Development Property.
- (aa) "Governmental Authority" shall mean the United States of America, the State of Florida, the County, the City, any political subdivision thereof and any agency, department, commission, board, bureau, official or instrumentality of any of the foregoing, or any quasi-governmental authority, now existing or hereafter created, and any successor to

any of the foregoing, having jurisdiction over The Properties or any portion thereof, including without the Florida Department of Transportation, FDEP and SFWMD.

- (bb) "Hazardous Substance" shall mean any fuel, petroleum hydrocarbons, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, infectious waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any substances, wastes, or materials defined as "hazardous" or "toxic" under any Environmental Laws
- (cc) "Hotel Parcel" shall have the meaning given in paragraph 1.1(pp).
- (dd) "Hotel Parcel Owner" shall mean the Owner from time to time of any Hotel Parcel.
- (ee) "Insured Property" shall have the meaning given in Section 13.3.
- (ff) "Insuring Owner" shall have the meaning given in Section 13.3.
- (gg) "Land under Construction" means and refers to any portion of the Properties that is under construction (which, for purposes hereof, shall include site development work (including demolition of existing improvements in preparation for development or redevelopment), foundation work and/or commencement of construction of vertical improvements), and a permit for such work has been obtained, but no certificate of completion or certificate of occupancy (allowing for the occupancy or interior build-out in preparation for occupancy) has been issued.
- (hh) "Legal Requirements" shall mean any law (including without limitation any Environmental Laws), enactment, statute, code, ordinance, administrative order, charter, tariff, resolution, order, rule, regulation, guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered, or issued, and shall include without limitation the Development Guidelines.
- (ii) "Limited Common Facilities" shall mean and refer to such portions of the Common Facilities which are intended for the exclusive use (subject to the rights, if any, of the County, the City, the Responsible Party and the public) of the Owners of specific Parcels, to the exclusion of others. Unless otherwise provided specifically to the contrary, reference to the Common Facilities shall include the Limited Common Facilities. The Limited Common Facilities may be legally described or graphically depicted on the Common Facilities Plans. As of the Effective Date, the portions of The Properties legally described and/or depicted on Exhibit "C-2" attached hereto are deemed Limited Common Facilities for purposes of this Declaration intended for the benefit of the Parcel or Parcels (and/or the Units in such Parcel or Parcels) identified therein.
- (jj) "Losses" shall mean all damages, construction, mechanics or other liens, liabilities, losses, demands, actions, causes of action, claims, costs and expenses (including reasonable attorneys' fees, including all costs in arbitration, at trial and on appeal).
- (kk) "Master Life Safety Systems" shall mean and refer to any and all emergency lighting, audio and visual signals, safety systems, sprinklers and smoke detection systems, if any, which are now or hereafter installed in any improvements constructed upon all or a portion

of The Properties, and which serve more than one Parcel or a Parcel and/or the Common Facilities (or any portion of same). Master Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, regardless of where located, shall be deemed part of the Common Facilities if so designated by Common Facilities Manager.

- (ll) "Mortgage" shall have the meaning given in Section 12.1.
- (mm) "Office Parcel" shall have the meaning given in paragraph 1.1(pp).
- (nn) "Office Parcel Owner" shall mean the Owner from time to time of any Office Parcel.
- (oo) "Owner" shall, subject to the provisions of Section 10.7, mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel situated upon or within The Properties. For the purposes of this Declaration, with respect to any Parcel/Structure governed by a Parcel Specific Declaration, an "Owner" shall also mean the Parcel Specific Manager for such Parcel/Structure as more particularly described in Section 10.7 of this Declaration.
- (pp) "Parcel" shall mean and refer to a portion of The Properties which is designated as such in this Declaration or in a Supplemental Declaration executed and recorded by Declarant (and joined into by the Owner of such parcel, if different from Declarant) from time to time. Except for portions of The Properties designated as Parcels in this Declaration, no portion of The Properties shall be deemed a "Parcel" unless and until such portion is so designated as such in a Supplemental Declaration as hereinabove provided. In the event that any Parcel is submitted to the condominium or other collective form of ownership, it shall nevertheless be deemed a single Parcel hereunder, as more particularly described in Section 10.7 of this Declaration. It is contemplated (but without imposing any obligation) that The Properties shall ultimately contain the following Parcels (but in fact not all of the following need be added to The Properties and the listing set forth below shall not limit Declarant's right to create additional Parcels, eliminate any of the listed Parcels or change any Parcels):
 - (i) "Retail Parcel" means and refers to any Parcel containing a shopping center, retail or other commercial development, which may include, without limitation any retail or service establishment, large scale retail uses (so-called Big-Box retail), banks and financial institutions (with or without drive-thru facilities), open-air cafes, restaurants (with or without drive-thru facilities), bars and taverns, convenience stores (with or without drive-thru facilities) with related fueling facilities/stations, automotive convenience and automotive repair/service centers, and/or other commercial uses permitted under the Development Guidelines, and any adjacent (exclusive or nonexclusive) parking supporting such shopping center, retail or other commercial development, as the same may exist from time to time, including any alterations, additions or replacements thereto and thereof;
 - (ii) "Residential Parcel" means and refers to any Parcel containing a residential development, which may include, without limitation, residential units (apartment use or residential Units and the common elements, facilities or areas appurtenant thereto) and any adjacent (exclusive or nonexclusive) parking supporting such

residential development, as the same may exist from time to time, including any alterations, additions or replacements thereto and thereof;

- (iii) "Office Parcel" means and refers to any Parcel containing an office development, which may include, without limitation, office units (office use or office Units and the common elements, facilities or areas appurtenant thereto) and any adjacent (exclusive or non-exclusive) parking supporting such office development, as the same may exist from time to time, including any alterations, additions or replacements thereto and thereof;
- (iv) "Hotel Parcel" means and refers to any Parcel containing a hotel or similar lodging development, which may include, without limitation, hotel units (hotel use or hotel Units and the common elements, facilities or areas appurtenant thereto) and any adjacent (exclusive or nonexclusive) parking supporting such hotel development, as the same may exist from time to time, including any alterations, additions or replacements thereto and thereof; and
- (v) "Common Facilities Parcel" means and refers to any Parcel containing the common areas and infrastructure components of Dania Pointe, which are located throughout Dania Pointe and which may include, without limitation, common areas, infrastructure and other components of Dania Pointe not included in any other Parcel, as the same may exist from time to time, including any alterations, additions or replacements thereto and thereof.

The Properties may be supplemented to add additional Parcels, to redefine Parcel boundaries, to subdivide and/or combine existing Parcels and/or to supplement the Common Facilities Parcel or any other Parcel, all in accordance with this Declaration. If so, the legal descriptions and/or graphic depictions of the affected Parcels will be set forth in the Supplemental Declaration submitting or modifying same. Notwithstanding anything herein contained to the contrary, the name of any Parcel is assigned only for convenience of reference, and is not intended, nor shall it be deemed to limit or otherwise restrict the permitted uses thereof, except as otherwise expressly provided herein. Although The Properties are burdened by and subject to the terms and conditions of this Declaration, the provisions hereof applicable to Parcels shall be binding upon and burden only the Parcels designated as such herein or in a Supplemental Declaration duly executed and recorded in the Public Records of the County from and after the date of such designation. As of the Effective Date, the portions of The Properties legally described and/or depicted on Exhibit "B" attached hereto are deemed Parcels for purposes of this Declaration.

- (qq) "Parcel Specific Declaration" shall mean the declaration of covenants, conditions, easements and/or restrictions and all other documents necessary or required to submit portions of The Properties to the condominium or cooperative form of ownership or other collective ownership structure, as amended and supplemented from time to time. To the extent any portion of The Properties is subject to more than one Parcel Specific Declaration, the Parcel Specific Declaration encumbering the greatest portion of The Properties shall be deemed the Parcel Specific Declaration hereunder. This Declaration is not and shall not be deemed a Parcel Specific Declaration.

- (rr) "Parcel Specific Development Documents" shall mean any documents or agreements executed and delivered by and between Declarant or Common Facilities Manager and any Owner of a Parcel that, *inter alia*, govern the development and construction of Structures on such Parcel; establish architectural standards and criteria for the aesthetic appearance of such Structures and Parcel, including applicable Architectural Standards; grant and/or reserve easements required for such development and construction and/or the operation, maintenance, repair, alteration and/or replacement of such Structures or Structures on any other portion of The Properties; provide for payment of or contributions to Common Facilities Costs and/or other costs or expenses associated with the repair, replacement, improvement, maintenance, management, operation and insurance of, or taxes on, other common areas or shared facilities between such Parcel and any other portion of The Properties; and/or contain other provisions with respect, or relating, to such Parcel similar to any matters addressed in this Declaration, including without limitation any development agreements, declarations, reciprocal easement agreements, construction, maintenance and operating agreements, and other similar documents and agreements (whether by use of similar or different names).
- (ss) "Parcel Specific Manager" shall mean any entity created or to be created to administer specific portions of The Properties and common areas or common elements lying within such portions pursuant to a Parcel Specific Declaration. In instances where the Parcel Specific Declaration references an association to govern the common elements and/or common areas of the Submitted Parcel governed by the Parcel Specific Declaration and does not have any other entity performing similar functions, then the Parcel Specific Manager shall be the condominium or property owners' association named in the applicable Parcel Specific Declaration. To the extent that the Parcel Specific Declaration does not establish an association to govern the common elements and/or common areas of the Submitted Parcel governed by the Parcel Specific Declaration, or establishes an association and another entity performing similar functions, then in such instances, the Parcel Specific Manager shall be deemed to be the entity designated to perform such functions and not the named association, if any. In the event of any doubt as to the Parcel Specific Manager for a particular Parcel or under a particular Parcel Specific Declaration, Common Facilities Manager shall have the authority to make the determination, and the opinion of Common Facilities Manager shall be binding and conclusive.
- (tt) "Permitted User" shall mean any person who occupies a Parcel, Structure or Unit or any part thereof with the permission of the Parcel Owner or Unit Owner, including, without limitation, Tenants, members of such Parcel Owner's, Unit Owner's or Tenant's family and his, her or its guests, licensees, employees, customers, business invitees and personal invitees. The rights of Permitted Users are limited in scope by the terms and conditions of this Declaration, depending on the applicable Parcel and Common Facilities involved.
- (uu) "Project Encumbrances" shall mean and refer to any covenants, conditions, restrictions, easements, agreements, instruments and other encumbrances that now or hereafter encumber The Properties (or more than one Parcel therein), and any other instruments entered into in connection with obtaining development approvals for Dania Pointe, including without limitation the covenants, conditions, restrictions, easements, agreements, instruments and other encumbrances identified in Exhibit "D" attached

hereto, as same may be hereafter assigned, modified, extended, renewed, supplemented, amended, restated and replaced from time to time.

- (vv) "Project Standard" shall mean, collectively, the following standards: (i) the standard required to maintain and operate The Properties (and all Parcels therein) in a condition and a quality level no less than that which existed at the time that the initial construction of the Structures on the Parcels was completed (ordinary wear and tear excepted), including, without limitation any ecological standards incorporated into the initial construction of Dania Pointe (such as LEED or any similar standard), and (ii) a first class standard consistent with the standard of operation of other high quality first class mixed-use retail/office/residential/hotel projects then operating within the Greater Fort Lauderdale market area.
- (ww) "The Properties" or "Dania Pointe" shall mean and refer to all properties described in Exhibit "A" attached hereto and made a part hereof, and all additions thereto, now or hereafter made subject to this Declaration, except such as are withdrawn from the provisions hereof in accordance with the procedures set forth in this Declaration.
- (xx) "Residential Parcel" shall have the meaning given in paragraph 1.1(pp).
- (yy) "Residential Parcel Owner" shall mean the Owner from time to time of any Residential Parcel.
- (zz) "Responsible Party" shall mean and refer to Common Facilities Manager, unless Common Facilities Manager designates another person or entity at any time or from time to time to manage the operation of and/or perform the administrative responsibilities of Common Facilities Manager under this Declaration with respect to any of the Limited Common Facilities (such as, by way of example and not limitation, a Parcel Owner with respect to any of the Limited Common Facilities that benefit its Parcel), in which event "Responsible Party" shall mean such Parcel Owner with respect to such Limited Common Facilities. Accordingly, there may be multiple Responsible Parties (with the rights and responsibilities of a Responsible Party under this Declaration) at any given time hereunder.
- (aaa) "Retail Parcel" shall have the meaning given in paragraph 1.1(pp).
- (bbb) "Retail Parcel Owner" shall mean the Owner from time to time of any Retail Parcel.
- (ccc) "SFWMD" shall mean the South Florida Water Management District (and any successor thereto).
- (ddd) "Structure" shall mean and refer to the structure or structures constructed on a Parcel and all appurtenant improvements. A "Structure" shall be deemed a single Structure hereunder even though divided into separate condominium, cooperative or other collective ownership parcels.
- (eee) "Submitted Parcel" shall mean any portion of The Properties submitted to the condominium or cooperative form of ownership or other collective ownership structure pursuant to a Parcel Specific Declaration.

- (fff) "Successor Corporation" shall have the meaning given in Section 18.7.
- (ggg) "Surface Water Management System" shall mean any surface water management system now or hereafter serving or affecting the Common Facilities and/or more than one Parcel, including without limitation dewatering plans and drainage systems designed, constructed, operated and maintained to remove pollutants from storm runoff prior to discharging into surface waters and to provide the required levels of flood protection pursuant to and in accordance with Legal Requirements and applicable Project Encumbrances. Any storm drains, street gutters, weirs, sluice gates, dams, pumps, swales, culverts, drainage wells, dry retention areas, and storm runoff treatment lakes or wetlands and/or other facilities required by SFWMD, the County, the FDEP or any other Governmental Authority with respect to, or otherwise serving or affecting, the Common Facilities and/or more than one Parcel are included in the Surface Water Management System for purposes of this Declaration.
- (hhh) "Supplemental Declaration" shall mean and refer to an instrument executed by Declarant, Common Facilities Manager and/or an Owner (as and to the extent provided and/or required in this Declaration) and recorded in the Public Records of the County, for the purpose of adding to The Properties, withdrawing any portion(s) thereof from the effect of this Declaration, subdividing any Parcel, creating and/or designating a Parcel, reallocating among Parcels, establishing additional types of Common Facilities, designating (or removing the designation of) a portion of The Properties as Common Facilities hereunder, or designating or redesignating any portion of the Common Facilities as a particular type of Common Facilities or for such other purposes as are provided in this Declaration.
- (iii) "Tax Value Percentage Share" shall have the meaning given in Section 16.2(b).
- (jii) "Taxed Parcels" shall have the meaning given in Section 16.2.
- (kkk) "Taxes" shall mean all taxes and other governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against The Properties, a Parcel (excluding Units within any Submitted Parcel), or any part thereof or any interest therein, including, without limitation, all general and special real estate taxes and assessments or taxes assessed specifically in whole or in part in substitution of such real estate taxes or assessments, by virtue of being situated within a business improvement district, or any taxes levied or a charge upon the rents, revenues or receipts therefrom which may be secured by a lien on the interest of an Owner therein, and all ad valorem taxes lawfully assessed upon The Properties or any Parcel (excluding Units within any Submitted Parcel).
- (III) "Tenant" shall mean any person who is legally entitled to the use and enjoyment of all or any portion of a Parcel or Unit under a lease, rental or tenancy agreement, exchange arrangement, concession agreement, or similar entitlement with or from a Parcel Owner or Unit Owner. Tenant is included in the definition of Permitted User.
- (mmm) "Undeveloped Land" shall mean any portion of The Properties that consists of land which has not been developed (or if such land contains existing improvements as of the Effective Date, redeveloped) where no site development work (including demolition of

existing improvements in preparation for development or redevelopment) or construction has commenced and no permit for any such work has been issued.

(nnn) "Unit" or "Units" shall mean, with respect to any Submitted Parcel, the condominium, cooperative or other units, lots or parcels located within such Submitted Parcel.

(ooo) "Unit Owner" shall mean the owner of a Unit.

1.2 Interpretation. The provisions of this Declaration shall be interpreted by Common Facilities Manager. Any such interpretation of Common Facilities Manager which is rendered in good faith shall be final, binding and conclusive if Common Facilities Manager receives the confirming consent of Declarant (to the extent Declarant and Common Facilities Manager are different entities). Notwithstanding any Legal Requirement to the contrary, the provisions of this Declaration shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of The Properties, the preservation of the values of the Parcels and Structures and the protection of Declarant's and Common Facilities Manager's rights, benefits and privileges herein contemplated.

2. PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS/MODIFICATIONS THERETO

2.1 Legal Description. The initial real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is more particularly described in Exhibit "A" attached hereto and made a part hereof, all of which real property (and all improvements thereto), together with additions thereto, but less any withdrawals therefrom, is herein referred to collectively as "The Properties".

2.2 Supplements to The Properties. Declarant (joined by the Future Development Property Owner, if different than Declarant), may from time to time subject other land within the Future Development Property under the provisions of this Declaration by Supplemental Declarations, which shall not require the consent of the existing Owners or any mortgagee other than that, if any, of the land intended to be added to The Properties, and thereby add to The Properties and/or to any particular Parcel (provided the joinder of the applicable Parcel Owner is obtained). To the extent that such additional real property shall be made a part of The Properties, reference herein to The Properties shall be deemed to be a reference to all of such additional property where such reference is intended to include property other than that legally described above. Nothing herein, however, shall obligate Declarant to add to the initial portion of The Properties, to develop any such future portions under a common scheme, nor to prohibit Declarant from rezoning, replatting, modifying the Development Guidelines and/or changing plans with respect to such future portions. All Owners, by acceptance of a deed to or other conveyance of their Parcels, shall be deemed to have automatically consented to any such rezoning, replatting, modified Development Guidelines, change, addition or deletion thereafter made by Declarant, and shall evidence such consent in writing if requested to do so by Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this provision). Moreover, each Owner shall be and is hereby deemed to have appointed Declarant as its true and lawful attorney-in-fact to execute any instruments or documents on its behalf that may be necessary or desirable to effect any of the foregoing actions, which power of attorney shall be irrevocable and is deemed to be coupled with an interest. A Supplemental Declaration may vary the terms of this Declaration by addition, deletion or modification so as to reflect any unique characteristics of a particular portion of The Properties identified therein; provided, however, that

no such variance shall be directly contrary to the uniform scheme of development of The Properties contemplated by the Development Guidelines. In furtherance of the foregoing, any Supplemental Declaration shall describe with particularity the extent to which the property being supplemented shall have use rights in and to the Common Facilities (and/or be liable for any costs relating to any of the Common Facilities), it being understood and agreed that all determinations with respect to same must include the written joinder of Common Facilities Manager (which joinder shall not be unreasonably withheld or delayed).

- 2.3 Declarant's Right to Modify Common Facilities. Subject to Section 2.6, Declarant shall have the right (but not the obligation), by Supplemental Declaration executed by Declarant and Common Facilities Manager, and joined in by Declarant's Mortgagee, to supplement the Common Facilities by adding additional facilities or to designate any additional portions of Dania Pointe as Common Facilities (or redesignate any portion of same). Notwithstanding the designation of the Common Facilities, Declarant (together with Common Facilities Manager) shall have the right, from time to time, to expand, alter, relocate and/or eliminate the Common Facilities, or any portion thereof, without requiring the consent or approval of any Owner, any Parcel Specific Manager or any member of a Submitted Parcel (including, without limitation, any and all owners or mortgagees of the Units, if any, established within any Parcel). In furtherance of the foregoing, but subject to Section 2.6, Declarant also reserves the absolute right at any time, and from time to time, to construct additional facilities upon or adjacent to the Common Facilities and to determine whether same shall be deemed Common Facilities.
- 2.4 Declarant's Right to Withdraw Property. Subject to Section 2.6, Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any person or entity (other than Declarant's Mortgagee and the Owner(s) of the property being removed if other than Declarant), for the purpose of removing certain portions of The Properties (including, without limitation, Parcels, Limited Common Facilities and/or Common Facilities, or portions of any of the foregoing) then owned by Declarant or its affiliates from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for The Properties desired to be effected by Declarant; provided, however, that such withdrawal is not unequivocally contrary to applicable Legal Requirements.
- 2.5 Subdivision of Parcels. Subject to Section 2.6, a Parcel may be subdivided by Supplemental Declaration executed by Declarant, Common Facilities Manager and the Owner and any mortgagee of the subdivided Parcel, without the consent of any other existing Owners or mortgagees. To the extent that any Parcel shall be subdivided, reference herein to the Parcels shall be deemed to include all of the Parcels, including the newly subdivided Parcels, unless otherwise indicated in the Supplemental Declaration. All Owners, by acceptance of a deed or other conveyance of their Parcels, shall be deemed to have automatically consented to any such subdivision of other Parcels, and shall evidence such consent in writing if requested to do so by Declarant, Common Facilities Manager or the Owner of the subdivided Parcel at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this provision). Any Supplemental Declaration effectuating a subdivision of a Parcel as contemplated herein shall describe with particularity the extent to which each portion of the subdivided Parcel shall have use rights in and to the Common Facilities (and/or be liable for any costs relating to the Common Facilities).
- 2.6 Limitations on Supplements, Modifications and Withdrawal by Declarant. Notwithstanding the provisions of Sections 2.3, 2.4 and 2.5, Declarant shall not remove, alter, relocate, re-designate or

subdivide any portion of The Properties or Common Facilities to the extent that same will result in the denial to any Owner or any Unit Owner of legal pedestrian access to and from the Owner's Parcel and/or Unit, as applicable, or shall result in the termination of any utility and/or mechanical, electrical, HVAC, plumbing, life safety, monitoring, information and/or other systems located in and/or comprising the Common Facilities and serving said Owner's Parcel and/or Unit, as applicable, or shall compromise the structural integrity of any Structure or otherwise impair the easements of support granted herein (without otherwise providing reasonably equivalent substitutions for same). In addition, no such removal, alteration, relocation or re-designation of Common Facilities shall encumber or materially affect any portion of The Properties not previously encumbered or affected by such Common Facilities without the consent or joinder of the Owner(s) of such portion (if other than Declarant) and its or their mortgagee(s).

- 2.7 Designation of Common Facilities. Without limiting the generality of Section 1.2, in the event that Common Facilities Manager determines, in its reasonable judgment, that a particular portion of The Properties is or is not part of the Common Facilities or Limited Common Facilities (i.e. serving all or specific Parcels), such determination shall be binding and conclusive. Furthermore, in the event of any doubt, conflict or dispute as to whether any portion of The Properties is or is not part of the Common Facilities or Limited Common Facilities under this Declaration, Common Facilities Manager may, without the consent of any Parcel Specific Manager or then existing Owners or mortgagees, record in the public records of the County, a Supplemental Declaration resolving such issue and such Supplemental Declaration shall be dispositive and binding.

3. RIGHTS AND EASEMENTS IN COMMON FACILITIES GENERALLY

- 3.1 Rights and Easements in Common Facilities. Subject to all of the other provisions of this Declaration, each Owner of a portion of The Properties (including, if applicable, any Unit Owner and its and their Permitted Users), shall have limited rights to use, benefit from and enjoy the Common Facilities (as same may exist from time to time), excluding those Limited Common Facilities designated to less than all of the Parcels, for their intended purposes (as determined by Common Facilities Manager) in common with all other such other Owners of a portion of The Properties (and its Permitted Users), but in such manner as may be reasonably regulated by Common Facilities Manager. A non-exclusive easement is hereby reserved (and declared and created) over, under and upon such portions of the Common Facilities as may be designated, in writing, from time to time by Common Facilities Manager for the use, benefit and enjoyment of any Common Facilities (excluding those Limited Common Facilities designated to less than all of the Parcels) that may be constructed thereon from time to time in favor of all Parcel Owners, including Unit Owners, and their Tenants and Permitted Users.
- 3.2 Rights and Easements in Limited Common Facilities. Subject to all of the other provisions of this Declaration, the Owner of each Parcel (including, if applicable, any Unit Owner and its and their Permitted Users), shall have limited rights to use, benefit from and enjoy the Limited Common Facilities (as same may exist from time to time) designated for the benefit and use of such Parcel (if any), for their intended purposes (as determined by Common Facilities Manager) in common with the Permitted Users of such Owner, but in such manner as may be reasonably regulated by Common Facilities Manager. Responsible Parties shall have easements with respect to the Limited Common Facilities serving such Parcels as more particularly described in Section 4.8.
- 3.3 Rights of Common Facilities Manager. The rights of use and enjoyment and other easement rights with respect to the Common Facilities granted herein are hereby made subject to the following:

- (a) The right and duty of Common Facilities Manager to levy assessments against each Parcel for the purpose of maintaining, operating, repairing, insuring, replacing and/or altering the Common Facilities and any facilities located thereon, as more particularly provided in this Declaration, including without limitation Article 17.
- (b) The right of Common Facilities Manager to adopt at any time and from time to time and enforce rules and regulations governing the easements granted herein and/or the use of the Common Facilities and/or the Limited Common Facilities and all facilities at any time situated thereon, including without limitation rules limiting the hours of operation and allocating exclusive or non-exclusive use rights to the Parcels during particular periods of time and with respect to particular Common Facilities (including loading bay areas). Any rule and/or regulation so adopted by Common Facilities Manager shall apply until rescinded or modified as if originally set forth at length in this Declaration.
- (c) The right of Common Facilities Manager to permit such persons as Common Facilities Manager shall designate to use the Common Facilities, which may include persons who are not Owners, Tenants or Permitted Users (and may include members of the public generally). Additionally, Common Facilities Manager reserves the right from time to time (i) to limit the right to use certain Common Facilities and/or Limited Common Facilities (such as, by way of example and not limitation, *loading bay areas and _____*) to Owners only, or to Owners and Unit Owners only, and not their Tenants or other Permitted Users, (ii) to designate portions of the Common Facilities as exclusive to particular Parcel(s), and/or (iii) to designate special use and/or priority rights with respect to any portion of the Common Facilities to particular Parcels.
- (d) The right of Common Facilities Manager to have and use, and to require the Parcel Owners to grant to Common Facilities Manager, general ("blanket") and specific easements over, under and through the Common Facilities and/or the Limited Common Facilities as necessary or desirable to exercise its rights or perform its obligations under this Declaration.
- (e) The right to supplement and/or withdraw portions of the Common Facilities as provided in Article 2.

WITH RESPECT TO THE USE OF THE COMMON FACILITIES AND THE PROPERTIES GENERALLY, ALL PERSONS ARE REFERRED TO ARTICLE 19 HEREOF, WHICH SHALL AT ALL TIMES APPLY THERETO. NOTWITHSTANDING ANYTHING IN THIS DECLARATION TO THE CONTRARY, COMMON FACILITIES MANAGER SHALL HAVE THE RIGHT TO DELEGATE ANY OF ITS RIGHTS AND OBLIGATIONS UNDER THIS DECLARATION TO ANY PARTY EMPLOYED OR ENGAGED BY COMMON FACILITIES MANAGER AND/OR TO ANY RESPONSIBLE PARTY.

- 3.4 Easements Appurtenant. The rights and easements provided in this Article 3 shall be appurtenant to and shall pass with the title to each Parcel, but shall not be deemed to grant or convey any ownership interest in the Common Facilities or Limited Common Facilities subject thereto. Notwithstanding the foregoing, any systems, equipment and other facilities comprising Limited Common Facilities that benefit one Parcel exclusively but are located in another Parcel, to the extent installed by the Owner of the Benefitted Parcel served thereby, shall be deemed to be the property of such Benefitted Parcel Owner.

- 3.5 Common Facilities Rules and Regulations. Without limiting the generality of Section 3.3, Common Facilities Manager shall have the right to establish, from time to time, rules and regulations regarding the easements granted herein and/or the use of the Common Facilities, including, without limitation, rules and regulations granting the right to temporarily close or restrict use of Common Facilities, as Common Facilities Manager may determine, whether for maintenance purposes, due to an emergency situation or event of *force majeure*, for security reasons or for any other purpose expressly permitted under this Declaration or otherwise; provided, however, that in no event shall any Owner (including, without limitation, Unit Owners and/or their Tenants and/or other Permitted Users) be denied legal access to and from a publicly dedicated street and the applicable Parcel/Unit, unless required by applicable Legal Requirements.

