

AN ORDINANCE 2015-11-12-0943

AUTHORIZING A LEASE WITH LONE WESTERN STAR DEVELOPMENT, LLC FOR 159,286 SQUARE FEET OF GROUND SPACE TO CONSTRUCT HANGAR CONDOMINIUMS AT STINSON MUNICIPAL AIRPORT FOR UP TO A FORTY YEAR TERM.

* * * * *

WHEREAS, Lone Western Star Development, LLC (Lone Western Star) intends to design and construct multi-hangar facilities at Stinson Municipal Airport (Stinson); and

WHEREAS, the ground lease is comprised of two tracts and a multi-hangar facility is planned on each tract; and

WHEREAS, the term of the lease agreement is 40 years as long as construction for the facility on one tract is initiated within 13 months of the commencement date of the lease agreement, otherwise the term of the lease agreement is 25 years; and

WHEREAS, once constructed Lone Western Star will sell the leasehold interest in the hangar condos to individual owners who then become the record owners of beneficial title to the leasehold interest of the hangar unit and a percentage of the undivided interests in the lease premises; and

WHEREAS, when all the hangar condos have been sold, Lone Western Star will no longer have an interest in the lease and the hangar condo unit owners will be the lessee and shall be jointly and severally liable; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The terms and conditions of a lease with Lone Western Star Development, LLC for ground space for the development of multi-hangar facilities at Stinson Municipal, are hereby approved. The City Manager or her designee is authorized to execute the lease, a copy of which is set out in **Exhibit 1**.

SECTION 2. Funds generated by this Ordinance for rental income will be deposited into Fund 51001000, Internal Order 233000000014 and General Ledger 4405410.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

KRH
11/12/15
Item No. 14

SECTION 4. This Ordinance shall be effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED and APPROVED this 12th day of November, 2015.


M A Y O R
Ivy R. Taylor

ATTEST:



Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:



Martha G. Sepeda
Acting City Attorney

Agenda Item:	14						
Date:	11/12/2015						
Time:	12:30:29 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a lease agreement with Lone Western Star Development for 159,286 square feet of ground space to develop and construct hangar condominiums at Stinson Municipal Airport. [Carlos Contreras, Assistant City Manager; Frank Miller, Director, Aviation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x			x	
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5	x					
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8	x					
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Exhibit 1

**STINSON MUNICIPAL AIRPORT LEASE
FOR
LEASEHOLD HANGAR CONDOMINIUMS**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

THIS AGREEMENT (“Lease Agreement” or “Agreement”), entered into by and between the City of San Antonio (“Lessor” or “City”), a Texas municipal corporation, acting by and through its City Manager, pursuant to Ordinance No. _____, adopted on _____, and Lone Western Star Development (“Lessee” or “Developer”), a Texas limited liability corporation, acting by and through its designated officers pursuant to its bylaws or a resolution of its Board of Directors. The initial addresses of the parties are as follows:

Lessor
City of San Antonio
ATTN: Aviation Director
9800 Airport Blvd.
San Antonio, TX 78216

Lessee
Lone Western Star Development, LLC
ATTN: Brad Henderson
214 West Texas Avenue, Suite 501
Midland, Texas 79701

I. INTRODUCTION

- 1.1 Lessor, at Lessee’s request, agrees to lease the Leased Premises described hereafter to Lessee to develop and construct, at Lessee’s sole cost, two multi-hangar facility on two designated tracts of land comprising the Leased Premises, the “Facility”, as more fully defined herein, for the sole purpose of conveying units to qualifying individual owners pursuant to the Declaration, **Exhibit 1** hereto, for the storage of aircraft and aircraft equipment. Lessee shall have the right to assign portions of the leasehold interest created by this Lease Agreement to individual Unit Owners, as defined herein.
- 1.2 Each Unit Owner shall be record owner of beneficial or equitable title to the leasehold interest of one or more hangar units and a percentage of the undivided interests in the Leased Premises, which interest shall be subject at all times to this Lease Agreement. When Developer has sold all unit ownership interests in and to the Facility, Developer will, in legal effect, have assigned to all its Unit Owners its entire interest in and to the Facility and the leasehold estate existing pursuant to this Lease Agreement. Each and every Unit Owner shall be jointly and severally liable for the performance and observance of all terms and provisions of this Lease Agreement.