4. ADDITIONAL EASEMENTS AND EASEMENT RIGHTS

- 4.1 Encroachment. If (a) any portion of the Common Facilities (or improvements constructed thereon) encroaches upon any other portion of a Parcel or upon any Structure; (b) any portion of a Parcel (or improvements constructed thereon) encroaches upon the Common Facilities or any other Parcel; (c) any portion of the Future Development Property (or improvements constructed thereon) encroaches upon the Common Facilities or any other Parcel; or (d) any encroachment shall hereafter occur as the result of (i) construction of any improvement; (ii) settling or shifting of any improvement; (iii) any alteration or repair to any improvement after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any improvement or portion of the Common Facilities, any Parcel or the Future Development Property, then, in any such event, a perpetual easement is granted and shall exist for such encroachment and for the maintenance of the same so long as the structure causing said encroachment shall stand; provided, however, that the foregoing shall not validate any encroachment by any Structure or other improvement that results from the failure to construct such Structure or other improvement in compliance with the terms and conditions of this Declaration, any Project Encumbrances, any other recorded document or agreement binding on the applicable Owner and/or any applicable Legal Requirements.
- 4.2 Easements of Support. Whenever any Structure included in the Common Facilities adjoins any Structure included in any other portion of The Properties, then there shall be (and there is hereby declared and created) a perpetual easement of support for such Structure(s), such that each such Structure shall have and be subject to an easement of support and necessity in favor of the other Structure.
- 4.3 Easements for Pedestrian and Vehicular Traffic. In addition to the general easements for use of the Common Facilities granted and reserved herein, there shall be, and Declarant hereby reserves and grants for itself, Common Facilities Manager and all Owners of Parcels/Structures within The Properties (as well as the Unit Owners), that each and every Owner (and the Permitted Users thereof), Unit Owner (and the Permitted Users thereof), Common Facilities Manager and Declarant, shall have a non-exclusive easement appurtenant for (a) pedestrian traffic over, through and across sidewalks, streets, paths, walks and other portions of the Common Facilities as from time to time may be intended and designed for such purpose, and (b) vehicular traffic over all private streets or drives within the Common Facilities. Notwithstanding the foregoing, Common Facilities Manager shall have the right to designate certain private streets and drives within the Common Facilities for the exclusive or primary use by one or more Parcels (to the exclusion of other Parcels) for traffic circulation, valet parking, drop-off and pick-up and/or other ancillary uses to such Parcel(s).

- 4.4 Project Encumbrances. The easements, rights, restrictions and provisions set forth in the Project Encumbrances and any other easements or instruments affecting The Properties (or any portion thereof) recorded in the Public Records of the County, burden and/or benefit (as applicable) The Properties or Parcel(s) or Common Facilities (or portion thereof) therein described, subject to the terms and conditions thereof. Without limiting the foregoing, The Properties or Common Facilities (or applicable portions thereof) are, and shall be, subject to, and encumbered by the Project Encumbrances, which, among other things, may grant rights to persons who are not Owners and/or the general public. Accordingly, each Parcel is governed and burdened by, and subject to, and each Owner is governed and burdened by, and subject to, all of the terms and conditions of the Project Encumbrances that encumber or otherwise affect such Parcel or The Properties or Common Facilities generally. Each Owner (for itself and its Permitted Users) understands and agrees, by acceptance of a deed or otherwise acquiring title to a Parcel or Unit, that the rights in and to The Properties and Common Facilities are junior and subordinate to the rights therein granted under the Project Encumbrances. Pursuant to the Project Encumbrances, the Parcels may be obligated for the payment of certain ongoing costs and responsibilities. Any and all payments shall be part of the Assessments charged to Owners by Common Facilities Manager. Any and all reimbursements, if any, for expenses (other than capital expenditures associated with the initial construction of improvements comprising the Parcels) shall be credited against the annual budget. EACH OWNER SHOULD THOROUGHLY REVIEW THE PROJECT ENCUMBRANCES TO DETERMINE THE EFFECT SAME WILL HAVE ON THE PROPERTIES AND COMMON FACILITIES, INCLUDING WITHOUT LIMITATION THE DEVELOPMENT OF IMPROVEMENTS THEREON.
- 4.5 Recorded Utility Easements. Easements for the installation and maintenance of utilities are reserved as and to the extent shown on recorded plats and/or any recorded instruments covering the Properties and/or as provided herein. The area of each Parcel covered by an easement and all improvements in such area shall be maintained continuously by the applicable Parcel Owner (if within a Parcel) or Common Facilities Manager or its designee (if part of the Common Facilities), except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company and other utility provider, the applicable Parcel Owner liable for the maintenance thereof, Declarant and Common Facilities Manager, and their respective successors, assigns and designees, as applicable, shall have a perpetual easement for the installation and maintenance of water lines, sanitary sewers, storm drains, and electric and telephone lines, cables and conduits, under and through the utility easements as shown on the plats and recorded instruments.
- 4.6 Other Utility Easements. Declarant hereby reserves and grants to Common Facilities Manager, and the designees of each (including any Responsible Party), easements over, upon and under the unimproved portions of the Parcels for the installation, operation, maintenance, repair, replacement, alteration and extension of utilities (including without limitation water, sewer, meter boxes, telephones, gas, electricity and irrigation), drainage, cable television, communications and monitoring systems; provided, however, that the exercise of this easement shall not unreasonably interfere with any Owner's permitted use of its Parcel, and except in the event of an emergency, entry shall be made on not less than one (1) days' notice (which notice shall not, however, be required if the Owner is absent when the giving of notice is attempted); and provided, further, that the surface of the affected easement shall be restored to its former condition to the extent reasonably feasible.

- 4.7 Public Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Facilities in the performance of their respective duties.
- 4.8 Easements for Responsible Parties. Declarant hereby reserves and grants to Common Facilities Manager and its designees (including any Responsible Party), perpetual easements over, under and through The Properties (including all Parcels thereof), for the construction and installation of the Common Facilities and Limited Common Facilities, and/or the operation, repair, replacement, maintenance, alteration and relocation of same, and/or the performance of any rights and/or obligations of Common Facilities Manager or any Responsible Party herein described. The foregoing reservation and grant shall be deemed to include all easements and rights of access in and to the Parcels and Common Facilities (including the Limited Common Facilities) necessary or desirable to enable Common Facilities Manager or the applicable Responsible Party to exercise its rights and perform its obligations under this Declaration. The easements granted herein shall be "in gross" and personal to Common Facilities Manager, and appurtenant to the Common Facilities Parcel and any other Benefitted Parcel, and shall also run in favor of the contractors, subcontractors, suppliers, agents, employees and designees of Common Facilities Manager and any applicable Responsible Party. The easements reserved and granted to Common Facilities Manager, Responsible Parties, the Common Facilities Parcel and any other Benefitted Parcel under this Section shall be in addition to the rights and easements reserved and/or granted to Common Facilities Manager, Responsible Parties, the Common Facilities Parcel and such other Benefitted Parcel under any other provision of this Declaration. For the avoidance of doubt, the easements granted to a Responsible Party under this Section shall be limited to only the Limited Common Facilities for which such Responsible Party is responsible.
- 4.9 Declarant's Construction, Leasing and Sales Activities. Declarant and its affiliates (and its and their designees, including agents, employees, contractors, subcontractors and suppliers) shall have the right from time to time to enter upon The Properties (including, without limitation, the Parcels) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on or comprising a part of the Common Facilities or elsewhere on The Properties that Declarant and its affiliates or designees elect to effect, and to use, without charge, the Common Facilities and other portions of The Properties for leasing, sales, displays and signs or for any other purpose during the period of construction, leasing and sale of any portion thereof or of other portions of adjacent or nearby property. Without limiting the generality of the foregoing, Declarant and its affiliates (and its and their designees) shall have the specific right to maintain upon any portion of The Properties leasing, sales, administrative, construction or other offices, and to erect, maintain, repair and replace, from time to time, one or more signs on the Common Facilities for the purposes of advertising the sale or lease of Structures, including without limitation individual Units or other portions thereof. Appropriate exclusive and non-exclusive easements of access and use are hereby expressly reserved unto Declarant and its affiliates, and its and their successors, assigns and designees, including agents, employees, contractors, subcontractors and suppliers, for all of the foregoing purposes, including construction, leasing and sales activities contemplated herein. Any obligation (which shall not be deemed to be created hereby) to complete portions of the Common Facilities shall, at all times, be subject and subordinate to the foregoing rights and easements and to the above-referenced activities. Accordingly, Declarant shall not be liable for delays in such completion to the extent resulting from the exercise of or need to conclude any of the above-referenced activities prior to such completion.

4.10 Future Development Property Easements. In addition to the foregoing, the following easements are hereby reserved over, under and upon The Properties in order to allow for the construction of improvements upon the Future Development Property and the integration of same with The Properties, whether or not supplemented as part of The Properties:

- (a) Utilities. Easements are reserved under, through and over The Properties as may be required from time to time for utility, cable television, communications and monitoring systems, and other services and drainage in order to serve the Future Development Property. An Owner shall do nothing within or outside his Parcel that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems or other service, or water, sewer or drainage facilities, or the use of these easements. The owner from time to time of the Future Development Property shall have a right of access upon The Properties to maintain, repair or replace the pipes, conduits and other utility, cable television, communications and similar systems, service, water, sewer and drainage facilities, and to remove any improvements interfering with or impairing such facilities or easements herein reserved; provided, however, that such right of access shall not unreasonably interfere with any Owner's permitted use of its Parcel, and except in the event of an emergency, entry shall be made on not less than one (1) days' notice (which notice shall not, however, be required if the Owner is absent when the giving of notice is attempted); and provided, further, that the surface of the affected easement shall be restored to its former condition to the extent reasonably feasible.
- (b) Ingress/Egress. A non-exclusive easement in favor of the owners from time to time of the Future Development Property, and their guests, tenants and invitees shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Facilities as from time to time may be intended and designed for such purpose and use; and for vehicular (including, without limitation, construction vehicles) and pedestrian traffic over, through and across, such portions of the Common Facilities as from time to time may be paved and intended for such purposes.
- (c) Construction Activity. Declarant (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter The Properties and take all other action necessary or convenient for the purpose of installing, constructing or erecting any improvements located or to be located upon the Future Development Property (for so long as any portion of same is owned by Declarant) and for repair, reconstruction, replacement and maintenance or warranty purposes or where Declarant, in its sole discretion, determines that it is required or desires to do so; provided, however, that Declarant, in exercising these rights takes reasonable steps to minimize interference with the operation of the Common Facilities and each Owner's permitted use of its Parcel.
- (d) Leasing and Sales Activity. For as long as Declarant or its affiliates has any ownership interest in the Future Development Property, Declarant and its affiliates (and its and their designees, successors and assign, shall have the right to use portions of The Properties (other than Units) for sales, leasing and construction offices relating to the Future Development Property, to show same to prospective purchasers and tenants, and to erect signs and other promotional material to advertise any portion of the Future Development Property for sale or lease; provided, however, that Declarant, in exercising these rights

takes reasonable steps to minimize interference with the operation of the Common Facilities and each Owner's permitted use of its Parcel. The foregoing easement and rights shall expressly authorize Declarant and its affiliates (and its or their designees) to advertise, market and promote any fractional plan or other product desired to be offered from time to time by Declarant or its affiliates (or its or their designees).

5. ALTERATIONS AND IMPROVEMENTS

- 5.1 Alterations. Each Owner may make such alterations within its Parcel as it may from time to time determine without the consent or approval of the other Owners or Common Facilities Manager; subject, however, to the remaining provisions of this Article 5 and to all other provisions of this Declaration. Notwithstanding anything herein to the contrary, no addition, alteration or improvement shall be permitted to the extent same is not permitted pursuant to the terms of any Project Encumbrances or Legal Requirements. The initial construction of Structures on and within a Parcel shall be subject to all applicable Parcel Specific Project Documents (if any), the Architectural Standards, Legal Requirements and the Project Encumbrances, but shall not be subject to this Article 5.
- 5.2 Approval Required. Without the prior written consent of Common Facilities Manager, which consent may be granted or withheld in the reasonable discretion of Common Facilities Manager, no alteration, addition or improvement shall be made by an Owner to any part of its Parcel that would:
- (a) alter, modify and/or otherwise affect the exterior appearance of the Structures, including without limitation any paint or other exterior finishing; any windows, walls or balconies; any awning, canopy or shutter; and/or exterior lighting schemes;
 - (b) adversely affect the Common Facilities;
 - (c) prevent or interfere with access to or use of any Parcel or any Common Facilities, except for temporary interruptions to the extent consistent with the Construction Practices;
 - (d) be likely to increase by more than [_____ percent (___%)] any line item of the Common Facilities Costs over the then existing line item for such Common Facilities Costs, or any increase in the Common Facilities Costs of more [_____ percent (___%)] in the aggregate over the Common Facilities Costs for the preceding calendar year;
 - (e) modify or adversely affect the Master Life Safety Systems or the Surface Water Management System or affect the Environmental Protection Plans; or
 - (f) have a material adverse effect on (i) the operation, use, occupancy, leasing, maintenance, construction, repair, replacement or condition of any other Parcel, (ii) the ability of any other Owner to satisfy the Project Standard with respect to the improvements comprising its Parcel, (iii) the access to or use of any Common Facilities (excluding temporary interruptions to such access or use), or (iv) the overall costs and expenses incurred by any other Owner in operating, maintaining, repairing, constructing or replacing any of the improvements comprising its Parcel.
- 5.3 Construction Practices. Any alterations to the Parcels (which, for purposes hereof shall include repair, reconstruction and replacement work), irrespective of whether the consent or approval of

Common Facilities Manager is required, shall be performed in compliance with the following provisions (the "Construction Practices"):

- (a) All alterations shall be consistent with the Project Standard and Architectural Standards.
- (b) All alterations shall be performed (i) with reasonable diligence and dispatch, (ii) in a good and workmanlike manner, (iii) in accordance with the Project Standard and all Legal Requirements, including without limitation the Development Guidelines, (iv) with respect to the portions of The Properties affected by any of the Project Encumbrances, in accordance with any requirements imposed by such Project Encumbrances, (v) pursuant to good, generally prevailing management practices and procedures which, to the extent reasonably feasible, will avoid or minimize any undue resulting disturbances or interferences with the use, operation and occupancy of or access to and from any other Parcel, and (vi) by licensed contractors and/or service providers approved by Common Facilities Manager that have (unless otherwise agreed in advance and in a written instrument by Common Facilities Manager) policies of insurance covering such risks, in such amounts and otherwise in such forms as may be required by Common Facilities Manager from time to time, including without limitation builder's risk insurance, worker's compensation insurance (as required by Legal Requirements), commercial general liability insurance, automobile liability insurance, product liability insurance, contractual liability insurance, and excess liability (umbrella) insurance. Each such policy of insurance shall name the Parcel Owner performing the alteration, Common Facilities Manager and any other affected Parcel Owner (e.g., the applicable Burdened Parcel Owner, if the alteration affects Limited Common Facilities located in another Parcel) and for as long as Declarant owns any portion of The Properties, Declarant, and their respective designees, as an additional insured, and shall be primary for any and all Losses arising out of or in connection with the contractor's and/or service provider's work. Such insurance shall also meet the insurance requirements of Section 13.9.
- (c) Before beginning any alteration, the Owner performing the alteration shall procure, at its expense, all necessary licenses, permits, approvals and authorizations from the County, the City and any other applicable Governmental Authority, and shall deliver photocopies thereof to Common Facilities Manager (and, if the alteration affects areas or facilities located in or that benefit another Parcel, the Owner of such Parcel). Upon request, other Parcel Owners shall join in the application for such licenses, permits, approvals and authorizations whenever such action is necessary, and the Parcel Owner performing the alteration covenants that such other Parcel Owners and Common Facilities Manager will not suffer, sustain or incur any cost, expense or liability or other Losses by reason thereof and agrees to indemnify and hold harmless each of them against any such Losses.
- (d) At all times during the performance of any alteration (including during any removal, installation, construction, inspection, maintenance, repair and/or replacement of any equipment, facilities or other improvements), the Parcel Owner performing such alteration shall coordinate and stage all work with Common Facilities Manager (and, if the alteration requires access to or affects areas or facilities that benefit another Parcel, the Owner of such Parcel) to minimize, as much as reasonably possible, impact and disruption on the other Parcels and the Common Facilities, including without limitation vehicular and pedestrian access and traffic, the use and enjoyment thereof and the conduct of any business thereon.

- (e) The Parcel Owner performing the alteration shall be solely responsible for all costs incurred in connection with such alteration, such as an increase in costs of trash removal due to the work.
- (f) To the extent any alteration requires plans or plans have otherwise been prepared, the Parcel Owner performing such alteration shall provide copies of the as-built plans to Common Facilities Manager (and, if the alteration affects areas or facilities located in or that benefit another Parcel, the Owner of such Parcel).
- (g) With respect to any alterations that affect the Master Life Safety Systems, Surface Water Management System, Environmental Protection Plan and/or any other Common Facilities, the approval of Common Facilities Manager shall be required as to the means and method for performing such alterations in addition to all other requirements hereunder.
- (h) All costs associated with any alteration hereunder shall be promptly and fully paid for by the Parcel Owner performing same. Without limiting the foregoing, no Owner shall permit any liens to attach to another Parcel or the Common Facilities as a result of its work and the Owner performing the alteration shall either bond over or pay and discharge any lien so attaching within twenty (20) days after the earlier of notice of the lien or demand by the Owner of such other Parcel or Common Facilities Manager. Any Parcel Owner whose act or omission forms the basis for a lien on another Parcel shall indemnify and save the Owner of such Parcel and Common Facilities Manager harmless from and against any and all Losses resulting therefrom. If a Parcel Owner shall fail to obtain within such twenty (20) day period the requisite release of any lien claim, then Common Facilities Manager (or the Owner of the liened Parcel, if Common Facilities Manager does not pursue same) may, at its option, secure the release of the lien claim by any means available, including bonding or settlement, whereupon the defaulting Parcel Owner shall, within ten (10) days after demand, reimburse Common Facilities Manager or the other Parcel Owner, as applicable, for the latter's costs and expenses incurred in securing the lien release, including reasonable attorneys' fees. Interest shall accrue on the amount of any such reimbursement obligation not paid within ten (10) days after demand at the Default Rate. Notices by any party under this paragraph shall be provided to Common Facilities Manager, the Owner performing the alteration and any Owner of a liened Parcel.
- (i) The Parcel Owner performing the alteration shall be solely liable for all costs and expenses, and any Losses, incurred, caused or occasioned by its acts or omissions, the acts or omissions of its Permitted Users, as well as the acts or omissions of its contractors, service providers, agents and representatives who cause any damage to any other Parcel (or any portion thereof), and shall indemnify and hold the Owner of such damaged Parcel, Common Facilities Manager and Declarant and its and their respective directors, officers, employees, contractors, agents or affiliates, harmless from and against any and all Losses in any way whatsoever connected with the alteration contemplated herein.
- (j) In addition to the foregoing, Common Facilities Manager shall have the right to establish non-discriminatory rules and restrictions on any and all persons performing alterations with respect to any Parcel, including, without limitation, restricting the hours during which construction and/or repair work may be performed, restricting access of contractors to certain areas, and requiring a security deposit or other collateral to protect against

damage to the Common Facilities or any Structure that may be caused during such work, which rules and regulations may be modified from time to time. Such rules may also establish procedures and standards for the submission and review of any matter that requires Common Facilities Manager's approval, and for inspection and final approval any completed work pursuant to an approval of Common Facilities Manager hereunder. In addition, in order to assure that all work by any Owner is performed to the Project Standard, each Parcel Owner agrees to contract with Common Facilities Manager and/or a vendor or contractor first approved by Common Facilities Manager to perform any alteration hereunder.

5.4 Review of Alterations. Each Owner desiring to make any alterations for which approval of Common Facilities Manager must be obtained shall submit all plans and specifications for the proposed alteration to Common Facilities Manager. Common Facilities Manager may condition its approval as it deems appropriate, and may require submission of additional plans and specifications (or more detailed plans and specifications) and/or other information prior to approving or disapproving the material submitted. Review of any plans and specifications relating to alterations and any other activities of Common Facilities Manager in connection with any Owner's alterations shall be solely and exclusively for Common Facilities Manager's benefit. No person shall, under any circumstances, be a beneficiary of Common Facilities Managers' requirements hereunder. Common Facilities Manager may freely waive any of its requirements hereunder at any time if, in Common Facilities Manager's sole discretion, it desires to do so. In particular, but without limitation, Common Facilities Manager makes no representations and assumes no obligations to any Owners or any other party concerning the quality of the construction of any alterations. In addition, the Common Facilities Manager shall not be liable to any Owner or its Permitted Users or any third parties for any Losses suffered or claimed by any other Owner or its Permitted Users or any other party on account of any defects in such plans, or the failure of such plans or the alterations to comply with any Legal Requirements. Any approval tendered by Common Facilities Manager shall under all circumstances be interpreted in a manner consistent with this limitation of Common Facilities Manager's liability. Each Owner shall promptly upon request therefor reimburse Common Facilities Manager for the amount of all reasonable fees and expenses incurred by it (including without limitation reasonable attorneys' fees and expenses and reasonable architects' and engineers' fees and expenses) in connection with Common Facilities Manager's response to any requested approval of any proposed alterations.

5.5 Limited Common Facilities. The Owner of a Burdened Parcel shall not make alterations to Limited Common Facilities within such Burdened Parcel, or to such Burdened Parcel that would impede in any material way the Benefitted Unit Owner's use of such Limited Common Facilities or the benefits afforded by them, without the prior written consent of the Owner of the Benefitted Parcel served thereby, which consent shall not be unreasonably withheld. The Owner of a Benefitted Parcel shall not make alterations to Limited Common Facilities serving it that would have a material adverse effect (as described in Section 5.2(f)) on the Burdened Parcel in which such facilities are located with the consent of the Owner of such Burdened Parcel, which shall not be unreasonably withheld.

6. MAINTENANCE OF STRUCTURES, PARCELS AND OTHER FACILITIES

6.1 Maintenance of Common Facilities. Subject to the other provisions hereof, Common Facilities Manager shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Facilities and, to the extent not otherwise provided for,

the paving, water and sanitary sewer facilities, drainage systems, landscaping, improvements and other systems and structures situated on or comprising the Common Facilities, if any, all such work to be done as ordered by Common Facilities Manager. All work pursuant to this Section, and all expenses incurred by Common Facilities Manager pursuant to this Declaration (with respect to the Common Facilities or otherwise), and all expenses allocated to the Common Facilities Parcel or incurred by the Common Facilities Parcel Owner with respect to the Common Facilities Parcel, shall be paid and/or reimbursed to the Common Facilities Manager through Assessments (either general or special) imposed in accordance herewith, provided that if repair or replacement of any Common Facilities is due to damage caused by a particular Parcel Owner or any Unit Owner in such Parcel (or its or their Permitted Users), the cost thereof shall be paid solely by such Parcel Owner. Common Facilities Manager shall have the power to incur, by way of contract or otherwise, expenses general to all or applicable portions of The Properties, or appropriate portions thereof, and Common Facilities Manager shall then have the power to allocate portions of such expenses among the Parcel Owners and/or the Parcel Specific Managers, based on such formula as may be adopted by Common Facilities Manager or as otherwise provided in this Declaration or any Supplemental Declaration. The portion so allocated to a Parcel Specific Manager shall be deemed a general expense thereof, collectible through its own assessments. No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Facilities or abandonment of the right to use the Common Facilities.

6.2 Maintenance Generally. Notwithstanding anything contained in this Declaration to the contrary, the following general provisions shall govern with respect to maintenance obligations under this Declaration:

- (a) All maintenance obligations must be undertaken by the party responsible therefor in such a manner to assure (at a minimum) that the portions being maintained are consistent with the general appearance of The Properties as initially constructed and otherwise improved (and with respect to Structures and other exterior improvements, taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness), and otherwise in accordance with the Project Standard and in compliance with all Legal Requirements and the terms and conditions of the Project Encumbrances (where applicable).
- (b) With respect to the maintenance obligations of the Parcel Owners or any Responsible Party set forth in this Declaration, and to assure that the maintenance is performed to the Project Standard (or such higher standard as may be required hereunder), each Owner of a Parcel and Responsible Party agrees (i) to contract with Common Facilities Manager and/or a vendor first approved by Common Facilities Manager to perform such maintenance (i.e., no vendor shall be used by any Owner to perform maintenance work hereunder unless such vendor is pre-approved by Common Facilities Manager), and (ii) to perform all maintenance and repairs to the Parcels in accordance with the Construction Practices.
- (c) Common Facilities Manager shall have the right to delegate responsibility for the portions of project-wide Common Facilities (such as, by way of example and not limitation, the Surface Water Management System, the Environmental Protection Plan, landscaping, signage, and the like) located within any Parcel to the Owner of such Parcel, at such Owner's cost and expense, or another Responsible Party, whereupon Common Facilities Costs shall be reasonably adjusted.

6.3 Maintenance of Developed Parcels. The Owner of each Parcel shall, at such Owner's cost and expense, maintain all interior and exterior portions of such Parcel and the Structures located thereon, including without limitation the structural portions thereof and all exterior surfaces and roofs, facias and soffits of such Structures and all other improvements located on its Parcel (including driveway and sidewalk surfaces, but expressly excluding the Common Facilities and other portions of The Properties designated to be maintained by Common Facilities Manager or another Responsible Party under this Declaration), in a neat, orderly and attractive manner consistent with the Project Standard and the requirements of this Declaration. Each Parcel Owner shall clean, repaint or restain, as appropriate, the exterior portions of each Structure required to be maintained by it hereunder as often as necessary to comply with the standards required herein. As to any terrace, balcony or patio included in a Parcel (and not part of the Common Facilities) and/or subject to exclusive use by any Parcel Owner or Unit Owner (as applicable), the applicable Owner or Unit Owner shall have exclusive use of same (subject to the rights of Common Facilities Manager, if any, elsewhere provided herein), and the applicable Owner or Unit Owner shall be liable for the cleaning, maintenance, repair and upkeep of same, all in accordance with this Section. In addition, as to any windows and glass doors bounding a Parcel or Unit (as applicable), together with all hardware, framing and/or sealing of same, the applicable Owner or Unit Owner shall be liable for the routine repair and upkeep (as opposed to Common Facilities Manager) as necessary to maintain same in good working order and in accordance with the Project Standard. With respect to any Parcel that has amenities areas (such as, by way of example and not limitation, swimming pools and spa areas, pool decks, shade decks, sun decks and related amenity areas within any Residential Parcel or Hotel Parcel, courtyards included within any Office Parcel, etc.), the Owner of such Parcel (which, in the case of any Parcel submitted to condominium, cooperative or another collective form of ownership, shall mean the Parcel Specific Manager for such Parcel) shall be responsible for the maintenance, repair, cleaning and upkeep of same, at such Owner's cost and expense. Without limiting the foregoing, such Owner shall be directly responsible for, at such Owner's cost and expense, the following within such amenities areas: (i) the chemical treatment of the water of the pool(s) and spa(s), (ii) the maintenance, repair and/or replacement of the pool pump and all other mechanical equipment serving pool(s) and spa(s), (iii) the general cleaning and skimming of the pool(s) and spa(s), (iv) the maintenance, repair and/or replacement of the surface and/or finish of such amenities areas, whether same requires repainting, re-marqueting, re-tiling or otherwise, and (v) any costs resulting from the existence of such amenities areas (which would not otherwise need to be incurred if such areas were not installed appurtenant to such Parcel). The Owner of a Parcel that has appurtenant amenities areas shall be liable for any Losses which may result from the existence of same, be it Losses to property and/or injury or death to persons, and shall indemnify and hold Common Facilities Manager and Declarant and its and their respective directors, officers, employees, contractors, agents or affiliates harmless from and against any and all Losses whatsoever connected with any such amenities areas or similar improvements as contemplated herein.

6.4 Landscaping. Common Facilities Manager shall maintain and irrigate, and replace when necessary, the trees, shrubbery, grass and other landscaping included in the Common Facilities, including without limitation landscaping around and/or serving any exterior portion of The Properties and exterior landscaping on any Parcel that is part of the project-wide landscaping scheme, in a neat, orderly and attractive manner and consistent with the general appearance of The Properties as a whole and the Project Standard. Each Owner of a Parcel shall be responsible for maintenance, irrigation and/or replacement of landscaping that is not part of the project-wide landscaping scheme within its Parcel and/or any amenities areas within its Parcel, at such Owner's cost and expense. In addition to the other requirements herein, landscaping shall be maintained by

any party hereunder consistent with the general appearance of The Properties as initially landscaped (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained). A proportionate share of the costs of any trees, shrubbery, grass and other landscaping incurred by Common Facilities Manager hereunder shall be assessed against each Parcel as more particularly described in Article 17.

- 6.5 Exterior Project Lighting. Common Facilities Manager shall be responsible for the operation, maintenance, repair and replacement of all exterior project lighting and all street or exterior lighting fixtures, installations and equipment serving or part of the Common Facilities (solely or primarily) and/or which are part of an exterior lighting scheme applicable to more than one Parcel within Dania Pointe, even if same are located within a Parcel other than the Common Facilities Parcel or the common areas/elements owned or administered by the Owner thereof or Parcel Specific Manager therefor (and said fixtures, installations and equipment shall be deemed Common Facilities for the aforesaid purposes). In the event of doubt as to whether any particular street or exterior lighting serves or is part of the Common Facilities solely or primarily, or is part of an exterior lighting scheme applicable to more than one Parcel within Dania Pointe, the decision of Common Facilities Manager in such regard shall be final and conclusive. No Parcel Owner (or Unit Owner), shall make any change or modification to any exterior project lighting fixtures, installations and equipment serving or part of the Common Facilities (solely or primarily) and/or which are part of an exterior lighting scheme applicable to more than one Parcel within Dania Pointe, or any change and/or modification which may affect the exterior project lighting scheme. Notwithstanding the foregoing, in the event that any Owner and/or Parcel Specific Manager requests Common Facilities Manager to maintain, repair or replace any street or exterior lighting fixtures, installations or equipment which would not otherwise fall under Common Facilities Manager's responsibilities hereunder, then Common Facilities Manager may (in its sole discretion) do so as long as all costs and expenses thereof are paid by the requesting Owner and/or Parcel Specific Manager. Charges for electricity used by street or exterior lights billed to (a) a Parcel (other than the Common Facilities Parcel) shall be paid by the Owner thereof or Parcel Specific Manager therefor (as applicable), and (b) the Common Facilities Parcel or Common Facilities Manager shall be part of the Assessments charged to Owners by Common Facilities Manager. Each Owner of a Parcel agrees to comply with the lighting criteria and requirements adopted by Common Facilities Manager with respect to interior lighting within any Parcel that is visible from the exterior of The Properties, which criteria and requirements are designed or intended to preserve a consistent and uniform appearance relative to lighting at Dania Pointe, provided that no Owner of a Parcel shall be required to replace lighting previously installed in its Parcel in compliance with the terms of this Declaration and/or any approvals by Declarant and/or Common Facilities Manager hereunder in order to comply with the foregoing covenant.
- 6.6 Water, Sewer and Drainage Facilities. The maintenance obligations of Common Facilities Manager shall include, without limitation, (a) the duty and obligation to operate and maintain any portion of the private water and sanitary sewer facilities (regardless of where located within The Properties) serving the Common Facilities Parcel and/or more than one Parcel in accordance with the Project Encumbrances, the requirements of the Water and Sewer Department for the County and any other applicable Governmental Authority, and (b) the duty and obligation to (i) develop, construct, install, operate, maintain and replace any portion of the Surface Water Management System (regardless of where located within The Properties) in accordance with any and all permit(s) issued by the FDEP, SFWMD, the County and/or any other applicable water management district and the Project Encumbrances (as applicable), (ii) carry out, maintain and

monitor any ongoing maintenance and/or monitoring requirements associated with the Surface Water Management System under the Project Encumbrances or otherwise, and (iii) maintain copies of all permitting actions and other documentation with regard to same. Upon request, each Parcel Owner shall join in and consent to any applications, licenses, permits, approvals and/or authorizations whenever such action is necessary or desirable to facilitate or otherwise enable Common Facilities Manager to effectuate its responsibilities hereunder with respect to, and otherwise implement, the Surface Water Management System. Without limiting the foregoing, each Parcel Owner will promptly (and without delay) consent to the installation of the Surface Water Management System within its Parcel if required to do so under any of the Project Encumbrances.

- 6.7 Environmental Protection Plan. The maintenance obligations of Common Facilities Manager shall also include, without limitation, [*insert description of maintenance obligations with respect to the Environmental Protection Plan*], including the duty and obligation to (i) carry out, maintain and monitor any ongoing maintenance and/or monitoring requirements associated with the Environmental Protection Plan, and (ii) maintain copies of all permitting actions and other documentation with regard to same. Upon request, each Parcel Owner shall join in and consent to any instruments and covenants that contain institutional controls, engineering controls, restrictions, covenants and/or other limitations or instruments with respect to the environmental condition of The Properties or any portion thereof that may be desirable and/or required by the Environmental Protection Plan or any Environmental Laws or Governmental Authority, which instruments shall be recorded by Common Facilities Manager against all of The Properties or the applicable portion thereof and, once recorded, shall be deemed Project Encumbrances. Without limiting the foregoing, each Parcel Owner will promptly (and without delay) consent to the installation of any equipment or facilities necessary or related to the satisfaction, furtherance, performance or compliance of or with the Environmental Protection Plan within its Parcel if required to do so under any of the Project Encumbrances.
- 6.8 Maintenance to retain LEED Certification. If and to the extent it is determined by Common Facilities Manager, in its discretion, that Dania Pointe will achieve (and, if achieved, maintain) a particular level of LEED certification or other energy or environmental design rating, all maintenance, repair and replacement shall be performed, undertaken or obtained, as applicable, to the standards required to maintain and retain the applicable LEED certification or such other energy or environmental design rating.
- 6.9 Maintenance of Limited Common Facilities. The Limited Common Facilities shall be maintained, repaired and replaced by Common Facilities Manager, unless Common Facilities Manager designates another Responsible Party with such responsibility (pursuant to a Supplemental Declaration or otherwise), in which event such Responsible Party shall be responsible for the maintenance, repair and replacement of the applicable Limited Common Facilities (as and to the extent so designated by Common Facilities Manager). In such event, unless otherwise specified by Common Facilities Manager, the Responsible Party shall have all of the rights, obligations and responsibilities with respect to the applicable Limited Common Facilities (including operational and administrative responsibilities) as the Common Facilities Manager has under this Declaration with respect to Common Facilities, including without limitation the right to levy Assessments to pay for the cost thereof and to impose liens upon failure to pay, provided that such Assessments shall be levied against the Benefitted Parcels served by the Limited Common Facilities rather than all Parcels. In order to accommodate the foregoing, Declarant has reserved and granted the easements set forth in Section 4.8 in favor of all future Responsible Parties (and their respective designees). All maintenance, repairs and replacements by a Responsible Party shall be

undertaken in accordance with the requirements imposed under this Declaration on Common Facilities Manager with respect to Common Facilities, the Construction Practices, the Project Encumbrances (where applicable) and otherwise in such a manner and as frequently as necessary to insure that the Limited Common Facilities being maintained by the Responsible Party are and remain consistent with the Project Standard.

- 6.10 Maintenance of Undeveloped Land. *[Discuss/Insert Kimco's maintenance requirements for Undeveloped Land, which consists of (i) vacant land, and (ii) land containing existing improvements.]*
- 6.11 Maintenance of Land Under Construction. *[Discuss/insert Kimco's maintenance requirements for Land under Construction (e.g., fencing, storage of materials, security, etc.)]*
- 6.12 Right of Entry. In addition to such other remedies as may be available under this Declaration, in the event that an Owner fails to maintain a Structure or Parcel as required hereby, Common Facilities Manager shall have the right to enter upon the Parcel in question and perform such duties; provided, however, that other than in the event of an emergency (in which case no notice is required, though notice shall be provided within a reasonable time following an emergency), such entry shall be during reasonable hours and only after five (5) business days' prior written notice (or such longer time as may reasonably be required to effect such repair to the extent that said curative activity cannot reasonably be completed within such five (5) business day period). The Owner having failed to perform its maintenance duties shall be liable to Common Facilities Manager for the costs of performing such remedial work and shall pay a surcharge of not more than twenty-five percent (25%) of the cost of the applicable remedial work, all such sums being payable upon demand and to be secured by the lien provided for in Article 17 hereof. Without limiting the generality of the foregoing, Common Facilities Manager shall have all of the same rights to bring an action at law against the Owner having failed to perform its maintenance duties, to record a claim of lien against such Owner's Parcel, to foreclose such lien, and/or to exercise any and all other remedies under this Declaration or applicable law or Legal Requirements, as are available to Common Facilities Manager with respect to an Owner's failure to pay any Assessments under Article 17 hereof. No bids need be obtained for any of the work performed pursuant to this Section and the person(s) or company performing such work may be selected by Common Facilities Manager in its sole discretion. There is hereby created an easement in favor of Common Facilities Manager, and its applicable designees, over each Parcel for the purpose of entering onto the Parcel in the performance of the work herein described, provided that the notice requirements of this Section are complied with.

7. PARKING, SIGNS AND ROOFS

- 7.1 Parking. All parking areas located within a Parcel and owned by a Parcel Owner shall be for the exclusive use of such Parcel Owner (including any Unit Owner and its or their Permitted Users), unless designated as Common Facilities in this Declaration or a Supplemental Declaration or on the Common Facilities Plans and except as otherwise expressly provided herein. All other parking areas within The Properties (and any parking areas located within a Parcel but designated as part of the Common Facilities in this Declaration or a Supplemental Declaration or on the Common Facilities Plans) are deemed part of and included within the Common Facilities. All such parking that is part of the Common Facilities shall be on an unassigned, first-come first-serve basis, unless otherwise determined by Common Facilities Manager, and shall be subject to all of the terms and conditions of this Section and any rules and regulations promulgated by Common Facilities

Manager. Declarant, as the initial Common Facilities Manager (and, thereafter, Common Facilities Manager), shall have, and hereby reserves unto Common Facilities Manager, the right at any time, and from time to time, to grant to specific Parcels, Structures, Units or any Parcel Specific Manager, the right to use one or more of any parking spaces or areas located within the Common Facilities (and once granted or designated, same shall be deemed Limited Common Facilities of the Parcels and/or Unit to which assigned until such time as such grant or designation may be withdrawn). Nothing herein shall obligate Declarant or Common Facilities Manager (as applicable) to make any such grant, whether to a particular Parcel or Unit (or any portion thereof) and there is no assurance that any such grant will be made. A grant with respect to any such parking spaces or areas shall be made by Declarant or Common Facilities Manager (as applicable) by written agreement (which may be recorded Supplemental Declaration or by an assignment, easement, license or other form of instrument that may, but is not required to be, recorded). Any such grant vests in the Owner of the applicable Parcel, Unit or Parcel Specific Manager, as appropriate, the right (which may be exclusive or nonexclusive) to use such spaces and/or areas, subject to the terms and conditions of such written agreement (including without limitation cost-sharing agreements) and this Declaration. Unless otherwise noted on the form of agreement with respect to certain parking spaces or areas, such right to use shall pass with title to such Parcel or Unit, whether or not specifically stated. A parking space designated hereunder may be relocated at any time, and from time to time, by Common Facilities Manager to comply with applicable Legal Requirements regarding or affecting handicap accessibility. All fees collected by Declarant or Common Facilities Manager for granting or designating spaces, if any, shall be retained by Declarant or Common Facilities Manager (as applicable) and shall not constitute income or revenue of any other Owner (and/or be utilized to offset any Common Facilities Costs). Notwithstanding the designation of certain parking areas as part of the Common Facilities or anything to the contrary contained in this Declaration, no person, other than the Common Facilities Parcel Owner, shall have any use rights in and to the parking areas within the Common Facilities Parcel, unless expressly granted such use rights, in writing, by the Common Facilities Parcel Owner. By recordation of this Declaration, Declarant, as Declarant and the initial Common Facilities Manager, hereby declares the following:

- (a) The parking spaces within the portion of The Properties depicted on the sketch attached hereto as Exhibit "___" are hereby dedicated and reserved for the exclusive use of the _____ Parcel.
- (b) The parking spaces within the portion of The Properties depicted on the sketch attached hereto as Exhibit "___" are hereby dedicated and reserved for the exclusive use of the _____ Parcel.

Except for the above-stated _____ and _____ Parcels, each other Parcel shall have exclusive use of parking spaces or areas within the Common Facilities only if, and only to the extent, the Owner thereof first reaches a written agreement with Declarant or Common Facilities Owner as hereinabove provided. All parking areas within Dania Pointe shall be used and operated in accordance with applicable Legal Requirements. Common Facilities Manager is hereby empowered to establish parking regulations consistent with the Project Standard for all of the parking areas of The Properties (whether or not included in the Common Facilities) and may make provision for the involuntary removal of any violating vehicle at the expense of the applicable Parcel Owner.

7.2 Signs. Declarant hereby reserves and grants to Common Facilities Manager the exclusive right to regulate and approve the placement, installation, alteration and replacement of any signage (including without limitation pylons, monument signs, billboards, murals, digital displays and other signage) visible from the exterior of any Parcel (including signage on the exterior façade of any Structure) or on the Common Facilities within The Properties, all as Common Facilities Manager may deem necessary, desirable or acceptable from time to time, without requiring approval from any Owner, except with respect to signage visible from the exterior of any Parcel (including on exterior facades of any Structure on such Parcel), the approval of the Owner of such Parcel shall also be required. All such signage shall be subject to and comply with Legal Requirements, the Project Standard, signage criteria adopted from time to time by Common Facilities Manager for Dania Pointe (or the applicable Parcel Owner with respect to its Parcel), and such rules and regulations as may be established from time to time by Common Facilities Manager. No Owner of a Parcel shall place or install any signage within any other Parcel without the prior written consent of the Owner of the Burdened Parcel and Common Facilities Manager, whereupon such signage shall be deemed part of the Limited Common Facilities of the Benefitted Parcel. Once such signage has been approved by the Owner of the Burdened Parcel and Common Facilities Manager as hereinabove provided, the Owner of the Benefitted Parcel shall have the right and obligation to access, maintain, repair and replace such signage as part of the Limited Common Facilities hereunder; subject, however, to any conditions of such approval or other agreements regarding same. Notwithstanding the foregoing, Common Facilities Manager shall have the right to install directional signage as part of the project-wide directional, wayfinding and/or other internal signage system and other project identification signage on the exterior façade of Structures on and/or within the public areas of any individual Parcel; provided, however, that such signage shall not unreasonably interfere with the operations of the affected Parcel and shall be consistent with the Project Standard.

7.3 Use of Roofs. Declarant hereby reserves and grants to Common Facilities Manager the exclusive right to regulate and approve the use of the roof surfaces and/or the placement or installation of any structures, facilities or improvements on the roof of any Structure within The Properties, including without limitation signs or antennas, dishes or any other receiving, transmitting, monitoring and/or other equipment or facilities of any kind or nature, all as Common Facilities Manager may deem necessary, desirable or acceptable from time to time, without requiring approval from any Owner (except for the approval of the Owner of such Structure shall also be required). Any such rooftop installations shall be subject to and comply with Legal Requirements, the Project Standard and such rules and regulations as may be established from time to time by Common Facilities Manager (and the applicable Parcel Owner with respect to the Structure(s) on its Parcel). Any consideration paid or received for such rooftop installations shall be the sole property of the Owner of the Structure upon which same have been installed. Expenses incurred by Common Facilities Manager in connection the use of the roof shall be borne by the Parcel Owner benefitted by such use, provided that if such use benefits more than one Parcel, then such expenses shall be included in Common Facilities Costs or allocated to the Parcels so served as reasonably determined by Common Facilities Manager. To the extent services are provided to any Parcel (or portion thereof) or Unit within a Parcel from rooftop facilities or equipment (such as antennas or dishes providing telecommunications services), such Parcel or Unit shall be responsible for the charges therefor, unless same are billed to Common Facilities Manager, in which case Common Facilities Manager shall allocate to or among the Parcels in the same manner as other expenses incurred by Common Facilities Manager under this Section.

8. USE RESTRICTIONS GENERALLY

- 8.1 Applicability. Except as expressly provided herein, the provisions of this Article 8 shall be applicable to all of The Properties but shall not be applicable to Declarant, the Common Facilities Parcel Owner, Common Facilities Manager or any of its or their designees, or to Parcels or other property owned by Declarant, the Common Facilities Parcel Owner or its or their designees. The provisions of this Article 8 that are limited to specific types of Parcels (i.e., Retail Parcels, Residential Parcels, Office Parcels and Hotel Parcels), shall be applicable to such Parcels and shall not apply to any other Parcels.
- 8.2 Uses of Parcels and Structures. All Parcels and Structures shall be used for the general purposes for which they are designed and intended and at all times used, operated and maintained in accordance with applicable zoning and other requirements, conditions and restrictions applicable to same (including, without limitation, the Development Guidelines and the provisions of any Parcel Specific Development Documents and any deed or lease of the Parcel/Structure from Declarant, as same may be amended from time to time). Notwithstanding anything herein contained to the contrary, the name of the Parcel is assigned only for convenience of reference, and is not intended, nor shall it be deemed to limit or otherwise restrict, the permitted uses thereof.
- 8.3 Nuisances and Noise. Nothing shall be done or maintained on any Parcel which may be or become an annoyance or nuisance to the occupants of other Parcels. Any activity on a Parcel which interferes with television, cable or radio reception on another Parcel shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to Common Facilities Manager, who shall render a decision in writing, which decision shall be dispositive of such dispute or question. Notwithstanding anything herein contained to the contrary, each Owner, by acceptance of a deed or other conveyance of any portion of The Properties, shall be deemed to understand and agree that Dania Pointe (and the Parcels within it) is an active urban environment and is intended to include (without creating any obligation) retail, restaurants, entertainment, hotel, office and other operations that will likely attract a broad and diverse base from among the public. It is hereby confirmed generally that any and all activities typical of such an urban environment or in any way related to any and all such operations, including any associated noise, traffic congestion, vibrations and/or other inconveniences, shall not be deemed a nuisance hereunder. There are various existing buildings and potential building sites that are contemplated within, and/or nearby to, Dania Pointe. As such, Owners and their Permitted Users will be affected by construction noise during the construction of Dania Pointe and/or other noise that exists in urban environments (including, but not limited to, vehicle and traffic noise (including loading and unloading of trucks), construction noise from other buildings or building sites, sirens and horns, noise from nightclubs, festivals or other gatherings, loud music, mechanical noise from the Structures within or neighboring The Properties, and/or aircraft noise). Other operations at The Properties, such as restaurants, cafes, bakeries and/or other food service operations from Retail Parcels, Hotel Parcels and/or other portions of The Properties, may result in the creation of odors which may affect all portions of The Properties. By acquiring any portion of The Properties, each Owner, for such Owner and its Tenants and other Permitted Users, and its and their successors and/or assigns, agrees (i) that none of the foregoing noises or operations during the day or at night shall be deemed a nuisance hereunder, (ii) not to object to any of the foregoing noises or operations or any other operations associated with the Parcels, and (iii) to release Declarant and Common Facilities Manager and their respective affiliates from any and all claims for damages, liabilities and/or losses

suffered as a result of the existence of the operations from the various Parcels, and the noises, inconveniences and disruption resulting therefrom.

- 8.4 Utilities. Use of the Common Facilities for utilities, as well as use of the other utility easements affecting The Properties as shown on relevant plats or by separate recorded instruments, shall be in accordance with the applicable provisions of this Declaration and said plats or recorded instruments. Except for temporary lines and poles created during construction, repair or reconstruction of Structures and other improvements, all existing and new permanent utility service shall be installed underground unless otherwise required by Legal Requirements or approved by Common Facilities Manager. Notwithstanding anything herein to the contrary, access to and use of FPL Vault Rooms within The Properties shall be subject to any and all limitations, restrictions or requirements of Florida Power & Light Company (and its successors and assigns) pursuant to any recorded instruments, policies of the utility company or otherwise.
- 8.5 Parking and Vehicular Restrictions. Parking in or on the Common Facilities shall be restricted to the parking areas therein designated for such purpose. Except only as may be expressly permitted by Common Facilities Manager, no person shall park, store or keep on any portion of the Common Facilities any large commercial type vehicle (for example, dump truck, motor home, trailer, cement mixer truck, oil or gas truck, delivery truck), nor may any person keep any other vehicle on the Common Facilities which is deemed to be a nuisance by Common Facilities Manager. No trailer, camper, motor home or recreation vehicle shall be used as a residence, either temporarily or permanently, or parked on the Common Facilities. Except only as may be expressly permitted by Common Facilities Manager, no person shall conduct major repairs (except in an emergency) or major restorations of any motor vehicle, boat, trailer, or other vehicle upon any portion of the Common Facilities. All vehicles will be subject to height, width and length restrictions and other rules and regulations now or hereafter adopted by Common Facilities Manager. The foregoing restrictions shall apply to the Common Facilities only; it being understood that the parking and vehicular restrictions with respect to any parking areas or facilities within any Parcel shall be subject to such rules and regulations as may be established from time to time by the Owner of such Parcel, which may include limitations or prohibitions on the use of such areas or facilities by persons or parties other than Owners or Unit Owners and their respective Permitted Users.
- 8.6 Mechanical Equipment. All mechanical equipment placed on any roof or outside of any Structure, including without limitation telecommunications equipment (including antennas, satellite dishes and other broadcasting devices), air conditioning, heating and ventilating equipment, generators and other mechanical equipment shall be screened from view so that mechanical equipment will not be exposed to public view from surrounding properties or adjacent thoroughfares.
- 8.7 Master Life Safety Systems. No Owner shall make any additions, alterations or improvements to the Master Life Safety Systems, and/or to any other portion of The Properties which may impair the Master Life Safety Systems or access to the Master Life Safety Systems, without first receiving the prior written approval of Common Facilities Manager.
- 8.8 Project-Wide Systems. No Owner shall interfere with, or make any additions, alterations or improvements to, the Surface Water Management System, the Environmental Protection Plan (or any areas or facilities subject thereto or affected thereby), and/or any other portion of The Properties which may impair the Surface Water Management System or Environmental Protection Plan or any access thereto, without first receiving the prior written approval of Common Facilities Manager.

- 8.9 Landscaping. Landscape, design and materials, shall be in conformance with Legal Requirements, the Project Standard, landscape plans applicable to The Properties and landscaping criteria adopted from time to time by Common Facilities Manager for Dania Pointe, and such rules and regulations as may be established from time to time by Common Facilities Manager.
- 8.10 Animal Restriction. No pets, livestock, reptiles or poultry of any kind shall be raised, bred, or kept on or in any portion of The Properties. Domesticated dogs and/or cats may be maintained on The Properties provided such pets: (a) are permitted to be so kept by applicable Legal Requirements, (b) are not left unattended on balconies or in lanai areas, (c) generally, are not a nuisance to residents of other Parcels or of neighboring buildings and (d) are not a breed considered to be dangerous by Common Facilities Manager, in its sole discretion; provided, however, that (i) Common Facilities Manager shall not be liable for any personal injury, death or property damage resulting from a violation of the foregoing or the existence of pets on The Properties in general, (ii) any Owner or occupant who keeps or maintains a pet within The Properties shall fully indemnify and hold harmless Common Facilities Manager, Declarant and all other Owners and their respective affiliates, from and against any and all Losses whatsoever arising by reason of keeping or maintaining such pet within The Properties, and (iii) pets (including domesticated dogs and/or cats) may not be maintained on any Parcel if precluded by the Owner of such Parcel or any Parcel-specific rules or regulations. Any landscaping damage or other damage to the Common Facilities or any other portion of The Properties caused by a pet must be promptly repaired by the pet's owner. Common Facilities Manager retains the right to effect said repairs and charge the Owner therefor.
- 8.11 Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted on the Common Facilities, except in those areas expressly designed for same or as otherwise approved by Common Facilities Manager, and no odor shall be permitted to arise therefrom so as to render the Common Facilities or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Rubbish, trash, garbage or other waste materials within the Parcels shall be maintained in secure areas not visible to the public. Trash receptacles located in public areas of any Parcel intended for public use shall be kept and maintained in a neat, clean and sanitary condition, and shall be emptied as often as necessary to prevent same from becoming unsightly and/or unpleasant odors. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, except within an enclosed structure appropriately screened from view erected for that purpose, if any, and otherwise in accordance with the approval of Common Facilities Manager. All Owners and Tenants shall segregate and save for collection all recyclable refuse in accordance with Legal Requirements.
- 8.12 Temporary Structures. Except as may be used or permitted by Declarant or Common Facilities Manager during periods of construction or renovation, no structure of a temporary nature (including, without limitation, trailers, tents, shacks or mobile homes or offices) shall be located or used within The Properties except as may be approved by Common Facilities Manager.
- 8.13 Oil and Mining Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions.

- 8.14 Other Restrictions. *[Discuss/insert other general restrictions, if any.]*
- 8.15 Hurricane Evacuation Procedures. Upon notice of approaching hurricanes, all furniture, plants and other movable objects must be removed from any balconies, terraces and/or other outdoor areas. IN THE EVENT THAT AN EVACUATION ORDER IS ISSUED BY ANY APPLICABLE GOVERNMENTAL AGENCY, ALL OWNERS MUST PROMPTLY COMPLY WITH SAID ORDER. Common Facilities Manager shall have the right from time to time to establish hurricane preparedness and evacuation policies, and each Owner shall fully comply with same (and shall cause its Tenants and other Permitted Users to do so as well).
- 8.16 Declarant Exemption. In order that the development of The Properties may be undertaken and The Properties established as a fully occupied community, no Owner, nor any Parcel Specific Manager shall do anything to interfere with Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration shall be understood or construed to:
- (a) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of the development of The Properties and the Future Development Property, including without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development and/or enlargement (and in that regard, all models or sketches showing plans for future development of The Properties, as same may be expanded, may be modified by Declarant at any time and from time to time, without notice); or
 - (b) Prevent Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said development and establishing The Properties as a community and disposing of the same by sale, lease or otherwise; or
 - (c) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from conducting on any property owned or controlled by Declarant, or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements in The Properties and the Future Development Property and of disposing of Parcels and/or Structures therein by sale, lease or otherwise; or
 - (d) Prevent Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of improvements to be initially constructed as part of The Properties and/or on the Future Development Property; or
 - (e) Prevent Declarant, its successors or assigns or its or their contractors or subcontractors, from maintaining such sign or signs on any property owned or controlled by any of them as may be necessary in connection with the operation of any Parcels owned by Declarant (its successors or assigns) or the sale, lease or other marketing of Parcels and/or Structures, or otherwise from taking such other actions deemed appropriate; or

- (f) Prevent Declarant, or its successors or assigns from filing Supplemental Declarations which modify or amend this Declaration, or which add or withdraw additional property as otherwise provided in this Declaration; or
- (g) Prevent Declarant from subdividing any Parcel owned by it into more than one Parcel, or submitting any Parcel(s) owned by it (or any Parcel(s) created by such subdivision) and/or any improvements within any such Parcel(s) to the condominium or cooperative or other collective form of ownership; or
- (h) Prevent Declarant from modifying, changing, re-configuring, removing or otherwise altering any improvements located within The Properties.

In general, Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any matter with Declarant's plans for construction, development, use, sale or other disposition of The Properties and any Future Development Property, or any part thereof.

9. PROPERTY SPECIFIC USE RESTRICTIONS

9.1 Retail Parcels. The following restrictions apply to all Retail Parcels within The Properties:

(a) *[Insert restrictions applicable to Retail Parcels]*

9.2 Residential Parcels. The following restrictions apply to all Residential Parcels within The Properties:

(a) *[Insert restrictions applicable to Residential Parcels]*

9.3 Office Parcels. The following restrictions apply to all Office Parcels within The Properties:

(a) *[Insert restrictions applicable to Office Parcels]*

9.4 Hotel Parcels. The following restrictions apply to all Hotel Parcels within The Properties:

(a) *[Insert restrictions applicable to Hotel Parcels]*

9.5 Undeveloped Land. The following restrictions apply to all portions of The Properties that consist of Undeveloped Land:

(a) *[Insert restrictions applicable to Undeveloped Land]*

9.6 Land under Construction. The following restrictions apply to all portions of The Properties that consist of Land under Construction:

(a) *[Insert restrictions applicable to Land under Construction]*

10. COMMON FACILITIES MANAGER AND PARCEL SPECIFIC MANAGERS

10.1 Preamble. In order to ensure the orderly development, operation and maintenance of The Properties as a unified project, including the Parcels subject to the administration of Parcel Specific

Managers as integrated parts of The Properties, this Article has been promulgated for the purposes of (a) giving Common Facilities Manager certain powers to effectuate such goal, (b) providing for intended (but not guaranteed) economies of scale, (c) establishing the framework of the mechanism through which the foregoing may be accomplished, and (d) requiring special types of covenants to accurately reflect the maintenance and use of Parcels where certain types of improvements are constructed within The Properties. Nothing contained herein shall necessarily suggest that Declarant will or will not, in fact, construct particular types of improvements nor shall anything herein contained be deemed an obligation to do so.