II. DEFINED TERMS

- 2.1 "Act" means Chapter 82. Uniform Condominium Act of the Texas Property Code as it may be amended.
- 2.2 "Airport" means Stinson Municipal Airport.
- 2.3 "Association" is defined in **Article 9 – Association of Unit Owners.**
- 2.4 "Commencement Date" is defined in **Article 7 - Term.**
- 2.5 "Day" means calendar day and not business day.
- 2.6 "Declaration" means the condominium declaration titled "*Declaration Establishing the Stinson 99 Leasehold Condominium Association and Declaration of Covenants, Conditions and Restrictions*", as the same may be amended from time to time, establishing a leasehold condominium in accordance with the Act, creating a condominium association, and setting out the declaration of covenants, conditions and restrictions, attached hereto as **Exhibit 1, Condominium Declaration.**
- 2.7 "Developer" means Lone Western Star Development, LLC as the Lessee developing and constructing the Facility on the Leased Premises in accordance with the provisions contained in this Lease Agreement.
- 2.8 "Director" means the Aviation Director of the City of San Antonio or his designee.
- 2.9 "Facility" means one or both of the multi-hangar structure(s) to be constructed pursuant to this Lease Agreement, and any associated structures, to be constructed on the Leased Premises by Lessee for the purpose of creating a leasehold condominium in accordance with the Uniform Condominium Act, Title 7, Chapter 82 of the Texas Property Code, which individual units may be conveyed to Unit Owners.
- 2.10 "Leased Premises" shall have the meaning set forth in **Paragraph 4.1.**
- 2.11 "Lessee" means, initially, Developer; however, as construction proceeds and individual units within the Facility are completed and sold, assignments of sub-parcels from the Leased Premises will be made to Unit Owners, and Lessee shall be comprised, respectively and collectively, of Developer and, jointly and severally, of any and all Unit Owners. When Developer has sold all unit ownership interests in and to the Facility in accordance with the terms of this Lease Agreement, Developer shall no longer be considered a Lessee.
- 2.12 "Unit" means an individual hangar within the Facility designated for separate ownership to include the portion of the Leased Premises on which the enclosed portion of the Facility comprising the individual unit is situated, and an interest in the common elements of the Facility and the Leased Premises.

- 2.13 "Unit Owner" means the record owner, whether one or more persons or entities, of beneficial or equitable title to a Unit created pursuant to the Declaration, which interest shall be subject at all times to this Lease Agreement.

III. LESSEE

- 3.1 All terms, covenants, agreements and conditions on the part of Lessee and/or Unit Owners to be performed, kept and observed under this Lease Agreement shall be the joint and several obligations and liability of Developer and, jointly and severally, of each Unit Owner until such time as Developer has sold all unit ownership interests in and to the Units within the Facility. Once Developer has sold all unit ownership interests, Developer will, in legal effect, have assigned to all the Unit Owners its entire interest in and to the Facility and the leasehold estate existing pursuant to this Lease Agreement and the Unit Owners, jointly and severally, will assume all Developer's rights and obligations in, to and under the Lease Agreement that may arise or are to be performed from and after the effective date of the conveyance of the last ownership interest by Developer.

IV. DESCRIPTION OF PREMISES DEMISED

- 4.1 Lessor, for an in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by Lessee, does hereby demise and lease unto Lessee and Lessee does hereby accept from Lessor for the development and construction of a multi-hangar Facility for the sole purpose of conveying Units to qualifying individual owners pursuant to the Declaration the following premises (hereinafter referred to as "Leased Premises") located at the Airport, in San Antonio, Bexar County, Texas, as identified in Exhibit 2, Lease Premises, attached hereto and incorporated herein:

159,286 square feet of ground space.

- 4.2 Lessee shall perform a metes and bounds survey of the Leased Premises at Lessee's expense. Said survey shall be incorporated into and become part of this Lease upon Director's acceptance of the survey and shall become the controlling description of the Ground Space.