- 10.2 Cumulative Effect; Conflict. The covenants, restrictions and provisions of this Declaration shall be cumulative with those of the Parcel Specific Declarations for Submitted Parcels and Common Facilities Manager may, but shall not be required to, enforce the latter; provided, however, that in the event of conflict between or among this Declaration and such Parcel Specific Declarations, or any articles of incorporation, bylaws, rules and regulations, policies or practices adopted or carried out pursuant thereto, those of the Parcel Specific Declarations shall be subject and subordinate to this Declaration. The priority of this Declaration shall apply, but not be limited to, the payment of and liens for assessments created in favor of Common Facilities Manager and the Parcel Specific Managers as provided for herein. As to any Parcel Specific Manager which is a condominium association, no duties of same hereunder shall be performed or assumed by Common Facilities Manager if same are required by applicable Legal Requirements to be performed by the Parcel Specific Manager.
- 10.3 Compliance with Declaration. Each Parcel Specific Manager shall:
- (a) include in its annual budget an aggregate annual amount sufficient to pay its allocated share of Common Facilities Costs under this Declaration as common expenses, and levy regular and special assessments against the Units in the Submitted Parcel sufficient to pay as and when due such aggregate annual amount of common expenses owed by it under this Declaration;
 - (b) levy special assessments against the Units in the Submitted Parcel sufficient to cover any other monetary obligation of the Parcel Specific Manager under this Declaration, including without limitation payment obligations under any indemnities, the obligation to pay Taxes, the cost of any required maintenance and repairs, the amount of any shortfall in insurance proceeds from a casualty or the award from a condemnation, reimbursement obligations after a default by the Parcel Specific Manager or Submitted Parcel and the like;
 - (c) comply with each and every obligation under this Declaration applicable to the Owner of its Parcel; and
 - (d) cause each Unit Owner to comply with the terms and conditions of this Declaration and the applicable Parcel Specific Declaration (to the extent not in conflict with the terms hereof), and take any and all action available to such Parcel Specific Manager under such Parcel Specific Declaration, at law and in equity (including without limitation an action for specific performance and seeking injunctive relief) to ensure that each such Unit Owner complies with the terms and conditions of this Declaration and such Parcel Specific Declaration (to the extent not in conflict with the terms hereof).

- 10.4 Collection of Assessments; Payment Priority. The Parcel Specific Managers shall, initially, collect all assessments and other sums due Common Facilities Manager and the applicable Parcel Specific Manager from the Unit Owners and/or other members of the Submitted Parcel. The Parcel Specific Manager will remit the assessments so collected to the respective payees pursuant to such procedures as may be adopted by Common Facilities Manager. The sums so collected shall be applied first to the assessments of Common Facilities Manager, and then to the assessments of the collecting Parcel Specific Manager. For the avoidance of doubt, any sums collected by a Parcel Specific Manager shall be applied in the foregoing order of priority irrespective of any other obligations or liabilities whatsoever of the Parcel Specific Manager.

Subject to the priority of disbursements of collected lump sums as provided above, all regular and special assessments, interest, late charges, recovered costs of collection and other extraordinary impositions shall be remitted to the respective entity imposing same separate and apart from the priorities established above. All fidelity bonds and insurance maintained by a Parcel Specific Manager shall reflect any duties performed by it pursuant hereto and the amounts to be received and disbursed by it and shall name Common Facilities Manager as an obligee/insured party for so long as its assessments are being collected and remitted by the Parcel Specific Manager. Common Facilities Manager may, from time to time by sixty (60) days' prior written notice to the affected Parcel Specific Manager(s), change the procedures set forth in this Section 10.4 in whole or in part. In the event of any change in assessment collection procedures elected to be made by Common Facilities Manager, the relative priorities of assessment remittances and liens (i.e., Common Facilities Manager first and the applicable Parcel Specific Manager last) shall nevertheless still remain in effect, as shall Common Facilities Manager's ability to modify or revoke its elections from time to time.

- 10.5 Additional Expense Allocations. In addition to the other expenses payable by Parcel Specific Managers hereunder, Common Facilities Manager may, by written notice given to the affected Parcel Specific Manager at least sixty (60) days prior to the end of the Parcel Specific Manager's fiscal year, allocate and assess to the Parcel Specific Manager a share of the expenses incurred by the Common Facilities Parcel Owner or Manager (as applicable) which are reasonably allocable to the Parcel Specific Manager and/or the portion of The Properties within its jurisdiction (e.g., for utilities which are billed to the Common Facilities Parcel Owner or Manager, but serve in certain instances, only a Submitted Parcel). In such event, the expenses so allocated shall thereafter be deemed common expenses of the Submitted Parcel payable by the Parcel Specific Manager (with assessments collected from the Unit Owners and/or other members of the Submitted Parcel) to Common Facilities Manager.
- 10.6 Non-Performance of Parcel Specific Manager Duties. The following provisions shall apply in the event of non-performance by a Parcel Specific Manager of its duties hereunder:
- (a) In the event of a failure of a Parcel Specific Manager to comply with any of its obligations hereunder, Common Facilities Manager shall have the same rights against the Parcel Specific Manager, any Unit Owners and/or other members of the Submitted Parcel, and its and their Permitted Users, as are available to Common Facilities Manager with respect to other Owners and their Permitted Users under this Declaration, including without limitation Article 11.
 - (b) In the event of a failure of a Parcel Specific Manager to budget or assess the Unit Owners or other members of the Submitted Parcel for expenses as provided under Sections 10.3

or 10.5, or to remit to Common Facilities Manager all amounts collected by it for payment of such Parcel Specific Manager's Assessments, then, in addition to (and without waiving) any other right or remedy available to Common Facilities Manager under this Declaration, at law or in equity, Common Facilities Manager shall be entitled to pursue and specially assess the Unit Owners or other members of the Parcel Specific Manager and their Units directly for the sums due (such special assessments, as all others, to be secured by the lien provided for in this Declaration).

- (c) In addition to the foregoing, and subject to the limitations set forth in Section 10.2 of this Declaration, in the event that any Parcel Specific Manager fails to perform any duties delegated to, or required of, it under this Declaration, or to otherwise be performed by it pursuant to its own Parcel Specific Declaration, articles of incorporation, by-laws or related documents, which, in the case of the Parcel Specific Declaration (or related governing documents), constitutes a breach by the Parcel Specific Manager of its duties under this Declaration, and such failure continues for a period in excess of thirty (30) days after Common Facilities Manager's giving notice thereof, then Common Facilities Manager may, but shall not be required to, assume such duties. In such event, the Parcel Specific Manager shall not perform such duties unless and until such time as Common Facilities Manager directs it to once again do so.
- (d) Common Facilities Manager shall be entitled to inspect the books and records of any Parcel Specific Manager, including without limitation ownership and financial records, as necessary or desirable to exercise and/or enforce its rights under this Section 10.6.

10.7 General Provisions Regarding Submitted Parcels. The following general provisions shall apply to Submitted Parcels:

- (a) As provided in Section 1.1 of this Declaration, a single Parcel or Structure shall not lose its character as such for the purposes of this Declaration by virtue of being subdivided into condominium, cooperative or other Units by a Parcel Specific Declaration. As also provided in Section 1.1, the Parcel Specific Manager for a Parcel/Structure submitted to such form of ownership shall be deemed to be the Owner of such Submitted Parcel, even though same may not actually be the owner of the Parcel/Structure (or any portion thereof). Notwithstanding the fact that the Parcel Specific Manager of a Submitted Parcel shall be deemed to be the Owner of such Submitted Parcel, the easements of use and enjoyment granted hereunder to Owners shall be deemed to also be granted to the constituent members of the Submitted Parcel and the owners of the various portions of the applicable Submitted Parcel (and their Tenants and other Permitted Users as and to the extent permitted under this Declaration and the Parcel Specific Declaration governing the Submitted Parcel).
- (b) For the purposes of complying with and enforcing the standards of maintenance contained herein, the building and any appurtenant facilities (including any appurtenant amenity areas) comprising the Submitted Parcel shall be treated as a Structure, with the Parcel Specific Manager to have the maintenance duties of an Owner as set forth herein.
- (c) Each Parcel Specific Manager shall be jointly and severally liable with the Unit Owners in its Parcel for any violation of the use restrictions set forth in this Declaration or of rules and regulations of Common Facilities Manager. Each Parcel Specific Manager shall also

be liable and responsible for its and the Unit Owners in its Submitted Parcel's compliance with the covenants, restrictions and requirements of this Declaration. Accordingly, while Common Facilities Manager shall have the right (exercisable at its sole option) to proceed against each Unit Owner for a violation of this Declaration, it shall also have a direct right to do so against the Parcel Specific Manager (even if the violation is not caused by the Parcel Specific Manager or all of the Unit Owners).

- (d) With respect to a Submitted Parcel that is a condominium, assessments levied hereunder against such Submitted Parcel shall be but a single lien on the entirety of such Parcel and shall be payable by the Owner thereof (i.e., the Parcel Specific Manager therefor), but same shall not be deemed to be a common expense of such condominium. Notwithstanding the provisions of 718.121(3) of the Florida Statutes, inasmuch as this Declaration and the lien created hereby shall be recorded prior to the recording of any relevant Parcel Specific Declaration, it is intended that 718.121(1) of the Florida Statutes shall not be operative as to such lien and each applicable Unit Owner of a Submitted Parcel that is a condominium shall be deemed to have ratified and confirmed same by the acceptance of the deed to such Unit.

- 10.8 Conflict. In the event of conflict between this Article 10, as amended from time to time, and any of the other covenants, restrictions or provisions of this Declaration as amended from time to time, the provisions of this Article shall supersede and control. To the extent that any portion of The Properties is subject to more than one Parcel Specific Declaration, the rights of Common Facilities Manager hereunder shall be cumulative and shall apply with respect to all Parcel Specific Managers under such Parcel Specific Declarations.

11. COMPLIANCE AND ENFORCEMENT; VARIANCES

- 11.1 Compliance by Owners. Every Owner and its Tenants and Permitted Users shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by Common Facilities Manager with respect to Dania Pointe.
- 11.2 Enforcement. Failure of an Owner and its Tenants and/or other Permitted Users to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, an action for specific performance or seeking injunctive relief, or any combination thereof. Following such breach, Common Facilities Manager shall have the right to suspend such Owner's (and its Tenants' and/or other Permitted Users') rights of use of Common Facilities; provided, however, that no Owner shall be denied (i) legal access to and from the Owner's Parcel and/or Units, as applicable, or (ii) use of any utility and/or mechanical, electrical, HVAC, plumbing, life safety, monitoring, information and/or other systems located in the Common Facilities or the Parcel Exclusive Facilities and serving said Owner's Parcel and/or Unit, as applicable, or (iii) the use and benefit of the easements of support granted herein (without otherwise providing equivalent substitutions for same). The offending Owner (whether such offense be caused by the Owner, a Unit Owner or its or their Permitted Users) shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs (and including fees incurred in bankruptcy or probate proceedings, if applicable, and through any applicable appeals).
- 11.3 Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of Common Facilities Manager, a fine or fines may be imposed upon an Owner for failure of an

Owner or his or her Tenants and/or other Permitted Users to comply with any covenant, restriction, rule or regulation, if such failure continues for a period in excess of thirty (30) days after Common Facilities Manager's giving notice thereof. In such event, Common Facilities Manager may impose a fine in the amount of \$_____/day for the first breach and \$_____/day for each subsequent breach; subject, however, to (and in all cases not to exceed) the maximum limits permitted by law from time to time. Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties. Fines shall be treated as an assessment subject to the provisions for the collection of assessments, and the lien securing same, as set forth herein. All monies received from fines shall be allocated as directed by Common Facilities Manager. The foregoing fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which Common Facilities Manager may be otherwise entitled under this Declaration, at law or in equity; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which Common Facilities Manager may otherwise be entitled to recover under applicable Legal Requirements from such Owner.

- 11.4 Remedies Against Responsible Parties. If any Responsible Party fails to maintain any Limited Common Facilities as required in this Declaration or to perform any other obligation under this Declaration, and such failure continues for a period in excess of fifteen (15) days after Common Facilities Manager's giving notice thereof, Common Facilities Manager shall have the right to perform such duties of such defaulting Responsible Party, designate a new Responsible Party to perform such duties, specifically enforce the obligation of the defaulting Responsible Party to perform such duties and/or revoke the responsibilities of the defaulting Responsible Party, as Common Facilities Manager shall determine in its sole discretion, which election(s) shall take effect immediately following notice from Common Facilities Manager of such election(s).
- 11.5 Remedies Cumulative. The rights and remedies set forth in this Article are in addition to any and all rights and remedies available at law, in equity and/or permitted under any other provision of this Declaration, all of which are intended to be, and shall be, cumulative.
- 11.6 Variances. Common Facilities Manager shall have the authority to permit, consent to or approve a variance from the specific requirements or effect of any particular covenant, condition, requirement or restriction contained in this Declaration and any rules and regulations promulgated by Common Facilities Manager for good cause shown, as determined in the reasonable discretion of Common Facilities Manager. Grounds for granting a variance may include, without limitation, changes in circumstances, Legal Requirements other construction or uses on The Properties or nearby land, or bona fide good faith error in submission or review of documents or materials. In considering requests for variances, Common Facilities Manager may take into account the pattern of development, consistency in treatment of requests for variances, and the relationship between the cost to the Owner of the variance not being granted and the importance of the covenant from which a variance is being sought. Common Facilities Manager may require the submission of such documents and items (including, without limitation, written request for and a detailed description of the variance requested), as it reasonably considers appropriate, in connection with its consideration of a request for a variance. If Common Facilities Manager approves such request for a variance, Common Facilities Manager shall evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the portion of The Properties relative to which such variance has been requested, describing the applicable covenant(s) and the particular variance requested, expressing the decision of Common Facilities Manager to permit the variance, describing (when applicable) the conditions (which may be affirmative and/or negative in nature) on which the variance has been approved (including, as examples but without limitation,

the type of alternate materials to be permitted, the nature of the proposed use which has been approved, etc.) signed by Common Facilities Manager. Any request for a variance will be considered disapproved for the purposes hereof in the event of either (a) written notice of disapproval from Common Facilities Manager; or (b) failure by Common Facilities Manager to respond to the request for variance within thirty (30) days following its submission. Any variance granted or denied by Common Facilities Manager shall not preclude Common Facilities Manager from granting or denying a variance in any other circumstance. Common Facilities Manager shall not be liable to any Owner, Permitted User or any other party with regard to any variance granted hereunder, nor shall Common Facilities Manager be responsible for the failure of any Owner, Permitted User or any other party to comply with the provisions of this Declaration.

12. MORTGAGEE PROTECTION

12.1 Mortgagee Protection. The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

- (a) Common Facilities Manager shall be required to make available to all Owners and the holder of any mortgage (a "Mortgage") on any Parcel, and to insurers and guarantors of any such Mortgage, for inspection, upon written request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments).
- (b) Any holder, insurer or guarantor of a Mortgage on a Parcel shall be entitled, upon written request, to (i) receive notice from Common Facilities Manager of an alleged material default by the Owner of such Parcel in the performance of such Owner's obligations under this Declaration, including without limitation the failure to pay Assessments on such mortgaged Parcel, which default is not cured within sixty (60) days after Common Facilities Manager has actual knowledge of such default, (ii) any condemnation or casualty loss affecting a substantial portion of the Common Facilities, (iii) the occurrence of a lapse, cancellation or substantial modification of any insurance policy or fidelity bond maintained by Common Facilities Manager, and (iv) any proposed action which requires the consent of a specified number of Mortgage holders, if any.
- (c) Any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right (but not the obligation) to pay Assessments and/or other charges that are delinquent and have resulted or may result in a lien against any portion of such Parcel and receive reimbursement from its mortgagor.
- (d) Subject to the terms of the applicable Mortgage and related documents (and to the extent permitted by Legal Requirements), any holder, insurer or guarantor of a Mortgage on a Parcel that is a Taxed Parcel shall have the right (but not the obligation) to pay the portion of Taxes and/or other Tax-related costs allocated to such Parcel and/or the other Taxes that are delinquent and have resulted or may result in a lien against such Parcel and, in any such case, receive reimbursement from its mortgagor and/or the Owners of the other Taxed Parcels (as applicable) to the extent any of such parties fail to pay same as and when required herein.

- (e) Subject to the terms of the applicable Mortgage and related documents (and to the extent permitted by Legal Requirements), any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right (but not the obligation) to procure the insurance required of the Owner of such Parcel under this Declaration and to perform such Owner's maintenance and other obligations hereunder, and to receive reimbursement of costs incurred in connection therewith from its mortgagor.
- (f) Each Responsible Party (if different from Common Facilities Manager) agrees to cooperate with any reasonable requests for notice from any holder, insurer or guarantor of a Mortgage on a Benefitted Parcel with respect to the Limited Common Facilities serving such Benefitted Parcel, provided that such requests for notice are comparable to the notices required to be provided by Common Facilities Manager under the foregoing provisions.

Nothing contained herein shall limit or restrict the rights and remedies of Common Facilities Manager under this Declaration in the event of a default by any Owner, Unit Owner or Parcel Specific Manager.

13. INSURANCE ON COMMON FACILITIES AND PARCELS

13.1 Insurance. Insurance obtained pursuant to the requirements of this Article 13 shall be governed by the provisions set forth in this Article.

13.2 Purchase, Custody and Payment.

- (a) Purchase. All insurance policies required to be obtained by Common Facilities Manager hereunder shall be issued by an insurance company authorized to do business in Florida or by surplus lines carriers offering policies for properties in Florida, and shall be rated in the latest edition of *Best's Insurance Guide* (or its successor, and if such guide becomes unavailable, then a comparable rating guide selected by Common Facilities Manager) not less than A IX. Said policies must otherwise satisfy the requirements of the Mortgage held by Declarant's Mortgagee on the date hereof as well as the ongoing insurance requirements under the Project Encumbrances.
- (b) Named Insured. The named insured under the property insurance policies to be maintained by Common Facilities Manager shall be Common Facilities Manager, (i) individually (or such designee as may be designated by Common Facilities Manager), (ii) as agent for the Owners of the Parcels covered by the policies, without naming them, and (iii) as agent for the holders of any Mortgage on a Parcel, without naming them, except as otherwise provided herein. The Owners and the holders of any Mortgage on any Parcel (if required by the holder thereof) shall be deemed additional insureds with respect to all liability policies maintained by Common Facilities Manager. Notwithstanding anything to the contrary contained herein, Declarant's Mortgagee shall be named an additional insured on all liability policies and a loss payee on all property insurance (including windstorm and flood) policies maintained by Common Facilities Manager. The foregoing shall not, however, preclude the inclusion by Common Facilities Manager of others as additional insureds.

- (c) Custody of Policies and Payment of Proceeds. All policies obtained by Common Facilities Manager pursuant to this Article 13 shall provide that payments for losses made by the insurer shall be paid to Common Facilities Manager and Declarant's Mortgagee (if required by Declarant's Mortgagee), as their interests may appear.
- (d) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the insurer upon request by the policy holder to the holders of any Mortgage on a Parcel or a Unit. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate. Common Facilities Manager shall maintain copies of such certificates and/or policies obtained by Common Facilities Manager at its office located at Dania Pointe.
- (e) Owner's Property and Liability. Except as specifically provided herein, Common Facilities Manager shall not be responsible to Owners to obtain insurance coverage upon the property lying within the boundaries of their Parcel, including, but not limited to, Owner's personal property, nor insurance for the Owners' personal liability and expenses, nor for any other risks not otherwise required to be insured in accordance herewith.

13.3 Coverage. Common Facilities Manager (the "Insuring Owner") shall maintain insurance covering the following:

- (a) Property. The Common Facilities, together with all fixtures, building service equipment, personal property and supplies constituting the Common Facilities (collectively the "Insured Property"), shall be insured for the full replacement value thereof to the extent commercially practicable and available at commercially reasonable rates, subject to industry standard exclusions and excluding foundation and excavation costs and similar matters; provided, however, that Windstorm, Flood, Earthquake and other insurance for extraordinary hazards shall be subject to customary sublimits that are less than full replacement value as may be determined from time to time by the Insuring Owner. The Insured Property shall not include, and shall specifically exclude, any portions of The Properties which are not part of the Common Facilities, including without limitation any Structures or other improvements located on any Parcel that are not part of the Common Facilities, furniture, furnishings, floor coverings, wall coverings, ceiling coverings and other interior build-out of the Parcels, other personal property owned, supplied or installed by Owners, Tenants or Permitted Users, and all electrical fixtures, appliances, air conditioner and heating equipment and water heaters to the extent not part of the Common Facilities. Such policies may contain reasonable deductible provisions as determined by Common Facilities Manager. Such coverage shall afford protection against loss or damage by fire and other hazards covered by an "all-risk" policy form, and such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief, subject in all cases to industry standard exclusions.
- (b) Liability. Commercial general liability and automobile liability insurance covering loss or damage resulting from any legal liability related to the Insured Property, with such coverage as shall be required by the Insuring Owner.

- (c) Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable, to the extent applicable to the maintenance, operation, repair or replacement of the Common Facilities.
- (d) Windstorm and Flood Insurance. Windstorm and Flood Insurance covering the Insured Property, if so determined by the Insuring Owner, in such amounts (and containing such deductibles) as the Insuring Owner may determine from time to time, subject to industry standard exclusions.
- (e) Project Encumbrances. Any and all insurance required of Declarant, Common Facilities Manager or its or their affiliates pursuant to the Project Encumbrances.
- (f) Other Insurance. Such other or greater insurance as is required by the mortgage held by Declarant's Mortgagee as of the date hereof, as well as such other insurance as the Insuring Owner shall determine from time to time to be desirable in connection with the Common Facilities.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) as to property insurance policies, subrogation against Common Facilities Manager and against the Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk (and the amount of the insurer's liability under such policies shall not be reduced by the existence of any other insurance), and (iii) avoid liability for a loss that is caused by an act of the Insuring Owner or one or more Owners (or any of its or their respective employees, contractors, agents and/or Permitted Users) or as a result of contractual undertakings. Additionally, each policy shall provide that the insurance provided shall not be prejudiced by any act or omissions of individual Owners that are not under the control of the Insuring Owner.

- 13.4 Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the express named insureds, including their respective mortgagees, provided that only ten (10) days' prior written notice shall be required for cancellation due to nonpayment of premium. Prior to obtaining any policy of property insurance or any renewal thereof, the Insuring Owner may (and once every [five (5) years], shall) obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the applicable Insured Property (exclusive of foundations and excavation costs, if any), without deduction for depreciation, and recommendations from its insurance consultant as to limits/sublimits for such coverage, for the purpose of determining the amount of insurance to be effected pursuant to this Article. The insurance coverage required of the Insuring Owner pursuant to this Article 13 may be provided through a blanket policy that covers the property and liability insurance set forth above as well as other insurance coverage benefitting Insuring Owner's affiliates, provided that the cost of such blanket policy shall be allocated by the Insuring Owner, with the assistance of Insuring Owner's insurance consultant, between the coverage required of Insuring Owner hereunder and such other coverage of its affiliates. Common Facilities Manager shall have the right to delegate rights and obligations of the Insuring Owner hereunder with respect to certain Limited Common Facilities to the Responsible Party for such Limited Common Facilities, whereupon the Responsible Party shall be responsible therefor.

- 13.5 Premiums. Premiums upon insurance policies purchased by the Insuring Owner pursuant to this Article 13 shall be allocated among the Owners in accordance with this Section 13.5 and included among Assessments under this Declaration. Such premiums shall be allocated among and assessed against the Owners (excluding the Common Facilities Parcel Owner) by the Insuring Owner, with the assistance of Insuring Owner's insurance consultant, at Insuring Owner's option, based on the relative replacement value that each Owner's Parcel bears to the total replacement value of all of the Parcels (excluding the Common Facilities Parcel) or the relative square footage that each Owner's Parcel bears to the total square footage of all of the Parcels (excluding the Common Facilities Parcel) or based on such Parcels percentage share of Common Facilities Costs or a combination thereof, depending on the type of insurance in question. To the extent separate invoices are issued for premiums associated with the Insuring Owner's insurance policies hereunder with respect to any of the Parcels, such invoices shall be deemed dispositive and the Owners of such Parcels shall be responsible for the portion of the premium reflected in the invoices applicable to it, with the remaining premiums (if any) to be allocated among the remaining Parcels not separately invoiced (excluding the Common Facilities Parcel), at Insuring Owner's option, consistent with the allocation methods provided above depending on the type of insurance. Any separate invoice for the Common Facilities Parcel's share of premiums shall also be allocated among all of the other Parcels, at Insuring Owner's option, based on the allocation methods provided above depending on the type of insurance. Premiums may be financed in such manner as the Insuring Owner deems appropriate. Without limiting the terms of this Declaration, Common Facilities Costs may include, from time to time and at any time, such amounts deemed necessary by Common Facilities Manager to provide Insuring Owner with sufficient funds to pay insurance premiums at least thirty (30) days before the date the same are due.
- 13.6 Share of Proceeds. All property insurance policies obtained by or on behalf of the Insuring Owner pursuant to this Article 13 shall be for the benefit of the Insuring Owner, Common Facilities Manager, the Owners and the holders of any Mortgage on a Parcel, as their respective interests may appear. The duty of the Insuring Owner shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners and the holders of any Mortgage on the subject Parcel(s) (or any leasehold interest therein).
- 13.7 Distribution of Proceeds. Proceeds of property insurance policies required to be maintained by the Insuring Owner pursuant to this Article 13 shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:
- (a) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the Owners, remittances to Parcel Owners and their mortgagees being payable jointly to them, unless otherwise provided herein. Such proceeds shall be allocated in the same manner as the proceeds are allocated in Section 13.7(b).
- (b) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the Owners in accordance with their percentage share of the premium paid by such Owners for the insurance coverage in question pursuant to Section 13.5 hereof; provided, however, that if the damage suffered affects Limited Common Facilities, the percentage shares shall be prorata allocated over only the Owners of the Benefitted Parcels served by the affected

Limited Common Facilities (based on percentage share of the premium paid by the Owners of the Benefitted Parcel relative to the Owners of all such Benefitted Parcels), and distributed first to the holders of any Mortgage on such Benefitted Parcels, as their interests may appear, until payment in full, with the balance (if any) paid to the applicable Owner(s).

- 13.8 Insuring Owner as Agent. The Insuring Owner is hereby irrevocably appointed as the exclusive agent and attorney-in-fact for Common Facilities Manager and each Owner and for each owner of a Mortgage or other lien upon a Parcel and for each owner of any other interest in The Properties, subject to the terms of any mortgage held by Declarant's Mortgagee, to manage and coordinate the adjustment and settlement of all claims arising under property insurance policies purchased by the Insuring Owner and the execution and delivery of releases upon the payment of claims, in each case in conjunction with Insuring Owner's insurance and other consultants.
- 13.9 Owners' Personal Coverage. The insurance required to be purchased by the Insuring Owner pursuant to this Article 13 shall not cover claims against an Owner due to occurrences occurring within its Parcel, nor casualty or theft loss to the contents of or improvements to an Owner's Parcel. It shall be the obligation of the individual Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance required to be carried by the Insuring Owner hereunder, provided that each Owner shall, at a minimum, obtain and maintain, or cause to be obtained and maintained, at such Owner's sole expense, the following insurance coverage:
- (a) Property. Property insurance for fire and other hazards on an "all-risk" basis for the replacement value of the improvements within the Parcel owned by it (other than Common Facilities insured by Insuring Owner), on industry standard forms affording customary coverage, subject to industry standard exclusions, customary deductibles and customary limits/sublimits, typically maintained by owners and required by mortgagees of similar properties in the Greater Fort Lauderdale area.
 - (b) Liability. Commercial general liability insurance written on an "occurrence basis" not a "claims basis" under which policy each Owner, Declarant and Common Facilities Manager shall be named as an additional insured, on industry standard forms affording customary coverage, subject to industry standard exclusions, customary deductibles and customary limits/sublimits, typically maintained by owners and required by mortgagees of similar properties in the Greater Fort Lauderdale area, but in no event less than \$1,000,000 for each occurrence of injury or property damage and \$2,000,000 in the aggregate.
 - (c) Umbrella Liability. Umbrella or excess following form of insurance policy meeting the requirements of, but providing coverage in excess of, the policy in item (b) above with a limit of not less than [\$ _____] per occurrence and in the aggregate.
 - (d) Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable, covering all persons employed by such Owner in connection with any work done on or about the Parcel (or any part thereof) in such amounts and to the extent required by applicable Legal Requirements.
 - (e) Other Insurance. Such other or greater insurance as is typically maintained by owners and required by mortgagees of similar properties in the Greater Fort Lauderdale Area.

The amounts and types of insurance required herein shall be adjusted from time to time as necessary to comply with the foregoing requirements. All insurance required under this Section shall be procured from companies authorized to do business in the State of Florida and shall be rated in the latest edition of *Best's Insurance Guide* (or its successor, and if such guide becomes unavailable, then a comparable rating guide selected by Common Facilities Manager) not less than A IX (or such other rating as may be approved by Common Facilities Manager). The insurance coverage required of each Owner pursuant to this Section may be provided through the coverage of a blanket policy carried by it, provided that the coverage afforded shall not be reduced by reason of the use of such blanket policy and provided that the requirements set forth herein are otherwise satisfied. In addition, two or more Owners may mutually agree to maintain a single policy or policies for their respective Parcels and interests (rather than separate and independent policies), provided that the requirements set forth herein are otherwise satisfied. Each Owner shall furnish to Common Facilities Manager, upon the recordation of this Declaration and thereafter prior to the expiration of each policy, certificates of insurance (and, if requested, copies of policies), evidencing that the insurance required hereunder is in full force and effect. The Parcel Specific Manager shall be responsible for obtaining and maintaining the foregoing insurance following submission of any Parcel to a Parcel Specific Declaration. The amount of insurance required hereunder shall not be construed to be a limitation of liability on the part of any Owner or Unit Owner or their respective Permitted Users.

All such policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to Common Facilities Manager and the named insureds, including their respective mortgagees, provided that only ten (10) days' prior written notice shall be required for cancellation due to nonpayment of premium. All such policies shall further provide that the coverage afforded the additional insureds is on a primary and non-contributory basis with any other insurance available to the additional insureds, and if the additional insureds have other insurance that is applicable to the loss, such other insurance will be on an excess basis or contingent basis. When appropriate and obtainable, each Owner's insurance policies shall waive the insurer's right to: (i) as to property insurance policies, subrogation against Common Facilities Manager and against the other Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk (and the amount of the insurer's liability under such policies shall not be reduced by the existence of any other insurance), and (iii) avoid liability for a loss that is caused by an act of such Owner, Common Facilities Manager or any other Owner (or any of its or their respective employees, contractors and/or agents) or as a result of contractual undertakings. In the event of any question or dispute as to whether any Owner's insurance policy complies with the requirements of this Section, such question or dispute shall be submitted to Common Facilities Manager, who, with the assistance of its insurance consultant, shall render a decision, which decision shall be dispositive of such question or dispute.

Notwithstanding anything contained to the contrary herein, while Common Facilities Manager shall use reasonable efforts to maintain copies of the insurance certificates and/or policies received by it, Common Facilities Manager shall have no obligation to request and/or maintain same, nor shall Common Facilities Manager have any obligation to take any affirmative action in the event that an Owner (including any Parcel Specific Manager) fails to maintain adequate insurance or any insurance specifically required hereunder, including without limitation binding policies on behalf of such Owner (or Parcel Specific Manager, as applicable) or taking any other ordinary or extraordinary measures. Each Owner, by acceptance of a deed or other conveyance of a Parcel, holds Common Facilities Manager and Declarant and their respective affiliates harmless and

agrees to indemnify Common Facilities Manager and Declarant and their respective affiliates from and against any and all claims made by an Owner, any Unit Owner and its or their Permitted Users, on account of any property damage, personal injury and/or any other Losses of any kind or nature, including without limitation any and all costs and expenses associated with such claims, including inconvenience, relocation and/or moving expenses, lost time, business opportunities or profits, and attorneys' fees and other legal and associated expenses (through and including all appellate proceedings), arising out of, related to, caused by, associated with or resulting from any Owner's (including any Parcel Specific Manager's) failure to maintain adequate insurance or the insurance coverages required to be maintained by an Owner pursuant to this Section 13.9.

With respect to any systems, equipment and/or facilities (including without limitation cables, machinery and equipment; wires, cables, generators, HVAC systems and other apparatus used in the delivery of utility services, etc.) constituting Limited Common Facilities that are located on a Burdened Parcel and serve a single Benefitted Parcel exclusively, the Responsible Party (and, if no Responsible Party is designated, the Owner of the Benefitted Parcel so served) shall purchase and pay for insurance as to all such property, and the Owner of the Burdened Parcel shall have no obligation to maintain or pay for same.

- 13.10 Benefit of Mortgagees. Certain provisions in this Article 13 are for the benefit of mortgagees of Parcels and may be enforced by such mortgagees.

14. RECONSTRUCTION OR REPAIR OF COMMON FACILITIES

- 14.1 Application of Provisions. The procedures stated in this Article 14 apply to damage to or destruction of the Insured Property and do not apply to the repair or restoration of Structures or other improvements within any Parcel. Each Owner shall be solely responsible for repairing or rebuilding the Structures and improvements within its Parcel. Each Owner may determine in its discretion whether to rebuild the Structures and improvements within its Parcel, but such Owner shall complete those repairs that the Insuring Owner deems reasonably necessary to secure the damaged Parcel, to avoid further damage to the Insured Property or Parcel improvements that serve any other Parcel or substantial diminution in value of such other Parcels, and to protect the Owners from liability from the condition of any of the improvements on The Properties. Any repairs and restoration of Structures and other improvements by any Owner with respect to its Parcel following damage or destruction thereto shall be subject to and performed in accordance with the provisions of Article 5. The Parcel Specific Development Documents and other Project Encumbrances (where applicable) may include additional provisions with regard to the repair and restoration of improvements, including, but not limited to, the option of Declarant and/or its affiliates or designees to purchase a Parcel in the event any Owner elects not to repair or restore same, and should be thoroughly reviewed to understand the effect same will have on The Properties as hereinabove provided.
- 14.2 Determination to Reconstruct or Repair. In the event of damage to or destruction of the Insured Property as a result of fire or other casualty, the Insuring Owner shall determine whether or not to repair and/or restore the Insured Property, and if a determination is made to effect restoration, the Insuring Owner shall disburse the proceeds of all property insurance policies required to be maintained by or payable to it under Article 13 to the contractors engaged in such repair and restoration in appropriate progress payments. Notwithstanding the above, in the event insurance proceeds are "sufficient" to repair or restore any Insured Property damaged or destroyed, the Insuring Owner shall be required to effect such repair or restoration. For purposes of the preceding

sentence, such proceeds shall be deemed "sufficient" if either (i) the insurance proceeds available under any applicable policies are within [\$_____] of the total amount needed to effect such repairs or restoration, or (ii) if the total amount needed to effect the repairs or restoration is more than [\$_____] above the insurance proceeds available under any applicable policies, and a Parcel Owner (or combination of Parcel Owners) elects to contribute the deficit in the repair funds for the use of the Insuring Owner to effect the repair or restoration. Common Facilities Manager shall have the right to make any repairs to and perform any work it deems reasonably necessary to protect or secure any damaged Insured Property (and to use the proceeds of insurance or levy Assessments to cover the cost thereof).

Subject to the preceding paragraph, in the event the Insuring Owner determines not to effect restoration to the Common Facilities, the net proceeds of insurance resulting from such damage or destruction (after payment of any cost to protect or secure the damaged Insured Property, the cost of collection and/or any other associated costs) shall be divided among all the Owners benefited by the insurance maintained by the Insuring Owner as set forth in Section 13.7(b); provided, however, that no payment shall be made to an Owner until there has first been paid off out of its share of such fund all mortgages and liens on the Owner's Parcel in the order of priority of such mortgages and liens.

- 14.3 Plans and Specifications. Any reconstruction or repair of Common Facilities must be made substantially in accordance with the plans and specifications for the original improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Insuring Owner.
- 14.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Insuring Owner, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Owners benefited by the insurance policy providing the proceeds for reconstruction by the Insuring Owner (which shall be deemed to be assessments made in accordance with, and secured by the lien rights contained in, Article 17) in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to and based on the allocated percentage share paid by the Owners for such insurance policy providing the proceeds for reconstruction.
- 14.5 Reconstruction or Repair by Responsible Parties. Notwithstanding anything herein to the contrary, Insuring Owner may delegate responsibility for repair and/or reconstruction of portions of the Insured Property to a Responsible Party, in which event Insuring Owner shall disburse the proceeds of the property insurance policies covering such Insured Property to such Responsible Party, its contractors engaged in such repair and restoration and/or both jointly, as may be determined by Insuring Owner. In the event that more than one Responsible Party is responsible for repair or restoration of the Insured Property following damage or destruction, all such Responsible Parties shall cooperate with each other and with Common Facilities Manager, and work in good faith, for the common goal of constructing and completing all such repairs and restoration on a timely basis and in accordance with the Project Standard. Any reconstruction or repair by any Responsible Party following a fire or other casualty of any kind or nature (including without limitation the reconstruction or repair of the Insured Property, any Limited Common Facilities or otherwise) shall be subject to and performed in accordance with the requirements of Article 5.

- 14.6 Benefit of Mortgagees. Certain provisions in this Article 14 are for the benefit of mortgagees of Parcels and may be enforced by any of them.

15. CONDEMNATION

- 15.1 Effect of Taking. The taking of portions of the Common Facilities by the exercise of the power of eminent domain shall be deemed to be a casualty, and, subject to the terms of this Declaration, the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to Owners, the Owners shall deposit the awards with the Insuring Owner; and in the event of failure to do so, in the discretion of Common Facilities Manager, a charge shall be made against a defaulting Owner in the amount of his, her or its award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.
- 15.2 Determination Whether to Reconstruct. The effect of the taking shall be addressed in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty and the provisions of Article 14 shall apply as though fully set forth herein.

16. PROPERTY TAXES

- 16.1 Separate Assessment. Each Parcel Owner shall cooperate with Declarant and Common Facilities Manager in efforts to have the County Property Appraiser issue separate tax folio numbers to each of the Parcels within The Properties. To the extent that separate tax folios are created for each of the Parcels, each Owner shall be solely responsible for payment of the Tax bill issued with respect to its Parcel. If a separate tax folio number is created for the Common Facilities Parcel, Taxes assessed against the Common Facilities Parcel shall be handled and paid for as provided in Section 16.5. If the tax folio number for any Parcel erroneously includes portions of another Parcel, the Owners of such Parcels shall work cooperatively and in good faith to correct such error with the County Property Appraiser.
- 16.2 No Separate Assessment. In the event that separate tax folios are not established for each of the Parcels, but rather any Parcel is included and taxed as part of another Parcel (such Parcels herein referred to as the "Taxed Parcels"), then the tax values of each Taxed Parcel shall be determined in accordance with the following:
- (a) Within ten (10) business days of any Parcel Owner's receipt of the real estate Tax bill for its Parcel that includes one or more other Parcels, such Owner shall endeavor to give notice to Common Facilities Manager and the other Owners of the Taxed Parcels, together with a copy of the Tax bill. While each Parcel Owner of a Taxed Parcel shall endeavor to provide such notice to Common Facilities Manager and the other Owners of the Taxed Parcels, the failure to do so shall not be a default hereunder since each Parcel Owner has the ability to obtain a copy of the applicable Tax bill through the County Property Appraiser's office. Under no circumstances shall Common Facilities Manager be obligated to determine whether any Parcels are Taxed Parcels; it being agreed that the obligations of Common Facilities Manager under this Section 16.2 shall arise if, and only if, a Parcel Owner provides Common Facilities Manager with a copy of the Tax bill that includes more than one Parcel. Following receipt of such Tax bill, Common Facilities Manager shall engage a Florida licensed and MAI certified real estate appraiser or

qualified tax consultant (herein, the "tax consultant") having at least ten (10) years' experience in real estate tax protest work in the County to appraise the Taxed Parcels as hereinafter provided.

- (b) The tax consultant shall be engaged by Common Facilities Manager to value each of the Parcels included in the Taxed Parcels using the criteria that the County Property Appraiser is eligible to use under the Florida Statutes in determining ad valorem tax values (and, if more than one method of valuation is available, the tax consultant shall select the method to be applied, in its reasonable discretion), and shall allocate the value of the Taxed Parcels, as disclosed in the applicable Tax bill, among the individual Parcels included in the Taxed Parcels. The tax consultant shall be directed to deliver a report to Common Facilities Manager indicating the allocation of value among the Parcels included in the Taxed Parcels and calculating (and setting forth) the percentage that each such valuation bears to the total value of the Taxed Parcels, as disclosed in the Tax bill (each such percentage being the "Tax Value Percentage Share"), together with an invoice showing the tax consultant's fees and expenses. In the case of a vertical subdivision containing separate Parcels that are vertically located, in whole or in part, over common land, the value of the land underlying the Parcels within such subdivision shall be allocated to and included in each Parcel in such subdivision in the same proportion that the assessed value of the improvements comprising each such Parcel bears to the total assessed value of all improvements comprising all of the Parcels within such subdivision, unless a different method of valuing the land underlying the Parcels in a vertical subdivision is required by applicable Legal Requirements or the Parcel Specific Declaration (in which case, such method shall be followed). Each Owner shall, within ten (10) business days following Common Facilities Manager's notice of such determination by the tax consultant, (i) remit to the County Tax Collector its portion of the Tax bill based on the Tax Value Percentage Share multiplied by the total Taxes then due for the Taxed Parcels under the Tax bill, (ii) provide to Common Facilities Manager and the other Taxed Parcel Owners evidence of such payment, and (iii) pay to Common Facilities Manager its portion of the tax consultant's fee and expenses based on the Tax Value Percentage Share multiplied by the total tax consultant's fees and expenses. Common Facilities Manager shall not have any liability for any failure of the Taxed Parcels Owners to receive the benefit of discounts associated with the early payment of real estate taxes or penalties, interest or other charges that may accrue on Taxes for the Taxed Parcels due to the foregoing valuation process or otherwise, all of which shall be shared among the Taxed Parcel Owners based on the same allocation as the Tax Value Percentage Share provided herein; provided, however, that any loss of discounts, penalties, interest or other charges resulting from any Taxed Parcel Owner's failure to pay or perform its obligations when required hereunder shall be borne solely by such defaulting Taxed Parcel Owner.
- (c) As soon as reasonably possible (but in any event no later than five (5) business days) following any Parcel Owner's receipt of the TRIM notice from the taxing authority for its Parcel that includes one or more other Parcels, such Owner shall endeavor to give notice to Common Facilities Manager and the other Owners of the Taxed Parcels. While each Parcel Owner of a Taxed Parcel shall endeavor to provide such notice to Common Facilities Manager and the other Owners of the Taxed Parcels, the failure to do so shall not be a default hereunder since each Parcel Owner has the ability to obtain a copy of the applicable TRIM notice through the County Property Appraiser's office. The Owners of the Taxed Parcels shall reasonably cooperate with each other and work in good faith to

enable the timely protest of the valuation of the Taxed Parcel if any Taxed Parcel Owner desires to protest same, provided that the costs shall be paid initially by the Owner(s) electing to pursue the protest, but deducted from any refund of Taxes as hereinafter provided. In the event that any Taxed Parcel Owner(s) file a timely protest of the valuation of the Taxed Parcel as disclosed in the TRIM notice prior to issuance of the Tax bill, the Taxed Parcel Owners and Common Facilities Manager shall still undertake the valuation procedure outlined above without delay, and in the event of any refund of Taxes based on the tax protest, such amount shall be shared among the Owners of the Taxed Parcels based on the same allocation as the Tax Value Percentage Share provided for above, after deducting the reasonable costs of the protest.

- (d) Notwithstanding the foregoing, the Taxed Parcel Owners (or any of them) shall have the right to request a "split" or "cutout" of its respective Taxed Parcel from the other Taxed Parcels pursuant to Section 197.373 of the Florida Statutes (or any successor or other provision), as amended, and any rules promulgated with respect to same, and to obtain a separate tax value and assessment for each such Taxed Parcel. Any Taxed Parcel Owner so requesting a split or cutout of its Taxed Parcel shall provide a copy of such request to Common Facilities Manager and the other Taxed Parcel Owners simultaneously with the delivery of same to the County Tax Collector. If any Taxed Parcel Owner is successful in obtaining from the County Tax Collector and/or Property Appraiser the amount of the assessment on its Taxed Parcel, such Taxed Parcel Owner shall notify Common Facilities Manager and the Owners of the other Taxed Parcels. The determination by the County Property Appraiser shall be conclusive with respect to the tax value and assessment for the Taxed Parcel in question absent manifest error, notwithstanding any different determination or valuation by a tax consultant, and the Taxed Parcel Owners shall be entitled to pay Taxes for their respective Taxed Parcel based on such determination. Should any Taxed Parcel Owner successfully obtain from the County Tax Collector and/or Property Appraiser separate tax values and/or assessments for one or more Taxed Parcels, the Taxed Parcel Owners shall thereafter pursue a determination of the tax values and assessments for each of the Taxed Parcels under this Section 16.2(d) prior to Common Facilities Manager commencing the allocation procedures through the tax consultant set forth above, unless Common Facilities Manager reasonably determines that separate allocation of values and/or assessments from the Property Appraiser for two or more of the Taxed Parcels may still be required (in which such event, Common Facilities Manager may proceed with the allocation procedures through the tax consultant for the Taxed Parcels in question).

- 16.3 Reference to Taxes in Other Documents. For purposes of this Declaration and any documents or instruments, such as leases and Parcel Specific Declarations, referring to the allocation of Taxes (or any component thereof) pursuant to this Declaration, Taxes allocated to a portion of The Properties shall mean those Taxes assessed and payable with respect to each Parcel as if each such Parcel is or was separately assessed and taxed, and if at any time there are no separate assessments, Taxes shall be allocated pursuant to the allocations and in the manner set forth in Section 16.2. Notwithstanding anything to the contrary contained in this Declaration, except for Taxes assessed against the Common Facilities Parcel, Taxes assessed against or relating to any Parcel (whether through separate tax folio numbers or the allocations set forth herein) shall not be included in the Common Facilities Costs, and each Owner shall be obligated to pay such Taxes with respect to its Parcel without contribution from any other Owner.

16.4 Failure to Pay Taxes. If an Owner shall fail to pay any portion of the Taxes or any other charge levied against that Owner's Parcel prior to the date such Taxes become delinquent, which such Owner is obligated to pay pursuant to this Article 16, and if such unpaid Taxes are a lien or encumbrance on any portion of The Properties not owned by the delinquent Owner and/or on any Common Facilities serving any other Parcel, and any lawful authority would thereafter have the right to sell tax certificate(s) or issue tax warrants or deed(s) or otherwise foreclose against such portion of The Properties, or to impair or extinguish any easement benefitting any Owner by reason of such nonpayment, then any affected Owner shall have the right (but not the obligation), (a) upon the expiration of ten (10) days after notice of non-payment to the defaulting Owner (or such shorter period of time, but not less than three (3) days, if such Taxes have become delinquent), to pay such Taxes, or share thereof, together with any interest and penalties thereon, whereupon the Owner obligated to make such payment shall, upon demand, reimburse such affected Owner who made such payment for the amount thereof, and/or (b) to pursue any and all rights and remedies available at law or in equity against the delinquent Owner failing to make such payment. Interest shall accrue on the amount of any such reimbursement obligation not paid within ten (10) days after demand at the Default Rate.

16.5 Taxes Against Common Facilities. It is intended that any and all Taxes against the Common Facilities Parcel or Common Facilities shall be (or have been, because the purchase prices of the Parcels and Structures have already taken into account the value of the Common Facilities), assessed against and payable as part of the Taxes of the applicable Parcels within The Properties. However, in the event that, notwithstanding the foregoing, any such Taxes are assessed directly against the Common Facilities Parcel or Common Facilities, Common Facilities Manager shall have the exclusive right to protest or appeal same, including Taxes on any improvements and any personal property located thereon. In such event, all such Taxes (and any costs of any protest or appeal thereof) shall be included as part of the expenses of the Common Facilities which are assessed by Common Facilities Manager (in part, for the benefit of the Common Facilities Parcel Owner) against each of the Parcels and shall be shared among the Parcels (excluding the Common Facilities Parcel) based on the assessed or appraised value of each Parcel (other than the Common Facilities Parcel) relative to the total assessed or appraised value of all Parcels (excluding the Common Facilities Parcel), as determined by the County Property Appraiser (with respect to Parcels that have separate tax folio numbers or assessed values) and/or a tax consultant selected by Common Facilities Manager in accordance with the valuation process set forth above (with respect to Parcels which are not separately assessed). Further, if Taxes are assessed directly against the Common Facilities Parcel or Common Facilities, without limiting the terms of this Declaration, Common Facilities Costs may include such amounts deemed necessary by Common Facilities Manager to provide it with sufficient funds to pay such Taxes at least thirty (30) days before the date the same are due. If any Taxes are assessed directly against Limited Common Facilities, the Responsible Party for such Limited Common Facilities shall have the rights and responsibilities of Common Facilities Manager hereunder with respect to such Taxes, provided that such Taxes (and any costs of any protest or appeal thereof) shall be allocated among the Parcels benefitted by such Limited Common Facilities (excluding the Common Facilities Parcel and the other Parcels) in the same manner as Taxes on other Common Facilities.

17. PROVISIONS REGARDING COMMON FACILITIES COSTS

17.1 Maintenance Expenses. Common Facilities Manager shall maintain in good repair, and shall replace as often as necessary, the Common Facilities as provided in other provisions of this Declaration, all such work to be done as determined and ordered by Common Facilities Manager.

Each Owner, by acceptance of a deed or other conveyance of any portion of The Properties, shall be deemed to have agreed that the level of service and quality of maintenance and repair shall be commensurate, in the opinion of Common Facilities Manager, with the Project Standard. All work by Common Facilities Manager pursuant to this Article and pursuant to Article 6 related to the foregoing and/or with respect to the Common Facilities shall be paid for through Assessments (either general or special) imposed against Parcels in accordance herewith. In the event that any Parcel Owner requests Common Facilities Manager to repair or replace any portions of that Owner's Parcel other than the Common Facilities which would not otherwise fall under Common Facilities Manager's responsibilities, then Common Facilities Manager may do so as long as all costs and expenses thereof are paid by the applicable Parcel Owner. No Owner may waive or otherwise escape liability for Assessments to Common Facilities Manager by non-use (whether voluntary or involuntary) of the Common Facilities or abandonment of the right to use same. Notwithstanding anything herein contained to the contrary, Common Facilities Manager shall be excused and relieved from any and all maintenance, repair and/or replacement obligations under this Declaration to the extent that the funds necessary to perform same are not available through the Assessments imposed and actually collected. Common Facilities Manager shall have no obligation to fund and/or advance any deficit or shortfall in funds needed by Common Facilities Manager in order to properly perform the maintenance, repair and/or replacement obligations described herein.

- 17.2 Ongoing Developer Obligations. Without limiting the generality of the obligations of Common Facilities Manager under the provisions of this Declaration, Common Facilities Manager shall (a) assume all of Declarant's and its affiliates' ongoing responsibilities to the County, the City and any other Governmental Authority with respect to The Properties as a whole, including without limitation all obligations of Declarant or its affiliates under the Project Encumbrances, and (b) indemnify and hold Declarant and its affiliates harmless with respect thereto in the event of Common Facilities Manager's failure to fulfill those responsibilities. Any and all costs and/or expenses incurred by Common Facilities Manager in assuming and performing any of such obligations (including, without limitation, such indemnification and hold harmless obligation) shall be part of the Common Facilities Costs assessed against all Parcel Owners (including Unit Owners) in the manner provided by this Article.
- 17.3 Assessment to Common Facilities Manager; Allocations. Declarant (and each party joining in any Supplemental Declaration) hereby covenants and agrees, and each Owner of a Parcel (including, without limitation, a Unit Owner) or any portion thereof, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay to Common Facilities Manager annual assessments and charges for the operation and insurance of, and for payment of expenses (and real estate and personal property taxes) allocated or assessed to or through or otherwise incurred by the Common Facilities Parcel Owner or Common Facilities Manager, of and/or for the ownership, maintenance, management, operation and insurance of the Common Facilities, the establishment of reasonable reserves for the replacement of same, the establishment of a fund to pay legal costs and expenses of Common Facilities Owner or Manager, capital improvement assessments, special assessments and all other charges and assessments hereinafter referred to or imposed by Common Facilities Manager in connection with the repair, replacement, improvement, maintenance, management, operation and insurance of, and taxes on, the Common Facilities (collectively, the "Common Facilities Costs"), all such assessments to be fixed, established and collected from time to time as herein provided. The Common Facilities Costs shall also be deemed to include any and all costs and expenses (including rent) relating to or incurred

under the Project Encumbrances, any and all costs and expenses (including without limitation reasonable attorneys' fees in all legal proceedings commenced by or against Common Facilities Manager) incurred by Common Facilities Manager in connection with the performance of its obligations under this Declaration or any Supplemental Declaration, and a management fee payable to Common Facilities Manager (or its designee) not to exceed [twelve and one-half percent (12.5%)] of the other Common Facilities Costs. The annual assessment, capital improvement assessment and special assessment, together with such interest thereon and costs of collection thereof (including any costs of any collection agency) and costs of protecting the lien, shall be a charge on each Parcel, and shall be a continuing lien upon each Parcel and upon all improvements thereon, from time to time existing as herein provided. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of all persons who own any fee interest in any Parcel (or any portions thereof), at the time when the assessment fell due and all subsequent Owners and fee owners and Unit Owners thereof until paid, except as provided in Section 17.6. Reference herein to assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned.

With respect to the Common Facilities Costs allocable to the Common Facilities, same shall be allocated among the Parcels [*and other portions of The Properties*] as follows, subject to reasonable adjustments by Common Facilities Manager as hereinafter provided:

<u>Parcel</u>	<u>Share of Common Facilities Costs</u>
Each Retail Parcel	_____ Points/RSF
Each Residential Parcel	_____ Points/Unit
Each Office Parcel	_____ Points/RSF
Each Hotel Parcel	_____ Points/Room
Undeveloped Land	_____ Points/Acre
Land under Construction	_____ Points/Acre

Based on the Assessment points attributable to a Parcel [*and other portions of The Properties*], each Owner shall pay its percentage share of the Common Facilities Costs determined by a fraction, the numerator of which is the number of Assessment points attributable to a particular Parcel [*or portion of The Properties*], and the denominator of which is the aggregate of all Assessment points attributable to all of the Parcels [*and other portions of The Properties*]. To the extent that a Parcel is a Submitted Parcel, then the Assessment obligation of such Submitted Parcel shall be further allocated among the Units therein as otherwise provided in this Declaration. In the event that Future Development Property is made a part of The Properties as contemplated in this Declaration, the Declarant shall, in the Supplemental Declaration, establish Assessment points attributable to Parcels and/or land then being included within The Properties (as determined by Declarant in its sole discretion).

Prior to the _____ (__) anniversary of substantial completion (as evidenced by the issuance of a temporary or permanent certificate of completion (or its equivalent)) of the last of the Parcels to be developed, Common Facilities Manager may make a one-time adjustment to the foregoing

allocations (based on, *inter alia*, relative or intensity of use of the Common Facilities by the Owners and their respective Permitted Users, actual consumption or expense and/or other reasonable and relevant factors). Such adjustment shall be made by Supplemental Declaration executed by Common Facilities Manager and Declarant's Mortgagee. Notwithstanding the foregoing or the allocations set forth above, (a) to the extent any other utility consumption charges are part of the costs attributable to the Common Facilities and those charges can reasonably be allocated to the particular Parcels based upon actual consumption, then in such event, such utility consumption charges shall be allocated based upon actual consumption, rather than by the percentage allocations described above, (b) premiums upon insurance policies purchased by the Insuring Owner pursuant to this Declaration shall be allocated among the Parcels as provided in Section 13.5, (c) if Taxes are assessed directly against the Common Facilities Parcel or Common Facilities (rather than being paid as part of the Taxes applicable to the other Parcels), Taxes with respect to the Common Facilities shall be allocated and assessed as provided in Section 16.5, and (d) if, under any other provision of this Declaration, any other costs are allocated to the Parcel Owners (or any one or more of them) on a basis other than the manner set forth in this Section, then such costs shall be allocated by Common Facilities Manager to such Parcel Owners as so provided in such other provisions. All such charges, premiums, Taxes and other costs nevertheless are and shall remain Assessments (irrespective of how same are allocated among the Parcels [*and other portions of The Properties*]), subject to Common Facilities Manager rights and remedies set forth in this Article 17 in the event any Owner fails to pay same as required herein.