V. ACCEPTANCE AND CONDITION OF PREMISES

- 5.1 Lessee has had full opportunity to examine the Leased Premises. Except for environmental matters not caused by or reasonably discoverable by Lessee prior to the commencement of this Lease Agreement, Lessee's taking possession of the Leased Premises shall be conclusive evidence of Lessee's acceptance thereof in an "AS IS" condition, and Lessee hereby accepts same in its present condition as suitable for the purpose for which leased.
- 5.2 Lessee agrees that no representations respecting the condition of the Leased Premises and no promises to improve same, either before or after the execution hereof, have been made

by Lessor to Lessee, unless contained herein or made a part hereof by specific reference thereto.

VI. RENTAL

- 6.1 Lessee agrees to pay City as rental the amounts indicated in this Article VI, Rental, monthly in advance (without notice or demand, both of which are expressly waived) for the use and occupancy of the Leased Premises, at the times and in the manner hereinafter provided. All rentals shall be calculated on an annual basis and shall be paid by Lessee to City in advance without invoicing, notice or demand, in equal monthly installments on or before the first day of each calendar month beginning on the Commencement Date and continuing throughout the remainder of the term of this Lease Agreement and any extension(s) hereof. In the event that the term of this Lease Agreement shall commence on a day other than the first day of any calendar month or expire on a day other than the last day of a calendar month, then, and in such event, rental installments will be prorated for the first or last month as the case may be.
- 6.2 The Lease Premises are comprised of two tracts (Tract I and Tract II) depicted in Exhibit 2, Leased Premises. The annual per square foot rental rate is reduced for each tract for an initial period to allow for marketing and construction of a Facility on each tract and increases at the earlier of the time frame established below for marketing and construction, Lessee's receipt of a certificate of occupancy for the Facility, or beneficial occupancy of the Facility.

Tract I				
Month	SF	Annual Rate	Annual Rental	Monthly Rental
Months 1 - 24	73,390	\$0.09	\$6,605.10	\$550.43
Month 25 on*	73,390	\$0.18	\$13,210.20	\$1,100.85
* The annual rental rate increases from \$0.09 per square foot to \$0.18 per square foot as of the earlier of the start of the twenty-fifth (25) months after the effective date of the Lease Agreement, Lessee's receipt of a certificate of occupancy, or beneficial occupancy for the Facility constructed on Tract I.				
Tract II				
Month	SF	Annual Rate	Annual Rental	Monthly Rental
Months 1 - 30	85,896	\$0.09	\$7,730.64	\$644.22
Month 31 on*	85,896	\$0.18	\$15,461.28	\$1,288.44
* The annual rental rate increases from \$0.09 per square foot to \$0.18 per square foot as of the earlier of the start of the thirty-first (31) months after the effective date of the Lease Agreement, Lessee's receipt of a certificate of occupancy, or beneficial occupancy for the Facility constructed on Tract II.				

- 6.3 Each Unit Owner shall become obligated to pay Ground Rental and any additional rental immediately upon the closing of the sale/purchase of a Unit(s) in the Facility.
- 6.4 The Ground Rental rate shall increase fifteen percent (15%) at the beginning of the sixth anniversary of the Commencement Date, as hereinafter defined, and every five (5) years thereafter during the term of this Lease Agreement.
- 6.5 All rentals and payments that become due and payable by Lessee shall be made payable to the City of San Antonio, which shall be delivered or mailed, postage prepaid to:

Aviation Department
Attn: Finance Division
457 Sandau Road
San Antonio, Texas 78216

unless otherwise notified in writing. All rentals and payments unpaid for ten (10) days after the date due shall bear interest at the lesser of eighteen percent (18%) per annum or the maximum rate allowed under the law, from the date the amount was first due.