- 17.4 Levying Assessments. Common Facilities Manager shall budget and adopt assessments for Common Facilities Manager's general expenses for the Common Facilities Costs based, in part, upon Common Facilities Manager's reasonable projections of the intensity of use of the applicable Common Facilities for the period subject to the budget. In addition to the regular and capital improvement assessments which are or may be levied hereunder, Common Facilities Manager shall have the right to collect reasonable reserves for the replacement of the applicable Common Facilities (or any components thereof) and to levy special assessments to fund expenses which Common Facilities Manager does not reasonably anticipate having sufficient funds to cover, or special assessments against an Owner(s) to the exclusion of other Owners for the repair or replacement of damage to any portion of the applicable Common Facilities (including, without limitation, improvements and landscaping thereon) caused by the misuse, negligence or other action or inaction of an Owner or its Tenants or Permitted Users. Any such special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late charges and interest. Any special assessment levied hereunder shall be due within the time specified by Common Facilities Manager in the action imposing such assessment. Further, funds which are necessary or desired by Common Facilities Manager for the addition of capital improvements (as distinguished from repairs, maintenance, replacement and/or relocation) relating to the applicable Common Facilities and which have not previously been collected as reserves or are not otherwise available to Common Facilities Manager (other than by borrowing) shall be levied by Common Facilities Manager as assessments against the applicable Parcel Owners entitled to use of (or benefiting from) the particular component of the applicable Common Facilities. The annual regular assessments provided for in this Section shall commence on the first day of the month next following the Effective Date and shall be applicable through December 31 of such year. Each subsequent annual assessment shall be imposed for the year beginning January 1 and ending December 31. The annual assessments shall be payable in advance in quarterly installments, or in annual, semi—annual or monthly installments if so determined by Common Facilities Manager (absent which determination they shall be payable quarterly). The assessment amount (and applicable installments) may be changed at any time by

Common Facilities Manager from that originally stipulated or from any other assessment that is in the future adopted by Common Facilities Manager. The original assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, at any appropriate time during the year), but the amount of any revised assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. Common Facilities Manager shall fix the date of commencement and the amount of the assessment against the Parcels for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Parcels and assessments applicable thereto which shall be kept in the office of Common Facilities Manager and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto twenty (20) days prior to payment of the first installment thereof, except as to special assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

- 17.5 Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of Common Facilities Manager. If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such assessments (or installments) shall become delinquent and shall, together with late charges, interest on the late amount at the Default Rate and the cost of collection thereof (including any costs of any collection agency) and any costs for protection of the lien, as herein provided, thereupon become a continuing lien on the Parcel and all improvements thereon which shall bind such property in the hands of the then Owner, the Owner's heirs, personal representatives, successors and assigns. Except as provided in Section 17.6 to the contrary, the personal obligation of an Owner to pay such assessment shall pass to his or her successors in title and recourse may be had against either or both. If any installment of an assessment is not paid within fifteen (15) days after the due date, at the option of Common Facilities Manager a late charge not greater than the amount of [twenty-five percent (25%)] of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges; provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) and Common Facilities Manager may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Parcel on which the assessments and late charges are unpaid and all improvements thereon, may foreclose the lien against the applicable portion of the Parcel and all improvements thereon on which the assessments and late charges are unpaid in like manner as foreclosure of a mortgage lien, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same (including costs of any collection agency), in such action shall be added to the amount of such assessments, late charges and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels (and including fees incurred in bankruptcy or probate proceedings, if applicable). Failure of Common Facilities Manager (or any collecting entity) to send or deliver bills or notices of assessments shall not relieve Owners from their obligations hereunder. Common Facilities Manager shall have such other remedies for collection and enforcement of assessments as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

- 17.6 Subordination of the Lien. The lien of the assessments provided for in this Article shall be subordinate to real property tax liens and the lien of any Mortgage on a Parcel; provided, however, that any such mortgage lender when in possession, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Parcel by reason of the provisions of this Article shall be deemed to be an assessment divided equally among, payable by and a lien against all Parcels [*and other portions of The Properties*] subject to assessment by Common Facilities Manager, including the Parcels as to which the foreclosure (or conveyance in lieu of foreclosure) took place.
- 17.7 Curative Right. Declarant, for all Parcels now or hereafter located within The Properties, hereby acknowledges and agrees, and each Owner of any Parcel by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to acknowledge and agree, that it shall be the obligation of Common Facilities Manager to maintain, repair and replace the Common Facilities in accordance with the provisions of this Declaration. Notwithstanding anything herein contained to the contrary, in the event (and only in the event) that Common Facilities Manager fails to maintain the applicable Common Facilities as required under this Declaration, any affected Parcel Owner shall have the right to perform such duties; provided, however, that, except in the case of an emergency (in which case such notice as is reasonable under the circumstances shall be required) same may only occur after thirty (30) business days' prior written notice to Common Facilities Manager and provided that Common Facilities Manager has not effected curative action within said thirty (30) business day period (or if the curative action cannot reasonably be completed within said thirty (30) business day period, provided only that Common Facilities Manager has not commenced curative actions within said thirty (30) business day period and thereafter diligently pursued same to completion). To the extent that a Parcel Owner must undertake maintenance responsibilities as a result of Common Facilities Manager's failure to perform same, then in such event, but only for such remedial actions as may be necessary, the Parcel Owner shall be deemed vested with the Assessment rights of Common Facilities Manager hereunder for the limited purpose of obtaining reimbursement from the Owners for the costs of performing such remedial work.
- 17.8 Priority of Liens. Notwithstanding anything herein contained to the contrary, any assessment sums collected shall be applied first to the assessments of Common Facilities Manager, then to the assessments of a Responsible Party and then to those of the collecting Parcel Specific Manager.
- 17.9 Financial Records. Common Facilities Manager shall maintain financial books and records showing its actual receipts and expenditures with respect to the maintenance, operation, repair, replacement, alteration and relocation of the Common Facilities, including the then current budget and any then proposed budget (the "Facilities Records"). The Facilities Records need not be audited or reviewed by a Certified Public Accountant. The Facilities Records shall, during a ten (10) business day period established from time to time by Common Facilities Manager each year, be subject to the inspection of any Owner.
- 17.10 Estoppel Certificates. Upon the request of any Parcel Owner or its mortgagee, Common Facilities Manager shall furnish an estoppel certificate confirming such information as may be reasonably requested by such parties, such as the amount and status of payment of Assessments, whether this Declaration has been amended or supplemented (and, if so, identifying the amendments

and/or supplements), and whether such Owner or its Permitted Users are in compliance with this Declaration. The estoppel certificate shall be based on the actual knowledge of Common Facilities Manager without independent investigation. Common Facilities Manager may establish a reasonable fee to be charged to reimburse it for the cost of preparing any certificates hereunder.

- 17.11 Common Facilities Manager Consent; Conflict. The provisions of this Article 17 shall not be amended, modified or in any manner impaired and/or diminished, directly or indirectly, without the prior written consent of Common Facilities Manager. In the event of any conflict between the provisions of this Article 17, and the provisions of any other Section of this Declaration addressing the same subject matter, the provisions of this Article 17 shall prevail and govern.
- 17.12 Rights and Obligations of Responsible Parties. If Common Facilities Manager delegates any of its responsibilities under this Declaration with respect to any Limited Common Facilities to a Responsible Party (under Section 6.9 or otherwise), such Responsible Party shall have all of the rights and obligations of Common Facilities Owner with respect to the responsibilities so delegated, including without limitation the right to levy Assessments to pay for Common Facilities Costs incurred by the Responsible Party in connection with such Limited Common Facilities and to impose liens upon Parcels of Owners that fail to pay such Assessments as provided in this Article. In furtherance thereof, the rights and obligations of such Responsible Party shall include the rights and obligations of Common Facilities Owner under this Article 17 with respect to the applicable Limited Common Facilities (including without limitation obligations to adopt and budget Common Facilities Costs relative to such Limited Common Facilities, obligations to maintain records and curative rights of Owners that are not the applicable Responsible Party); provided, however that (a) Assessments shall be levied against the Benefitted Parcels served by the Limited Common Facilities rather than all Parcels, (b) the Owner(s) of such Benefitted Parcels shall pay its or their percentage share of Common Facilities Costs based on the ratio that the Assessment points for the Benefitted Parcel bears to the Assessment points of all Benefitted Parcels, and (c) no consent from any Responsible Party shall be required to amend the provisions of this Article 17.

18. GENERAL PROVISIONS

- 18.1 Duration. The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by Common Facilities Manager, Declarant (at all times) and the Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by all of the then Owners of the Parcels subject hereto and 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions; provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.
- 18.2 Notice. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, or delivered by such other means as may be determined from time to time by Common Facilities Manager to the last known address of the person who appears as Owner on the records of Common Facilities Manager at the time of such mailing.

- 18.3 Enforcement. Without limiting the generality of Article 11, enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Parcels to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 18.4 Interpretation. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions and interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others. All references to Articles, Sections, paragraphs and Exhibits mean the Articles, Sections, paragraphs, articles and Exhibits in (and, in the case of Exhibits, attached to) this Declaration unless another agreement is referenced. All Exhibits attached hereto are hereby incorporated herein by reference and made a part of this Declaration.
- 18.5 Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.
- 18.6 Amendment. In addition, but subject, to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed or added to at any time and from time to time upon the execution and recordation of an instrument executed by Declarant, for so long as it or its affiliate holds title to any Parcel or Structure affected by this Declaration; or alternatively, by an instrument signed by (i) Common Facilities Manager and (ii) the Parcel Owners responsible for more than [two-thirds] of the Common Facilities Costs, as allocated among the Parcel Owners pursuant to Section 17.3, provided that so long as Declarant or its affiliates is the Owner of any Parcel affected by this Declaration, Declarant's consent must be obtained if such amendment, in the sole opinion of Declarant, affects its interest. Notwithstanding anything herein contained to the contrary, the provisions of this Declaration affecting Common Facilities Manager or the Common Facilities Parcel (as determined in the sole discretion of Common Facilities Manager) shall not be amended, modified or, as to any rights granted to Common Facilities Manager or the Common Facilities Parcel Owner, impaired and/or diminished, directly or indirectly, without the prior written consent of Common Facilities Manager. In the event of any conflict between the provisions of the foregoing sentence and the provisions of any other Section of this Declaration, the provisions of the foregoing sentence shall prevail and govern.
- 18.7 Assignment Option. Common Facilities Parcel Owner shall have the option, in its sole discretion, to establish a Florida not-for-profit corporation (the "Successor Corporation"), and to designate the Successor Corporation as Common Facilities Manager hereunder. Upon such designation by the Common Facilities Parcel Owner, the Successor Corporation shall be Common Facilities Manager for purposes of this Declaration, unless and until another entity shall be designated as Common Facilities Manager by Common Facilities Parcel Owner in accordance with the terms of this Declaration. The sole members of the Successor Corporation shall be the Parcel Owners, whose membership interests and voting interests shall be equivalent to and in the same percentage as each Parcel Owner's proportionate share of Common Facilities Costs under Section 17.3. At the time of such designation, Articles of Incorporation and Bylaws shall be prepared by Common

Facilities Manager setting forth the operating procedures of the Successor Corporation, including procedures for the election of officers and directors and establishment of the Common Facilities Costs budget. Without limiting the rights of the Common Facilities Parcel Owner to convey the Common Facilities Parcel to any third party at any time in its sole and absolute discretion, Common Facilities Manager may, at any time and at its sole option, elect to convey, by quit claim deed, the Common Facilities Parcel to the Successor Corporation. Upon such conveyance, the Successor Corporation shall be deemed to have automatically accepted such conveyance and shall be the Common Facilities Parcel Owner for purposes of this Declaration. From and after the conveyance of the Common Facilities Parcel to the Successor Corporation, the Successor Corporation shall be responsible for any and all taxes and/or assessments attributable to the Common Facilities Parcel and for the maintenance, insurance and administration of the Common Facilities Parcel, and all expenses relating thereto shall be Common Facilities Costs hereunder.

- 18.8 Cooperation. Each Owner, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to reasonably cooperate in, and support, any and all zoning, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions and other actions necessary or desired (as determined by Declarant or Common Facilities Manager) for development and/or improvement of The Properties, including, without limitation, signing any required applications, plats, etc. as the owner of any portion of The Properties owned or controlled thereby when necessary or requested.
- 18.9 Standards for Consent, Approval and Other Actions. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by Declarant or its affiliates, or Common Facilities Manager, such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, unless otherwise expressly provided herein, and all matters required to be completed or substantially completed by Declarant or its affiliates shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of Declarant. Without limiting the foregoing, no consent or approval shall be granted if the matter or action that is the subject of the consent or approval is not consistent with the Project Standard in the reasonable judgment of Common Facilities Manager.
- 18.10 Easements. Formal language of grant or reservation with respect to easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.
- 18.11 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Facilities to the public, or for any public use.
- 18.12 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Parcel and/or Unit or other property located on or within The Properties, shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in, or rights with respect to, such Parcel, Structure or other property.
- 18.13 Covenants Running With The Land. Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 18.1 hereof, it is the intention of all

parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with The Properties and with title to The Properties. Without limiting the generality of Section 18.5 hereof, if any provision or application of this Declaration would prevent this Declaration from running with The Properties as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with The Properties; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with The Properties as aforesaid) be achieved.

- 18.14 CPI. Whenever specific dollar amounts are stated in this Declaration or any exhibits hereto, unless limited by Legal Requirements or the specific text hereof (or thereof), such amounts shall increase from time to time by application of a nationally recognized consumer price index chosen by Common Facilities Manager, using the date this Declaration is recorded as the base year. In the event no such consumer price index is available, Common Facilities Manager shall choose a reasonable alternative to compute such increases. In no event shall increases under this provision occur more frequently than the fifth (5th) anniversary of the recording of this Declaration and each fifth (5th) anniversary thereafter.

19. DISCLAIMER AND DISCLOSURES

19.1 BROWNFIELDS DISCLOSURES. [TO BE INSERTED]

- 19.2 NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT, COMMON FACILITIES MANAGER, COMMON FACILITIES PARCEL OWNER OR ITS OR THEIR AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE COMMON FACILITIES, THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LEGAL REQUIREMENTS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT (A) AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION OR IN DOCUMENTS WHICH MAY BE FILED BY DECLARANT FROM TIME TO TIME WITH APPLICABLE GOVERNMENTAL AGENCIES, AND (B) AS OTHERWISE REQUIRED BY APPLICABLE LEGAL REQUIREMENTS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH OWNER RECOGNIZES AND AGREES THAT IN MULTIBUILDING STRUCTURES ON THE PROPERTIES, IT IS TYPICAL TO EXPECT BOWING AND/OR DEFLECTION OF MATERIALS. ACCORDINGLY, INSTALLATION OF FINISHES MUST TAKE SAME INTO ACCOUNT. FURTHER, EACH OWNER RECOGNIZES AND AGREES THAT THE EXTERIOR LIGHTING SCHEME FOR THE PROPERTIES MAY CAUSE EXCESSIVE ILLUMINATION. ACCORDINGLY, INSTALLATION OF WINDOW TREATMENTS SHOULD TAKE SAME INTO ACCOUNT. AMONG OTHER ACTS OF GOD AND UNCONTROLLABLE EVENTS, HURRICANES AND FLOODING HAVE OCCURRED IN SOUTH FLORIDA AND THE PROPERTIES ARE EXPOSED TO THE POTENTIAL DAMAGES FROM FLOODING AND FROM HURRICANES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN. WATER OR OTHER DAMAGES FROM THIS OR OTHER EXTRAORDINARY CAUSES SHALL NOT BE THE RESPONSIBILITY OF DECLARANT, COMMON FACILITIES MANAGER, COMMON FACILITIES PARCEL OWNER OR ANY OTHER

PARTY. TO THE MAXIMUM EXTENT LAWFUL, DECLARANT HEREBY DISCLAIMS ANY AND ALL AND EACH AND EVERY EXPRESS OR IMPLIED WARRANTIES, WHETHER ESTABLISHED BY STATUTORY, COMMON, CASE LAW OR OTHERWISE, AS TO THE DESIGN, CONSTRUCTION, SOUND AND/OR ODOR TRANSMISSION, EXISTENCE AND/OR DEVELOPMENT OF MOLDS, MILDEW, TOXINS OR FUNGI, FURNISHING AND EQUIPPING OF THE PROPERTIES AND/OR COMMON FACILITIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, COMPLIANCE WITH PLANS, ALL WARRANTIES IMPOSED BY STATUTE AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES OF ANY KIND OR CHARACTER. FURTHER, GIVEN THE CLIMATE AND HUMID CONDITIONS IN SOUTH FLORIDA, MOLDS, MILDEW, TOXINS AND FUNGI MAY EXIST AND/OR DEVELOP WITHIN THE PARCELS, UNITS AND/OR OTHER PORTIONS OF THE PROPERTIES. EACH OWNER IS HEREBY ADVISED THAT CERTAIN MOLDS, MILDEW, TOXINS AND/OR FUNGI MAY BE, OR IF ALLOWED TO REMAIN FOR A SUFFICIENT PERIOD MAY BECOME, TOXIC AND POTENTIALLY POSE A HEALTH RISK. BY ACQUIRING TITLE TO A UNIT AND/OR PARCEL, OR PORTIONS THEREOF, EACH OWNER, INCLUDING, WITHOUT LIMITATION, EACH UNIT OWNER, SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH MOLDS, MILDEW, TOXINS AND/OR FUNGI AND TO HAVE RELEASED COMMON FACILITIES MANAGER, COMMON FACILITIES PARCEL OWNER AND DECLARANT FROM ANY AND LIABILITY RESULTING FROM SAME.

AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE PARCELS AND/OR STRUCTURES (WHETHER FROM DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

19.3 DISCLAIMER OF LIABILITY. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN ANY OTHER DOCUMENT GOVERNING OR BINDING THE PROPERTIES, NEITHER DECLARANT, COMMON FACILITIES MANAGER OR COMMON FACILITIES PARCEL OWNER SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

- (a) IT IS THE EXPRESS INTENT OF THIS DECLARATION AND THE OTHER GOVERNING DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;
- (b) NEITHER DECLARANT, COMMON FACILITIES MANAGER OR COMMON FACILITIES PARCEL OWNER IS EMPOWERED NOR ESTABLISHED TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LEGAL

REQUIREMENTS OF ANY GOVERNMENTAL ENTITY OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

- (c) ANY PROVISIONS OF THIS DECLARATION OR THE OTHER GOVERNING DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE RECIPIENT OF SUCH ASSESSMENT FUNDS TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

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

EXECUTED as of the date first above written.

Witnessed by:

DANIA LIVE 1748, LLC, a Delaware limited liability company

By: Dania Live JV, LLC, a Delaware limited liability company, Managing Member

Name: _____

By: _____
Name: _____
Title: _____

(Corporate Seal)

Name: _____

STATE OF FLORIDA)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 20__ by _____, as _____ of Dania Live JV, LLC, a Delaware limited liability company, the managing member of Dania Live 1748, LLC, a Delaware limited liability company, on behalf of the companies. He/she is personally known to me or produced _____ as identification.

My commission expires:

Name: _____
Notary Public, State of _____
Commission No. _____

DRAFT 1/29/16

JOINDER OF MORTGAGEE

[TO BE INSERTED, IF APPLICABLE]

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTIES

All of Parcel A of "DANIA POINTE", according to the Plat thereof, as recorded in Plat Book ____, Pages ____ through ____, of the Public Records of Broward County, Florida.

DRAFT 1/29/16

EXHIBIT "B"

DANIA POINTE – INITIAL PARCELS

[TO BE ATTACHED]

EXHIBIT "C-1"

DANIA POINTE – INITIAL COMMON FACILITIES

[TO BE ATTACHED]

DRAFT 1/29/16

EXHIBIT "C-2"

DANIA POINTE – INITIAL LIMITED COMMON FACILITIES

[TO BE ATTACHED]

EXHIBIT "D"

LIST OF PROJECT ENCUMBRANCES¹

1. The Development Guidelines.
2. Plat of DANIA POINTE, according to the Plat thereof, as recorded in Plat Book ____, Pages ____ through ____, of the Public Records of Broward County, Florida.
3. The Environmental Protection Plan and any deed restrictions, declaration of restrictive covenants, institutional controls, engineering controls and/or any other restrictions, covenants, limitations, controls and/or requirements now existing or hereafter required pursuant to the Environmental Protection Plan or any Environmental Laws.
4. *[Describe any restrictions, covenants and/or controls that have been recorded or otherwise exist at the time the Declaration is recorded.]*
5. *[Describe Construction Dewatering Plan.]*
6. *[Describe Broward County Dewatering License(s).]*
7. *[Describe SFWMD Master Dewatering Permit and any environmental resources permits governing the Surface Water Management System.]*
8. *[Identify and insert other instruments.]*
9. With respect to each Parcel, the Parcel Specific Development Documents applicable to such Parcel (if any).

¹ ALL RECORDED REFERENCES IN THIS EXHIBIT "D" ARE TO THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

DRAFT 1/29/16

EXHIBIT "E"

RESERVED

MIA 184859325v2

CHI 66633970v2

Lajoie, Corinne

From: Poliakoff, Keith M. <kpoliakoff@arnstein.com>
Sent: Thursday, March 03, 2016 10:35 AM
To: Lajoie, Corinne
Cc: Ansbro, Tom; James Leach
Subject: Re: Dania Point

Corrine:

We just took a look at the most recent Dania Point site plan. While we are pleased to see that they left the access to 1780 alone, however, they need to show a break in the striping paint so that customers know that they can legally make a left in or out of our property as they can today. In addition, the prior plan was actually better in that it had full interconnectivity between the two properties to mitigate the adverse impact of the increased traffic flow, queuing time/distances, turning movements, etc. on 18th. The current version seals off the two properties which in our opinion will result in the current free flowing access in and out of our property being restricted by traffic and thereby decreasing the level of service enjoyed today. Further, the ability of patrons at Dania Point to access Chipotle and the other users in our center (and vice versa) have no means of access to patronize one another which in turn will generate more trips on the infrastructure and/or customers will park at the outskirts of Dania Point and then jump over the wall and fence. Please let me know if we need to meet or who we should speak to in order to resolve these minor issues.

Regards: Keith

Keith M. Poliakoff, Esq.

Attorney at Law
Admitted in Florida & New York

ARNSTEIN & LEHR LLP

200 East Las Olas Boulevard
Suite 1000
Fort Lauderdale, Florida 33301
Phone: 954.713.7644 | Fax: 954.208.8204
Mobile: 917.532.6492
kpoliakoff@arnstein.com

Accomplished lawyers who understand your goals.

Offices in Illinois, Florida, and Wisconsin

Keith M. Poliakoff Esq.

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Keith M. Poliakoff
954.713.7644
kpoliakoff@arnstein.com

FILE COPY

January 13, 2016

Sent via Electronic & Regular Mail

Mr. Marc LaFerrier
Director Community Development
City of Dania Beach
100 West Dania Beach Boulevard
Dania Beach, FL 33004



Re: Dania Live

Dear Mr. LaFerrier:

As you may recall, I represent Frontier Dania, LLC ("Frontier"), owner of 1780 Stirling Road, which abuts the Dania Live development. Your staff may have informed you that we have been closely monitoring the Dania Live project to ensure that this exciting development does not adversely interfere with the access and current levels of service to our property from Stirling Road via 18th Avenue.

A few weeks ago we met with your staff in order to review the most current proposal, and we were pleased to see that our full access off of 18th Avenue has not been modified. We were further encouraged to see that the proposed site plan creates additional vehicular corridors between our property and Dania Live in order to mitigate the additional traffic created by Dania Live. We hope that as this site plan continues to be refined, to also include safe pedestrian cross access points as well.

Finally, it is important to note that the proposed site plan seems to modify the recorded Cross Parking Easement Agreement between ourselves, the City, and Dania Live. A copy of the recorded Agreement has been attached for your review. While, on the surface, we are not opposed to a parking modification that benefits all properties, our specific written consent to the relocation of the parking will be required prior to proceeding with the currently proposed plan.

CHICAGO SPRINGFIELD MILWAUKEE
FORT LAUDERDALE MIAMI TAMPA WEST PALM BEACH BOCA RATON

Arnstein & Lehr LLP is a member of the International Lawyers Network

ARNSTEIN & LEHR LLP

Mr. Marc LaFerrier

January 13, 2016

Page 2

We kindly request that you notify us in the event that any of the design elements discussed in this letter are changed. Thank you in advance for your attention to this matter

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'K. Poliakoff', is written over the typed name.

Keith M. Poliakoff

Cc: Corrine Lajoie, Principal Planner
Tom Ansbro, City Attorney

112902442.1

This instrument prepared by:

Matthew Weinstein, Esq.
Cozen O'Connor
1900 Market Street
Philadelphia, PA 19103

Stephanie Toothaker, Esq.
Tripp Scott
110 Southeast Sixth Street
Fort Lauderdale, Florida 33301

Parcel Identification Nos. 5042 33 00 0630
 5042 33 AC 0010
 5042 33 AC 0020

OFF-STREET PARKING & SIGNAGE AGREEMENT

THIS AGREEMENT ("Agreement") is made this 19th day of February 2011 by and among:

FRONTIER DANIA LLC, a Delaware limited liability corporation, 1801 S.W. 3rd Avenue, Suite 500, Miami, Florida, 33129, its successors and assigns, ("**Frontier**") 5042 33 00 0630

and

PALMETTO HOSPITALITY OF DANIA BEACH HP, LLC, a Florida limited liability corporation, 340 E. Main Street Suite 300, Spartanburg, SC, 29302 its successor and assigns, 5042 33 AC 0010

and

PALMETTO HOSPITALITY OF DANIA BEACH SS, LLC, a Florida limited liability corporation, 340 E. Main Street Suite 300, Spartanburg, SC, 29302 its successor and assigns, 5042 33 AC 0020

Palmetto Hospitality of Dania Beach HP, LLC and Palmetto Hospitality of Dania Beach SS, LLC, shall be together referred to as ("**Palmetto**")

WHEREAS, Frontier is the owner of the parcel of land commonly known as 1780 Stirling Road, Dania Beach, Florida, which is legally described as:

A PORTION OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHEAST 1/4 (SE 1/4) OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 (SE 1/4) OF SAID SECTION 33; THENCE NORTH 00°43'45" EAST ON THE WEST LINE OF SAID SOUTHEAST 1/4 (SE 1/4), A DISTANCE OF 73.88 FEET OF THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°43'45" EAST ON SAID WEST LINE 181.94 FEET TO THE WESTERLY PROLONGATION OF THE MOST WESTERLY SOUTH LINE OF "HILTON GARDENS AT STIRLING ROAD" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 171, PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 79°36'25" EAST ON SAID WESTERLY PROLONGATION AND SAID MOST WESTERLY SOUTH LINE 171.84 FEET; THENCE CONTINUING ON THE SOUTH LINE OF SAID "HILTON GARDENS AT STIRLING ROAD" NORTH 83°06'46" EAST 168.05 FEET TO THE SOUTHEAST CORNER OF SAID "HILTON GARDENS AT STIRLING ROAD", SAID POINT BEING ON THE EAST LINE OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHEAST 1/4 (SE 1/4) OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 42 EAST; THENCE SOUTH 00°48'44" WEST ON SAID EAST LINE 254.04 FEET TO THE INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF STIRLING ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 9385, PAGES 839 AND 841, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 89°59'21" WEST ON SAID NORTH RIGHT-OF-WAY LINE 193.58 FEET; THENCE ON THE NORTH RIGHT-OF-WAY LINE OF SAID STIRLING ROAD AS SHOWN IN OFFICIAL RECORDS BOOK 23584, PAGE 103, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) NORTH 85°19'40" WEST 26.60 FEET TO THE INTERSECTION WITH THE ARC OF A CURVE CONCAVE NORTHERLY WHOSE RADIUS POINT BEARS NORTH 00°42'07" EAST; 2) WESTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 2245.34 FEET, A CENTRAL ANGLE OF 2°38'10" AND AN ARC LENGTH OF 103.31 FEET; 3) NORTH 36°38'09" WEST 18.84 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF DANIA BEACH, BROWARD COUNTY, FLORIDA CONTAINING 76,850 SQUARE FEET (1.7642 ACRES) (the "Frontier Parcel"); and

WHEREAS, Palmetto is the owner of the parcels of land directly to the Northwest of Frontier's parcel which are legally described as:

Palmetto Hospitality of Dania Beach Condo 1; and Palmetto Hospitality of Dania Beach Condo Unit 2, (collectively the "Palmetto Parcels"); and

WHEREAS, Frontier has developed a commercial plaza on the Frontier Parcel and desires to grant shared parking rights with Palmetto; and

WHEREAS, Palmetto is in the process of developing businesses, including, but not limited to, hotels, on the Palmetto Parcels and desires to grant shared parking rights with Frontier; and

WHEREAS, Frontier has been granted the right to erect a ten foot by fourteen foot monument sign on the Frontier Parcel and desires to add the names of the businesses developed on the Palmetto Parcels to its monument sign; and

WHEREAS, Palmetto desires to place such names on Frontier's monument sign; and

WHEREAS, the City of Dania Beach, a Florida municipal corporation ("City") adopted Ordinance No. 2008-022, which provided for the creation of a Hotel Overlay District; and

WHEREAS, the Hotel Overlay District encourages innovative design concepts to encourage the compatibility of mixed uses; and

WHEREAS, Frontier's commercial plaza has been designed in accordance with the standards contained within the Hotel Overlay District; and

WHEREAS, the Palmetto Parcels have been and will continue to be designed in accordance with the standards contained within the Hotel Overlay District; and

WHEREAS, Section 315 of the City's Land Development Code (LDC), adopted in Ordinance 2010-020, states that shared parking agreements shall be approved if it is determined that ample parking has been provided and if a Shared Parking Agreement is recorded in the public record; and

WHEREAS, in addition to the parking previously approved for each property, Frontier and Palmetto may count an additional fifty (50) parking spaces to its overall parking requirements through implementation of this Agreement.

WHEREAS, Section 315-50 of the LDC provides for the ability to have shared district-wide premise signage; and

WHEREAS, the ability to have shared parking and shared district-wide signage complies with the regulations of the City's Hotel Overlay District; and

WHEREAS, both properties currently comply with the requirements of City's LDC, and nothing in this Agreement shall waive any vested rights or variances received for the Frontier Parcel or the Palmetto Parcels.

NOW, THEREFORE, in consideration of the mutual covenants exchanged herein and other good and valuable considerations exchanged between the parties, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Frontier and Palmetto represent that the foregoing recitals are true and correct and are hereby incorporated in this Agreement.
2. Frontier and Palmetto agree to grant, to provide and to maintain shared parking as delineated in Section 315 of the LDC. Not by way of limitation, Frontier and Palmetto shall each provide fifty (50) perpetual, non-exclusive parking spaces, and egress, ingress and regress access thereto, in, over and across a portion of each party's respective parcels, for the purposes of parking on each parties' respective parcels. In the event Palmetto elects to install security gates on the Palmetto Parcels, Palmetto shall provide Frontier with adequate access to said spaces so that such installation shall not affect Frontier's right to include such parking spaces in Frontier's parking space count for purpose of complying with applicable code.

3. Frontier agrees to allow Palmetto to place its business names on Frontier's monument sign in accordance with Section 315 of the LDC.

4. The covenants, agreements, promises, conveyances, rights, obligations, restrictions set forth in this Agreement are, and the same shall be construed as both covenants and conditions, and that they shall run with the land and be affirmatively enforceable against the land and the parties hereto and their successors and assigns; and shall continue to be easements, servitudes, charges and encumbrances appertaining to and upon, and covenants benefiting, binding and running with, the Frontier Parcel and the Palmetto Parcels;

5. In the event it becomes necessary for any of the parties to commence litigation to enforce the terms or conditions of this Agreement, the prevailing party in any such action shall be entitled to recover all reasonable costs and attorneys' fees at all tribunal levels.

6. Pursuant to Section 315 of the LDC, the community development director shall determine the adequacy of the shared parking spaces being provided based upon the uses being proposed.

7. This Agreement shall be recorded in the Public Records of Broward County, Florida at Frontier's sole cost and expense.

8. The provisions of this Agreement shall not be construed to restrict the right of either property owner to sell, lease or otherwise convey the properties described herein.

9. This Agreement shall not be effective until (i) it has been executed by the parties, and (ii) recorded in the Public Records of Broward County, Florida.

10. This agreement shall run to the benefit of the City. The parties may terminate this agreement only upon consent of the community development director or his or her designee, which may be granted if each use on its own satisfies the off-street parking requirements independent of the agreement, there is a change of use or intensity such that the off-site parking is no longer necessitated, or an alternative parking facility is secured via a replacement agreement. This Agreement may not be amended, modified, revoked or terminated except in writing signed by all parties, and recorded in the Public Records of Broward County, Florida.

11. This Agreement shall continue in full force and effect as a perpetual obligation, and shall be unaffected by any change in use of the Frontier Parcel or Palmetto Parcels.

12. Within twenty (20) days after written request from any party, the requested parties shall provide to the requesting party and the requesting party's lender an estoppel letter in form and content reasonably acceptable to the requesting party stating at a minimum that this agreement is unmodified and in full force and effect; that to the best of the knowledge of the signer of the estoppel letter that none of the parties are in default of its obligations under this Agreement beyond any applicable cure period; and any other matters reasonably requested by the requesting party or the requesting party's lender.

13. Each party hereby represents that it has necessary title and all requisite authority to enter into this Agreement and to accept the obligations contained herein.

14. This Agreement shall be governed by the laws of the State of Florida and the laws of the United States pertaining to transactions in the State of Florida.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

WITNESSES:

JL
James Lowery
[Witness print/type name]

Jennifer Zante
Jennifer Zante
[Witness print/type name]

FRONTIER:

Frontier Dania LLC, a Delaware limited liability company

By: Frontier Pepper's Ferry, LLC, a Virginia limited liability company, its sole member and manager

By: Gordon South LLC, a Delaware limited liability company, its manager

By *[Signature]*
Eric Gordon, Manager

STATE OF FLORIDA:


COUNTY OF BROWARD:

The foregoing Off-Street Parking and Signage Agreement was executed and acknowledged before me this 19th day of February, 2011, by Eric Gordon, manager of Gordon South LLC, Manger of Frontier Pepper's Ferry LLC, sole member and manager of Frontier Dania LLC, a Delaware limited liability company. He is personally known to me or has produced _____ as identification.

(SEAL)

Alan J. Miller
Notary Public, State of Florida (Signature of Notary taking Acknowledgment)

Alan J. Miller
Name of Notary Typed, Printed or Stamped

My Commission Expires: _____
 Alan J. Miller
COMMISSION #DD808037
EXPIRES: JUL. 22, 2012
WWW.AARONNOTARY.COM

Commission Number _____

WITNESSES:

[Signature]
Kevin DeMark
[Witness print/type name]

PALMETTO HOSPITALITY OF
DANIA BEACH HP, LLC

By [Signature]
Charlie T King
[print/type name & title]
Asst Treasurer

[Signature]
Dennis Mitchell
[Witness print/type name]

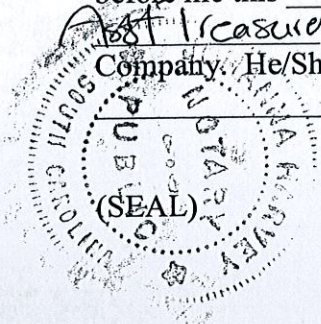
ATTEST:
[Signature]
Secretary

(CORPORATE SEAL)

STATE OF SOUTH CAROLINA:

COUNTY OF SPARTANBURG:

The foregoing Off-Street Parking and Signage Agreement was executed and acknowledged before me this 18 day of February, 2011, by Charlie T King, as Asst Treasurer of, Palmetto Hospitality of Dania Beach, HP, LLC, a Florida Limited Liability Company. He/She is personally known to me or have produced _____ as identification.



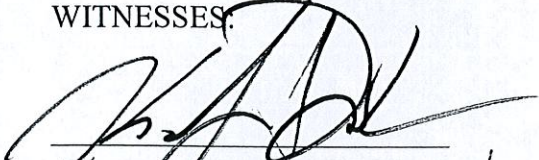
[Signature]
Notary Public, State of South Carolina
(Signature of Notary taking Acknowledgment)


Johanna Harvey
Name of Notary Typed, Printed or Stamped

JOHANNA HARVEY
Notary Public, South Carolina
My Commission Expires
June 09, 2014

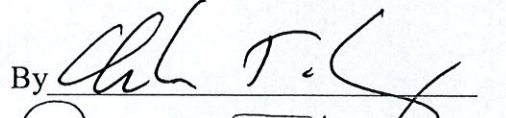
Commission Number

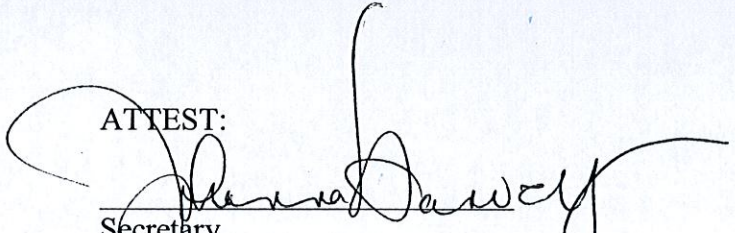
WITNESSES:


Robin DeMark
[Witness print/type name]


Dennis Mitchell
[Witness print/type name]

PALMETTO HOSPITALITY OF
DANIA BEACH SS, LLC

By 
Charles T King
[print/type name & title]
Asst Treasurer

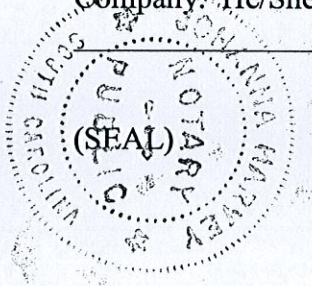
ATTEST:

Secretary

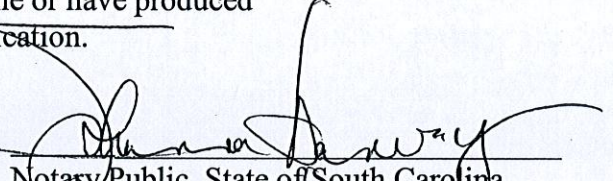
(CORPORATE SEAL)

STATE OF SOUTH CAROLINA:

COUNTY OF SPARTANBURG:

The foregoing Off/Street Parking and Signage Agreement was executed and acknowledged before me this 18 day of February, 2011, by Charles T King, as Asst Treasurer of, Palmetto Hospitality of Dania Beach, SS, LLC, a Florida Limited Liability Company. He/She is personally known to me or have produced _____ as identification.




Notary Public, State of South Carolina
(Signature of Notary taking Acknowledgment)
Johanna Harvey
Name of Notary Typed, Printed or Stamped

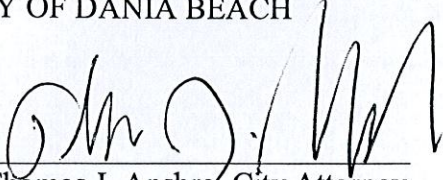
JOHANNA HARVEY
Notary Public, South Carolina
My Commission Expires
June 09, 2019

Commission Number

ACKNOWLEDGEMENT

Agree to and accepted this
19th day February ~~2100~~ 2011

CITY OF DANIA BEACH

By 
Thomas J. Ansbro, City Attorney

This instrument prepared by:

Matthew Weinstein, Esq.
Cozen O'Connor
1900 Market Street
Philadelphia, PA 19103

Stephanie Toothaker, Esq.
Tripp Scott
110 Southeast Sixth Street
Fort Lauderdale, Florida 33301

Parcel Identification Nos. 5042 33 00 0630
 5042 33 AC 0010
 5042 33 AC 0020

SIGN PANEL LICENSE AND CROSS PARKING EASEMENT AGREEMENT

This **SIGN PANEL LICENSE AND CROSS PARKING EASEMENT AGREEMENT** (the "Agreement") is made as of this 19th day of April, 2011 (the "Effective Date"), by and among FRONTIER DANIA LLC, a Delaware limited liability company ("Frontier"), PALMETTO HOSPITALITY OF DANIA BEACH HP, LLC, a Florida limited liability company ("PHHP") and PALMETTO HOSPITALITY OF DANIA BEACH SS, LLC, a Florida limited liability company, ("PHSS") (together, PHHP and PHSS are hereinafter referred to as "Palmetto").

BACKGROUND

WHEREAS, Frontier is the fee simple owner of that certain parcel of land commonly known as 1780 Stirling Road, Dania Beach, Florida, as described on Exhibit A attached hereto (the "Frontier Property").

WHEREAS, Palmetto is the fee simple owner of those certain parcels of land located on or about the northwest corner of Stirling Road and SW 18th Avenue in Dania Beach, Florida, as described on Exhibit B attached hereto (the "Palmetto Properties").

WHEREAS, Frontier wishes to grant, and Palmetto wishes to receive, a signage license in, over and across a portion of the Frontier Property together with ingress and egress thereto, in a location and for the purposes described below and as described on Exhibit C attached hereto ("Signage License Area").

WHEREAS, Frontier and Palmetto wish to grant to each other, and each party wishes to receive, perpetual non-exclusive cross parking rights in, over and across each party's respective properties for the purposes described below ("Parking Area").

NOW THEREFORE, in consideration of the premises, and Ten (\$10.00) Dollars, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Frontier and Palmetto hereby agree as follows:

1. Grant of License.

(a) Frontier hereby grants and conveys to Palmetto a non-exclusive license (the "Sign License") for the benefit of Palmetto, its successors and assigns, to enter upon, in, on, across and through the Signage License Area, together with ingress and egress thereto across the Frontier Property, for the purpose of installing, repairing, and maintaining the Palmetto Sign Panels (as defined below) in accordance with applicable laws. For purposes herein, the "Palmetto Sign Panels" shall mean those sign panels, which number shall not exceed three (3) panels, designated for exclusive use by Palmetto and located on both sides of the monument sign to be located in the Sign License Area. The grant to Palmetto set forth in this paragraph shall be in the locations set forth Exhibit D attached hereto. Palmetto shall not be permitted to use the Palmetto Sign Panels for advertising of businesses other than those then occupying, intended to occupy or located on the Palmetto Properties. Palmetto may not place a "for sale," "for rent," "going out of business," "liquidation sale" or similar sign on the Palmetto Sign Panels.

(b) Frontier and Palmetto grant and convey to each other a perpetual, non-exclusive parking easement in, over and across each party's property (the "Parking Easement"), for the purpose of parking not more than fifty (50) vehicles. Notwithstanding the above, in no event shall Frontier be permitted to use the Palmetto Properties for overnight parking of employees, customers or occupants of the Frontier Property. Notwithstanding the above, in no event shall Palmetto be permitted to use the Frontier Property for (i) employee parking by Palmetto's employees, agents, licensees or contractors on the Frontier Property, or (ii) daytime parking (meaning between the hours of 8:00 am and 10:00 p.m., seven (7) days a week) of employees, customers or occupants of the Palmetto Properties. In addition, in the event security gates are installed by Palmetto on the Palmetto Properties, Palmetto shall grant and issue to Frontier, parking passes for Frontier, its employees, customers or occupants in sufficient quantity, necessary to satisfy Frontier's parking requirements. For purposes herein, overnight parking shall mean 9:00 p.m. until 6:00 a.m. on the immediately succeeding day.

2. Term. The Sign License granted herein shall commence on the date that both of the following items have been completed: (a) the monument sign is constructed in the Sign License Area and (b) the execution of the City Agreement (as defined below). The Parking Easement granted herein shall commence on the Effective Date.

3. No Dedication. The granting of the Sign License and Parking Easement allowed herein is not intended, and shall not be construed, as a dedication of any part of the Frontier Property or Palmetto Properties, as applicable, for public use, and Frontier and Palmetto agree to take any action that is necessary to avoid such dedication. Nothing contained herein will result in a forfeiture or reversion of Frontier's or Palmetto's title in any respect.

4. Maintenance of the Sign License Area.

(a) Palmetto shall, at its sole cost and expense, be responsible for diligently and promptly maintaining and repairing the Palmetto Sign Panels. In performing Palmetto's maintenance and repair obligations with respect to the Palmetto Sign Panels, Palmetto shall not interfere with the rights of Frontier or Frontier's tenants, agents, contractors, permittees or invitees at the Frontier Property. Palmetto shall use commercially reasonable efforts to cause any maintenance and repair obligations with respect to the Palmetto Sign Panels to occur after normal business hours at the Frontier Property or at such time as will cause minimal interruption to Frontier or Frontier's tenants, agents, contractors, permittees or invitees at the Frontier Property.

(b) Except with respect to the Palmetto Sign Panels, Frontier shall be responsible for the initial construction and subsequent maintenance and repair of the Sign License Area and all areas of the monument sign other than the Palmetto Sign Panels. Except for the direct costs incurred in connection with the operation, maintenance, repair and replacement of sign panels of other parties allocated space on the monument sign, the cost, expenses and expenditures in connection with such operation, maintenance, repair and replacement of the Sign License Area, including but not limited to the provision of electrical service to the Palmetto Sign Panels, shall be payable to Frontier by Palmetto in accordance with its Proportionate Share of Monument Sign (as defined below), within ten (10) days after presentation by Frontier to Palmetto of a statement reflecting the costs, expenses and expenditures incurred by Frontier. "Proportionate Share of Monument Sign" shall mean a fraction, the numerator of which shall be the number of square feet of area on the monument sign allocated to Palmetto, and the denominator of which shall be the total number of square feet on the monument sign in the Sign License Area.

(c) Palmetto shall be solely responsible for ensuring that the Palmetto Sign Panels comply with all applicable laws, City of Dania Beach Commission approvals and requirements, and recorded agreements applicable to the Sign License Area. Frontier's consent to the Palmetto Sign Panels shall not be required provided the Palmetto Sign Panels comply with all applicable laws and recorded agreements affecting the Sign License Area and the Palmetto Sign Panels reflect only the names of the businesses then operating at the Palmetto Properties.

5. Development Costs Related to Sign License and Hotel District Overlay. Upon the later to occur of (i) the Effective Date of this Agreement or (ii) the execution of the City Agreement (as defined below), Frontier shall release to Palmetto \$24,529.84 of the amount currently held in escrow on account of the intersection improvement work performed immediately adjacent to the Frontier Property in connection with the development of the Frontier Property and Palmetto Properties (the "Intersection Work"). The parties acknowledge that \$75,000.00 is currently held in escrow on account of the Intersection Work. On the later to occur of (i) the Effective Date of this Agreement or (ii) the execution of the City Agreement (as defined below), \$50,470.16 of the escrow balance shall be released to Frontier on account of Frontier's legal fees and related costs in connection with the Hotel District Overlay approval, sign variance approval and drafting, preparation, negotiation and execution of agreements related thereto and construction of the Sign License Area.

6. Conditions Precedent. The rights, duties and obligations of Frontier and Palmetto are contingent upon the receipt of approval from the City of Dania Beach and the full execution of the Off-Street Parking and Signage Agreement dated on or about the date hereof (the "City Agreement"). In the event the City of Dania Beach does not approve the City Agreement and/or the City Agreement is not fully executed, then notwithstanding the provisions set forth in Section 5 above, the \$75,000.00 currently held in escrow on account of the Intersection Work shall be released to Frontier.

7. Maintenance of the Parking Easement. Frontier and Palmetto shall each diligently and promptly repair and maintain in compliance with all applicable legal requirements any damage to that portion of the Parking Easement located on each party's respective properties except for any damage caused by the gross negligence or willful misconduct of another party. In the event the party causing such damage fails to so promptly repair any such damage as required in the previous sentence, the party upon whose property the affected portion of the Parking Easement is located may, upon five (5) business days' prior written notice to the party causing such damage (except in the case of emergency when no notice shall be required), undertake to repair such damage (except in the case of emergency when no notice shall be required) and charge the cost of such repair to the party causing such damage, which cost shall be reimbursed by the party causing such damage within ten (10) days after written demand therefore.

8. Release and Waivers, Indemnification and Responsibility for Damages.

(a) Frontier shall pay for any and all damages, losses or injuries arising out of Frontier's negligence or willful misconduct in connection with or resulting from the exercise, use or enjoyment of any of the rights herein granted to Frontier, its heirs, executors, administrators, successors and assigns and/or future holders of the rights granted herein. Frontier, its heirs, executors, administrators, successors and assigns and any future holders of the rights granted herein (collectively, the "Frontier Indemnifying Parties") jointly and severally agree to indemnify, defend, save and hold harmless Palmetto from and against any and all losses, liabilities, costs (including reasonable attorney fees), expenses, penalties, judgments, claims and damages of every kind or character arising out of the Frontier Indemnifying Parties' negligence or willful misconduct associated with their exercise of their rights granted herein in connection with the Parking Easement and Sign License.

(b) Palmetto shall pay for any and all damages, losses or injuries arising out of Palmetto's negligence or willful misconduct in connection with or resulting from the exercise, use or enjoyment of any of the rights herein granted to Palmetto, its heirs, executors, administrators, successors and assigns and/or future holders of the rights granted herein. Palmetto, its heirs, executors, administrators, successors and assigns and any future holders of the rights granted herein (collectively, the "Palmetto Indemnifying Parties") jointly and severally agree to indemnify, defend, save and hold harmless Frontier from and against any and all losses, liabilities, costs (including reasonable attorney fees), expenses, penalties, judgments, claims and damages of every kind or character arising out of the Palmetto Indemnifying Parties' negligence or willful misconduct associated with their exercise of their rights granted herein in connection with the Parking Easement and Sign License.

(c) Palmetto disclaims any warranty as to the condition of the Frontier Property or the Sign License Area. Palmetto receives access to the Signage License Area and the Frontier Parking Area "as-is", without any warranties that it is suitable for Palmetto's use or purposes, or that it is free of hazardous substances or that it is sound of design or construction. Frontier makes no representation, warranty or promise, express or implied, regarding the condition of the Frontier Property or the Sign License Area. Frontier shall not be responsible in any manner whatsoever for any latent or patent defect in the Frontier Property or Sign License Area.

(d) Frontier disclaims any warranty as to the condition of the Palmetto Properties. Frontier receives access to the portion of the Parking Area located on the Palmetto Properties "as-is", without any warranty that it is suitable for Frontier's use or purposes, or that it is free of hazardous substances or that it is sound of design or construction. Palmetto makes no representation, warranty or promise, express or implied, regarding the condition of the Palmetto Properties. Palmetto shall not be responsible in any manner whatsoever for any latent or patent defect in the Palmetto Properties.

(e) The releases and waivers, indemnification, disclaimers and liabilities for damages in, and Palmetto's and Frontier's respective obligations and liabilities under, this Section 8 shall survive expiration of this Agreement.

9. Insurance. Each party shall carry (or cause to be carried), at their respective sole costs and expense, commercial general liability insurance covering third party claims for bodily injury or death or third party property damage occurring on, or arising from activities conducted on, each of the properties described herein.

10. Not Affected by Change in Use. The Sign License and Parking Easements granted by this Agreement shall continue in full force and effect as perpetual licenses, and shall be unaffected by any change in use of the Frontier Property and Palmetto Properties.

11. Default.

(a) If Palmetto is in default of any term, provision, covenant or obligation under this Agreement, and Palmetto fails to commence to cure any such default within ten (10) days after notice of the occurrence thereof from Frontier and thereafter fails to complete the cure of such default with due diligence within thirty (30) days after notice of the occurrence thereof from Frontier, then Frontier's sole remedies shall be monetary damages and injunctive relief and Frontier shall in no event be permitted to terminate this Agreement.

(b) If Frontier is in default of any term, provision, covenant or obligation under this Agreement, and Frontier fails to commence to cure any such default within ten (10) days after notice of the occurrence thereof from Palmetto and thereafter fails to complete the cure of such default with due diligence within thirty (30) days after notice of the occurrence thereof from Palmetto, then Palmetto's sole remedies shall be monetary damages and injunctive relief and Palmetto shall in no event be permitted to terminate this Agreement.

12. Notice. All notices, demands, requests or other communications from each party to the other required or permitted under the term of this Agreement shall be in writing and,

unless and until otherwise specified in a written notice by the party to whom notice is intended to be given, shall be personally delivered or sent by United States certified or registered mail, return receipt requested or with a nationally recognized overnight carrier (such as Federal Express) for next business day delivery, each with postage and/or delivery charges prepaid, at the following respective addresses:

If to Frontier:

Frontier Development, LLC
Attn: Mr. James F. Leach
1801 SW 3rd Avenue, Suite 500
Miami, FL 33129
Tel: 305.692.9992
Fax: 305.692.3032

If to Palmetto:

Palmetto Hospitality Of Dania Beach HP, LLC
Attn: Legal Department
340 E. Main Street, Suite 300
Spartanburg, SC 29302
Attn: Todd Turner

and

Palmetto Hospitality Of Dania Beach SS, LLC
Attn: Legal Department
340 E. Main Street, Suite 300
Spartanburg, SC 29302
Attn: Todd Turner

With a copy to:

Tripp Scott
110 SE Sixth Street
Suite 1500
Fort Lauderdale, FL 33301
Attn: Stephanie Toothaker

All notices sent as aforesaid shall be deemed to have been given upon receipt or first refusal of delivery. Any notice may be given on behalf of any party by its counsel. Either party may change its address by notice given to the other.

13. Exculpation. Each parties' liability to the other with respect to this Agreement shall be limited solely to their respective interest in the Frontier Property and Palmetto Properties, respectively, described in the Background section. Neither Frontier nor Palmetto nor

any partner, officer, director, employee or member of Frontier or Palmetto shall have any personal liability whatsoever with respect to this Agreement.

14. Covenants Running with the Land. It is intended that the covenants, agreements, promises, conveyances, rights and obligations of the parties with respect to the Parking Easement shall be construed as both covenants and conditions, and that they shall run with the land and be affirmatively enforceable against the land and the parties hereto and their successors and assigns; and shall continue to be easements, servitudes, charges and encumbrances appertaining to and upon, and covenants benefiting, binding and running with, the Frontier Property or the Palmetto Properties; and shall inure to and be for the benefit of Frontier and Palmetto, each of their heirs, successors and assigns, and the Permittees (as defined below) of each of them. For the purpose of this Agreement, the term "Permittees" shall mean all of the following Person(s): all Occupants; the officers, directors, employees, agents, contractors, subcontractors, customers, patrons, clients, visitors, licensees and invitees of all Occupants and their respective successors and assigns. For the purpose of this Agreement, the term "Occupants" shall mean all Person(s) entitled to the use, occupancy or enjoyment of all or any portion of the Frontier Property and the Palmetto Properties and the buildings and improvements constructed thereon. For the purpose of this Agreement, the term "Person(s)" shall mean individuals, partnerships, firms, associations, corporations, trusts and any other form of legal entity. In no event shall the Parking Easement expire or terminate without the Signage Easement expiring or terminating simultaneously.

15. Successor and Assigns. The terms of this Agreement shall be binding upon all successors and assigns.

16. Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

17. Relationship of Parties. It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture.

18. Governing Law; Forum Selection; and Consent to Jurisdiction. All matters or claims arising out of, related to, or in connection with the Agreement or the relationship between the parties shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to the principles of conflicts of laws of such state.

19. Effect of Agreement. This Agreement supersedes and replaces any other agreements, written or oral, relating to the subject matter hereof. This Agreement may not be amended except in writing signed by the party against whom it is to be enforced.

20. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and all prior negotiations are merged into this Agreement. Any amendment, change or addition to this Agreement shall be made only in writing and signed by both parties.

21. Time of the Essence. All times, wherever stated in this Agreement, shall be of the essence of this Agreement.

22. Headings. The Paragraph headings in this Agreement are for convenience of reference only, and shall not be construed or held in any way to explain, modify, amplify or add to the interpretation, construction or meaning of this Agreement.

23. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be deemed to be an original.

24. License. The parties agree that this Sign License shall be deemed a non-revocable license only in accordance with the terms herein and in no event shall this Sign License be construed as a conveyance of any fee or leasehold estate to Palmetto.

25. Recitals. The Background section of this Agreement and all attachments referenced herein form a part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be signed and sealed as of the date set forth above.

WITNESSES:

FRONTIER:

Frontier Dania LLC, a Delaware limited liability corporation

Jane Leach
[Witness print/type name]

By [Signature]
Eric Gordon, member
[print/type name & title]

Jennifer Zunta
[Witness print/type name]

STATE OF :

COUNTY OF :

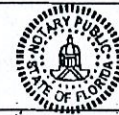
The foregoing Sign Panel License and Cross Parking Easement Agreement was executed and acknowledged before me this 19th day of April 2011, by Eric Gordon, as member of Frontier Dania LLC, a Delaware Limited Liability Corporation. He is personally known to me or has produced _____ as identification.

(SEAL)

[Signature]
Notary Public, State of Florida (Signature of Notary taking Acknowledgment)

Alan J. Miller
Name of Notary Typed, Printed or Stamped

My Commission Expires:



Alan J. Miller
COMMISSION #DD808037
EXPIRES: JUL. 22, 2012
WWW.AARONNOTARY.com

Commission Number

WITNESSES:

Todd Turner
[Witness print/type name]

George Rutledge
[Witness print/type name]

PALMETTO HOSPITALITY OF
DANIA BEACH HP, LLC

By Charlie T King
[print/type name & title]

ATTEST:
Johanna Harvey
Secretary

(CORPORATE SEAL)

STATE OF SOUTH CAROLINA :

COUNTY OF SPARTANBURG :

The foregoing Sign Panel License and Cross Parking Easement Agreement was executed and acknowledged before me this 1 day of April 2011, by Charlie T King, as Asst. Mgr. of, Palmetto Hospitality of Dania Beach, HP, LLC, a Florida Limited Liability Company. He/She is personally known to me or have produced _____ as identification.

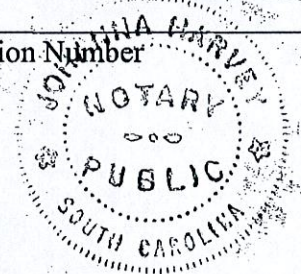
(SEAL)

Johanna Harvey
Notary Public, State of South Carolina
(Signature of Notary taking Acknowledgment)

Johanna Harvey
Name of Notary Typed, Printed or Stamped

JOHANNA HARVEY
Notary Public, South Carolina
My Commission Expires
09/2019

Commission Number



WITNESSES:

[Signature]
Todd Turner
[Witness print/type name]

[Signature]
George Rutledge
[Witness print/type name]

PALMETTO HOSPITALITY OF
DANIA BEACH SS, LLC

By [Signature]
Charlic T King
[print/type name, & title]
ASST Treas

ATTEST:
[Signature]
Secretary

(CORPORATE SEAL)

STATE OF SOUTH CAROLINA :

COUNTY OF SPARTANBURG :

The foregoing Sign Panel License and Cross Parking Easement Agreement was executed and acknowledged before me this 1 day of April, 2011, by Charlic T King, as ASST Treas of, Palmetto Hospitality of Dania Beach, SS, LLC, a Florida Limited Liability Company. He/She is personally known to me or have produced _____ as identification.

(SEAL)

[Signature]
Notary Public, State of South Carolina
(Signature of Notary taking Acknowledgment)

[Signature]
Name of Notary Johanna Harvey Printed or Stamped

JOHANNA HARVEY
Notary Public, South Carolina
My Commission Expires
June 09, 2019

My Commission Expires _____

Commission Number _____



EXHIBIT "A"

Frontier Property

A PORTION OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 (SW 1/4) OF SAID SECTION 33; THENCE NORTH 00°43'45" EAST ON THE WEST LINE OF SAID SOUTHWEST 1/4 (SW 1/4), A DISTANCE OF 73.88 FEET OF THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°43'45" EAST ON SAID WEST LINE 181.94 FEET TO THE WESTERLY PROLONGATION OF THE MOST WESTERLY SOUTH LINE OF "HILTON GARDENS AT STIRLING ROAD" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 171, PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 79°36'25" EAST ON SAID WESTERLY PROLONGATION AND SAID MOST WESTERLY SOUTH LINE 171.84 FEET; THENCE CONTINUING ON THE SOUTH LINE OF SAID "HILTON GARDENS AT STIRLING ROAD" NORTH 83°06'46" EAST 168.05 FEET TO THE SOUTHWEST CORNER OF SAID "HILTON GARDENS AT STIRLING ROAD", SAID POINT BEING ON THE EAST LINE OF THE WEST 1/2 (W 1/2) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF THE SOUTHWEST 1/4 (SW 1/4) OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 42 EAST; THENCE SOUTH 00°48'44" WEST ON SAID EAST LINE 254.04 FEET TO THE INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF STIRLING ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 9385, PAGES 839 AND 841, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 89°59'21" WEST ON SAID NORTH RIGHT-OF-WAY LINE 193.58 FEET; THENCE ON THE NORTH RIGHT-OF-WAY LINE OF SAID STIRLING ROAD AS SHOWN IN OFFICIAL RECORDS BOOK 23584, PAGE 103, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA THE FOLLOWING THREE (3) COURSES AND DISTANCES; 1) NORTH 85°19'40" WEST 26.60 FEET TO THE INTERSECTION WITH THE ARC OF A CURVE CONCAVE NORTHERLY WHOSE RADIUS POINT BEARS NORTH 00°42'07" EAST; 2) WESTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 2245.34 FEET, A CENTRAL ANGLE OF 2°38'10" AND AN ARC LENGTH OF 103.31 FEET; 3) NORTH 36°38'09" WEST 18.84 FEET TO THE POINT OF BEGINNING. SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF DANIA BEACH, BROWARD COUNTY, FLORIDA CONTAINING 76,850 SQUARE FEET (1.7642 ACRES) (the "Frontier Parcel"); and

EXHIBIT "B"

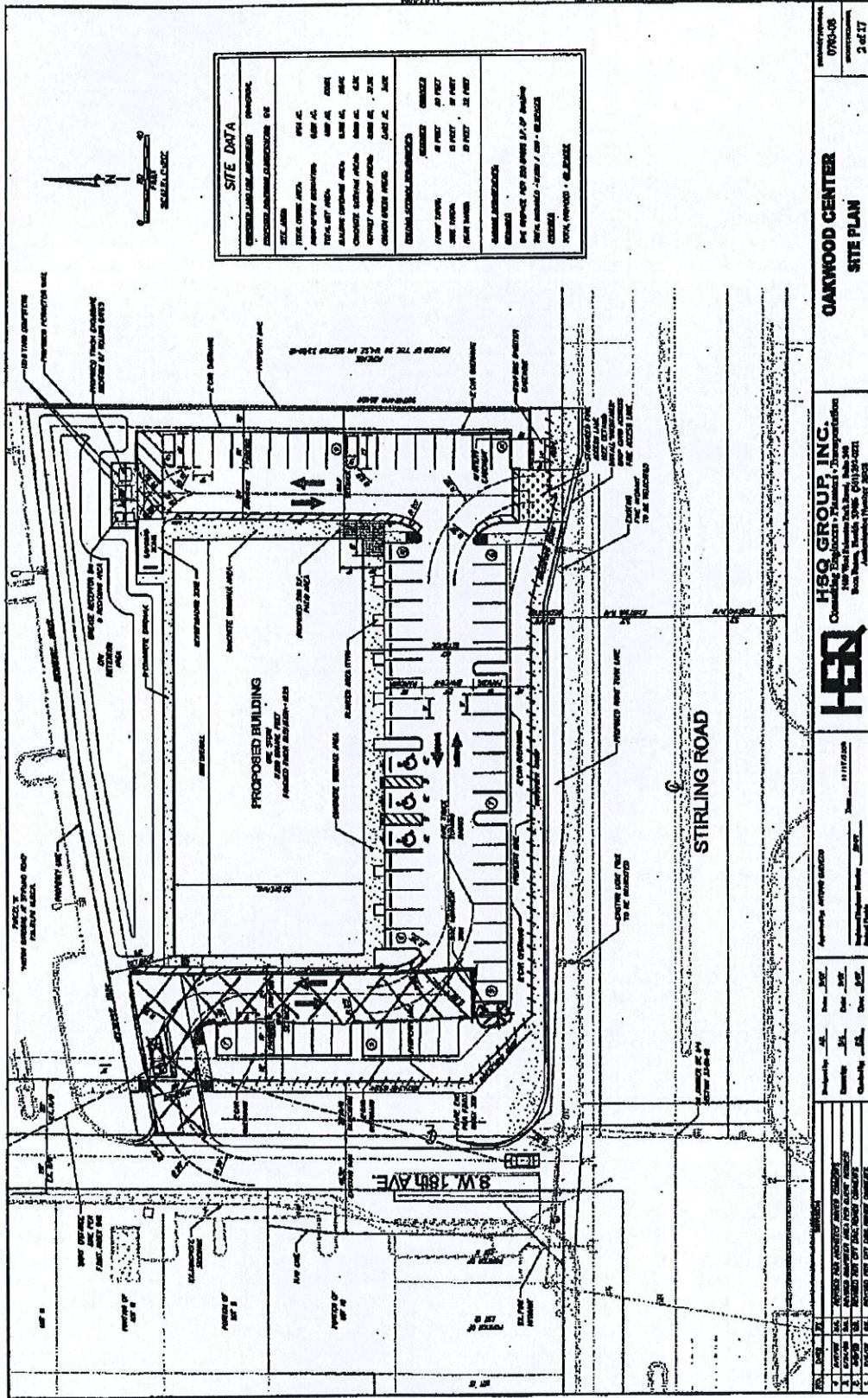
Palmetto Properties

Palmetto Hospitality of Dania Beach Condo 1; and Palmetto Hospitality of Dania Beach Condo Unit 2, (collectively the "Palmetto Parcels")

EXHIBIT "C"

Signage License Area

EXHIBIT "C"





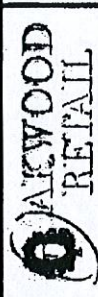
 = Sign License Area
 = Access to Sign License Area

EXHIBIT "D"

Sign

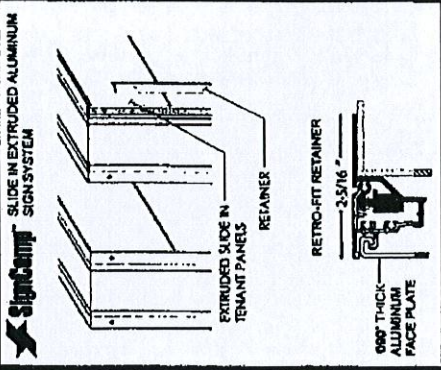
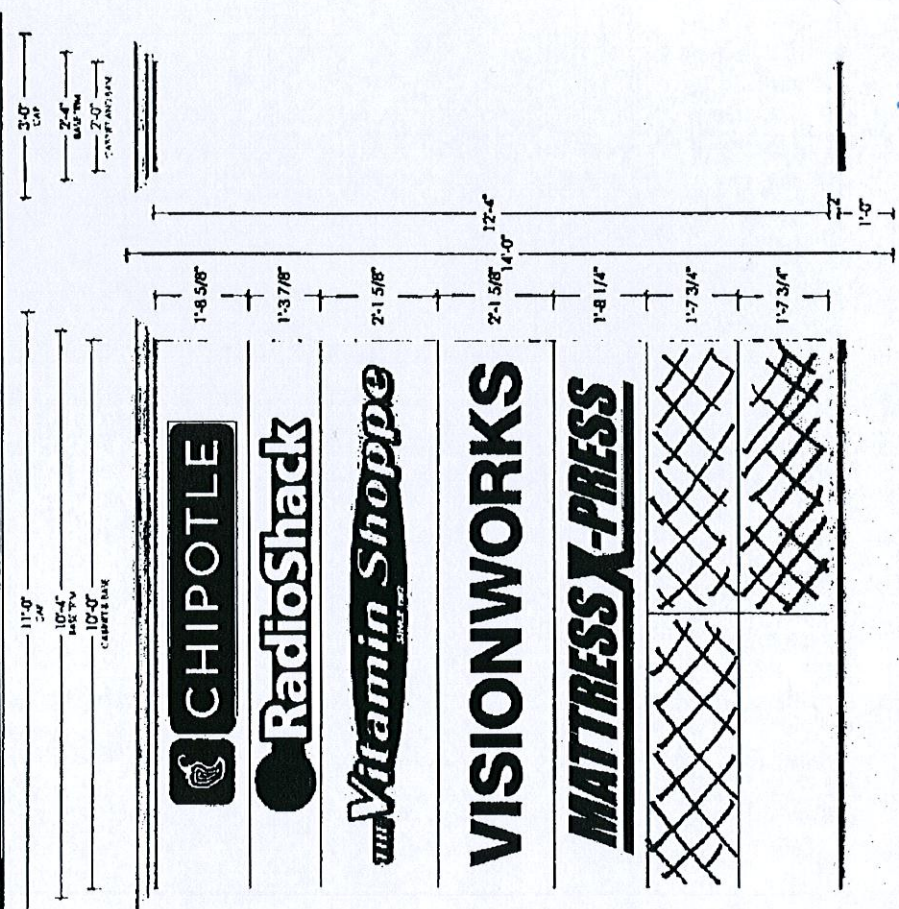
11" WESTERN ELEVATION



PROJECT SPECIFICATIONS

- DESCRIPTION:** (1) Double Sided Freestanding Unpowered Monument Sign on a Single Support Post
- REQUIREMENTS:**
 - 24" deep fabricated aluminum cabinet painted polyurethane acrylic enamel in a light desert tan
 - 3" x 3" deep fabricated aluminum decorative V-Cor "A" extruded aluminum sign back
 - 24" fabricated aluminum base and decorative fin in a light desert tan, laser etched "chipotle" logo
 - 24" thick removable "chipotle" aluminum insert faces with raised decoration with 3/16" thick acrylic behind the raised decoration
 - Hyperbaric 1/2" square stainless steel vent covers and gaskets with UV and overlaminate for UV protection
 - 800 MA 1/2" stainless steel support with 2x4s
 - Direct tower concrete foundation
- ELECTRICAL:** 120V
- COLOR:** Cabinet & Faces, painted to match SW 6133 "Wisp" Trim & Base, painted to match SW 6121 "Whole Wheat" Acrylic White
- Chipotle:** Painted to match PMS4625 "Aztec Brown" and PMS684 "Faded Red"
- RadioShack:** Back SW 3030 143 "Poppy Red"
- The Vitamin Shoppe:** Painted per colors shown
- VISIONWORKS:** SW 2630 33 "Red"
- MATRESS X-PRESS:** MATRESS and X-PRESS perforated Day/Night Back Outline on "X" Back Face on "X" SW 3030 33 "Red"

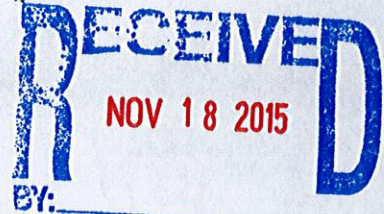
PRODUCTION SKETCH
FINAL REVISION: 11-04-09 PAINT & DECORATION PENDING APPROVAL



FABRICATOR'S NOTE:
AS OF 11/4/09
SOME TENANT ART
NOT APPROVED

	DESIGN # 388C-PROO ADDN # 112 CITY APPROVAL DATE	DESIGNER D. GALVIN REVISION 11/2/09 REVISION 11/2/09 REVISION 11/2/09	SCALE 1/2" = 1' DATE 11/2/09 DATE 11/2/09 DATE 11/2/09	PERMITS ISSUES	CDR 1-80- +22 +25	PERMETER APPROVAL # APPROVAL AREA 44.87 sq. ft.	ACTIVE MEMBER OF THE
	CLEAR OAKWOOD RETAIL CENTER LOCATION: 120 STEERING ROAD DANNA BEACH, FL 32904 DATE 6/14/09 7300 Westall Drive, Melbourne, FL 32908	ALLOWABLE SQUARE FOOTAGE 000sq ft MAXIMUM GROSS	THIS DESIGN IS THE SOLE PROPERTY OF SIGN ACCESS INC. UNLESS OTHERWISE NOTED.				

= OTO SIGN PANEL



Florida Department of Transportation

RICK SCOTT
GOVERNOR

3400 West Commercial Blvd.
Fort Lauderdale, FL 33309

JIM BOXOLD
SECRETARY

September 3, 2015

Christopher Heggen
Kimley-Horn and Associates Inc
1920 Wekiva Way, Suite 200
West Palm Beach, Florida 33411

Dear Mr. Heggen:

RE: **September 3, 2015** Access Management Review Committee to allow for Category E Driveway
Applicant & Property Owner: Dania Live 1748, LLC
Broward County, (Urban) City of Dania Beach, State Road: 848
Section 86016: MP 5.7, Access Class 05; Posted Speed 45 mph; Site Acreage: 80 Acres
Proposed Land Use: Retail, Office, Hotel, Residential
Maximum Square Footage: Retail: 900 000, Office: 500 000, Hotel: 300 Rooms, Apartments 1000
Project Name & Address: Dania Pointe – 181 South Bryan Road, Dania Beach, Florida 33004
Date of Pre-application Review: May 14, 2015

Request: Access locations 1 through 5 are located on SR 848/Stirling Road.
Access to Public Right-of-Way 1: Maintain existing right-in/right-out access location approximately 390 feet east of I-95 (SW 18th Court).
Access to Public Right-of-Way 2: Full-access signalized access location (SW 18th Street approximately 190 feet east of Access to Public Right-of-Way 1.
Driveway 3: Right-in/right-out driveway approximately 360 feet east of SW 18th Street.
Driveway 4: Full access signalized driveway approximately 450 feet east of Driveway 3.
Driveway 5: Right-in/right-out driveway approximately 250 feet east of Driveway 4.

This request is: **Approved with Conditions**

Conditions: / Comments:

- 1) A detailed traffic analysis will be completed by the applicant based on the methodologies agreed upon with the Department. This traffic analysis will assess intersection and interchange operations and will serve as the basis for the following conditions.
- 2) Impacts to the I-95 / Stirling Road or I-95 / Griffin Road interchanges that necessitate transportation improvements may require an Interchange Access Request (IAR) to be prepared and approved. An IAR must include sufficient transportation analysis and documentation to address operational and engineering issues consistent with FDOT policy, procedures, and Interchange Access request guidelines.
- 3) Weekday AM and PM peak hour and weekend, if necessary, peak period traffic analyses must be prepared with analysis, conclusions, and recommendations accepted by the parties involved concerning:
 - a) The number of right and left-turn lanes at each access connection, median opening, and signalized intersection;
 - b) The total length of the right and left-turn lanes at each access connection, median opening, and signalized intersection.

Mr. Heggen – (Dania Pointe) Access Variance

August 26, 2015

Page 2

- 4) Provision of adaptive traffic control at signalized intersections within the project's study shall be considered as a mitigation measure to augment operational improvements associated with addition of turn lanes.
 - 5) Needed improvements identified through the applicant's traffic analysis will serve as the basis for an implementation plan describing FDOT, County, municipality, and developer responsibilities in implementing these improvements with a focus on funding and construction timing.
- Drainage mitigation is required for any impacts within FDOT right-of-way (i.e. increased runoff or reduction of existing storage).
 - A Storm Water Pollution Prevention Plan must be submitted with the application if there will be more than one acre of "disturbed area" (as defined by the Florida Department of Environmental Protection (FDEP))
 - If additional right-of-way is required to implement the proposed improvements, the applicant shall donate the right-of-way to the Department.
 - All existing driveways not approved in this letter must be fully removed and the area restored.

Comments:

Please note that the dimensions between driveways are measured from the near edge of pavement to near edge of pavement and dimensions between median openings are measured from centerline to centerline unless otherwise indicated.

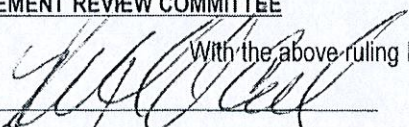
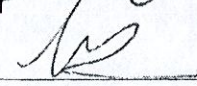
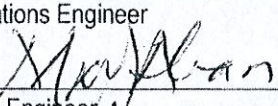

The purpose of this letter is to document the conceptual review of the approximate location of driveway(s) to the State Highway system and to note any required improvements. Earlier Department decisions on this request shall be voided unless expressly approved herein. If the above concept is approved, the applicant may submit engineering plans to the Department for permitting. The Department's personnel shall review these plans for compliance with this letter as well as current Department standards and/or specifications. Final design must consider the existing roadway profile and any impacts to the existing drainage system. **Please note that this letter does not guarantee permit approval.** The permit may be denied based on the review of the submitted engineering plans. Be aware that any approved median openings may be modified (or closed) in the future, at the sole discretion of the Department.

Committee approvals and conditions which are at variance with Department rules or standards are not binding in the permitting process for more than **12 months**.

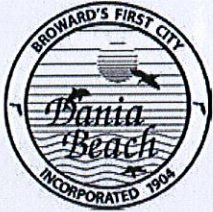
Please submit a copy of this letter with your permit application. Contact Geysa Sosa, P.E. at the District Permits Office with any questions regarding the permit application at telephone number 954-777-4377, fax number 954-677-7893 or e-mail: geysa.sosa@dot.state.fl.us.

For right-of-way dedication requirements go to: <https://gis.dot.state.fl.us/OneStopPermitting>; Click on Statewide Permit News. Scroll down to District 4. Scroll down to Additional Information and Examples and choose Right-of-way Donations/Dedications.

THE ACCESS MANAGEMENT REVIEW COMMITTEE

	With the above ruling I	Agree	Disagree	
Howard Webb, P.E. District Design Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/>	August 26, 2015
Mark Plass, P.E. District Traffic Operations Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/>	August 26, 2015
Morteza Alian, P.E. District Maintenance Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/>	August 26, 2015
Steven Braun, P.E. Planning & Environmental Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/>	August 26, 2015

cc: Roger Lemieux
File S:\Transportation Operations\District Permits Office\PRE-APP & VARIANCE\PRE-APP LETTERS\BROWARD\Vanance Letter - Dania Pointe_Stirling Rd-SR 848



City of Dania Beach, Florida
 Department of Community Development
 Planning and Zoning Division
 (954) 924-6805 X3643
 (954) 922-2687 Fax

Standard Development Application

RECEIVED
 OCT 22 2015

- Administrative Variance
- Land Use Amendment
- Plat
- Rezoning
- Site Plan
- Special Exception
- Variance
- Other: _____ (SEE APPLICATION TYPE SCHEDULE ON PAGES 3 & 4)

Date Rec'd: _____
 BY: _____

Petition No.: SP-113-15

THIS APPLICATION WILL NOT BE ACCEPTED UNTIL IT IS COMPLETE AND SUBMITTED WITH ALL NECESSARY DOCUMENTS. Refer to the application type at the top of this form and "Required Documentation" checklist to determine the supplemental documents required with each application. For after the fact applications, the responsible contractor of record shall be present at the board hearing. Their failure to attend may impact upon the disposition of your application. As always, the applicant or their authorized legal agent must be present at all meetings. All projects must also obtain a building permit from the City Building Division. For more information please reference the **Dania Beach Land Development Code Part 6, Development Review Procedures and Requirements.**

Location Address: NW Corner of Stirling Rd. & Bryan Rd. Dania Beach, Florida 33004

Lot(s): Please see attached Block: _____ Subdivision: Please see attached

Recorded Plat Name: Please see attached

Folio Number(s): Please see attached Legal Description: Please see attached

Applicant/Consultant/Legal Representative (**circle one**) Dania Live 1748 LLC - Joseph Denis

Address of Applicant: 6060 Piedmont Row Drive South, Suite 200, Charlotte NC 28287

Business Telephone: 704-362-6112 Home: _____ Fax: _____

E-mail address: jdenis@kimcorealty.com

Name of Property Owner: Dania Live 1748, LLC.

Address of Property Owner: 6060 Piedmont Row Drive South, Suite 200, Charlotte NC 28287

Business Telephone: 704-362-6112 Home: _____ Fax: _____

Explanation of Request: _____
 For **Plats** please provide proposed **Plat Name** for **Variations** please attach **Criteria Statement** as per **Section 625.40 of the Land Development Code.**

Prop. Net Acreage: 101.24 Gross Acreage: 101.24 Prop. Square Footage: 331,695 SF

Existing Use: Regional Activity Center (RAC) Proposed Use: Regional Activity Center (RAC)

\$17,100



Is property owned individually, by a corporation, association, or a joint venture? _____

AUTHORIZED REPRESENTATIVE

I/we are fully aware of the request being made to the City of Dania Beach. If I/We are unable to be present, I/we hereby authorize _____ (individual/firm) to represent me/us in all matters related to this application. I/we hereby acknowledge that the applicable fee was established to offset administrative costs and is not refundable.

I/we are fully aware that all approvals automatically expire within 12 months of City of Dania Beach Planning and Zoning Board or City Commission approval, or pursuant to the expiration timeframe listed in Part 6 of the Dania Beach Land Development Code.

STATE OF FLORIDA
COUNTY OF BROWARD
The foregoing instrument
was acknowledged

By: *Joseph Denis*
(Owner / -Agent signature*)
Joseph Denis, Vice President

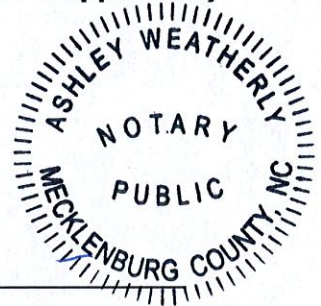
BEFORE ME THIS 15th DAY OF October, 20 15

By:

Joseph Denis
(Print name of person acknowledging)

(Joint owner signature if applicable)

Notary *Ashley Weatherly*
(Signature of Notary Public – State of NC)



Personally known or Produced Identification

Type of identification produced: _____ or Drivers License _____

***If joint ownership, both parties must sign. If partnership, corporation or association, an authorized officer must sign on behalf of the group. A notarized letter of authorization from the owner of record must accompany the application if an authorized agent signs for the owner(s).**

NO APPLICATION WILL BE AUTOMATICALLY SCHEDULED FOR A MEETING.

**ALL APPLICATIONS MUST BE DETERMINED COMPLETE BY STAFF
BEFORE PROCESSING OCCURS.**

DANIA LIVE 1748, LLC

3333 New Hyde Park Road
Suite 100
New Hyde Park, NY 11042
(516) 869-9000

DANIA LIVE 1748, LLC, a Delaware limited liability company (the "Owner"), is the current owner of the property commonly known as Dania Live Marketplace, located in Dania Beach, Florida (the "Property").

Please be advised that Ross Cooper and Joseph Denis, each acting singularly, is hereby duly authorized as an agent to execute any and all permits, utility applications, zoning and building plans and other applications and ancillary documents on behalf of Owner with respect to the Property.

Kimco PL Retail, Inc. is the sole member of Owner.

DANIA LIVE 1748, LLC,

a Delaware limited liability company

By: Dania Live JV, LLC, a Delaware limited liability company, sole member

By: Kim Dania Manager, LLC, a Delaware limited liability company, Manager

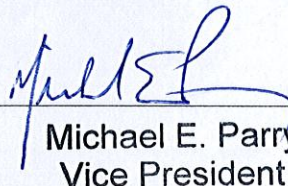
By: Kimco PL Retail, Inc., a Delaware corporation, its sole member



By: _____

Name: _____

Title: _____


Michael E. Parry
Vice President

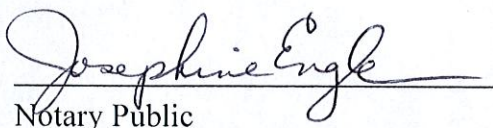
Entity FEIN: 47-1854516

IRS Reporting Entity: Dania Live JV, LLC

IRS Taxpayer ID No.: 47-1845441

Sworn to before me this

17th day of September, 2014.


Notary Public

JOSEPHINE ENGLE
Notary Public, State of New York
No. 01EN6098873
Qualified in Queens County
Certificate on file in Nassau County
My Commission Expires 9/22/20 15