VII. TERM

- 6.6 This term of this Lease Agreement shall be for forty (40) years commencing on the tenth (10th) day following the passage of an Ordinance by the City Council of the City of San Antonio approving this Lease Agreement ("Commencement Date"), unless earlier terminated in accordance with this Lease Agreement.
- 6.7 The aforementioned forty (40) year term is contingent upon Lessee developing and constructing a second Facility on Tract II, depicted on **Exhibit 2**, Leased Premises. If Lessee does not initiate construction of a Facility on Tract II within thirteen months of the Commencement Date, Lessee shall relinquish Tract II, reducing the Lease Premises, and the term of the Lease Agreement shall be reduced to terminate twenty-five (25) years from the Commencement Date.
- 6.8 Lessee may terminate this Lease Agreement without cause at any time during the first twelve (12) months of the term following the Commencement Date by providing Lessor thirty days prior written notice of such termination.
- 6.9 Lessee may reduce the size of the Lease Premises without cause at any time during the first twelve (12) months of the term following the Commencement Date by relinquishing Tract II by providing Lessor thirty days prior written notice of such intent to relinquish Tract II.

VIII. CHARACTER OF UNIT OWNERSHIP WHICH DEVELOPER SHALL BE AUTHORIZED TO CREATE

- 8.1 Developer shall be authorized to sell individual ownership in individual Units subject to the covenants, restrictions and limitations contained in this Lease Agreement, without the prior approval of Lessor, on conditions that (i) no such sale shall have validity unless the purchaser, by instrument in the form and format of the Assumption Agreement attached hereto as **Exhibit 3**, assume jointly and severally with Developer and all Unit Owners all agreements, undertakings and covenants on the part of Lessee, and/or all Unit Owners to be performed under this Lease Agreement or any amendment thereto, and (ii) a fully executed duplicate original of such Assumption Agreement, together with an executed copy of the deed or other instrument conveying the ownership of the Unit(s), is delivered to Lessor within ten (10) days after making the assignment.
- 8.2 Each Unit ownership interest shall consist of the following property rights:
- 8.2.1 An enclosed portion of the Facility comprising a single hangar unit, excluding all supporting walls, ceiling, foundation and hangar doors of such hangar unit, intended for independent use for the storage of general aviation aircraft by Unit Owners;
 - 8.2.2 An assignment of that portion of the leasehold estate existing hereunder which is limited to the portion of the Leased Premises on which the enclosed portion of the Facility comprising the individual unit is situated; and
 - 8.2.3 An interest in the common elements of the Facility and the Leased Premises which shall be held for the common use by all Unit Owners.
- 8.3 The above described property interest and any title thereto shall be subject and subordinate to all the terms, provisions, restrictions and limitations contained in this Lease Agreement and any amendments thereto. Further, any and all ownership interest in any Units shall expire and become null and void upon the expiration or termination of this Lease Agreement, whichever happens first. Upon such expiration or termination, title to the entire Facility shall vest in Lessor as provided for in **Article 15**, Title, hereof.

IX. ASSOCIATION OF UNIT OWNERS

- 9.1 There will be formed a leasehold condominium association having the name "Stinson 99" (the "Association"), a Texas non-profit corporation which shall be governing body for the Unit Owners and shall be operated to provide maintenance, repair, replacement, administration, operation and care of the Facility and the Leased Premises as provided for in the Act, this Lease Agreement, the Declaration, and the Stinson 99 Owners' Association Bylaws (the "Bylaws"). The initial Bylaws shall be the bylaws attached hereto as **Exhibit 4**.
- 9.2 The Declaration, Bylaws, and any general rules and regulations established by the Association shall be consistent with all terms and provisions of this Lease Agreement, and any amendments hereto, and shall not be in direct or indirect conflict with any of the provisions hereof. In the event of any inconsistency or conflict among the provisions of

this Lease Agreement, the Declaration, Bylaws, or General Rules and Regulations, the provisions of this Lease Agreement shall prevail in all respects.

- 9.3 The Declaration shall expressly provide that the ownership interest of any Unit Owner in any and all units in the Facility shall be subject and subordinate to all the terms and provisions of this Lease Agreement and any amendments thereto.
- 9.4 The Declaration and all deeds to individual Units shall contain language providing that the terms and provisions of this Lease Agreement shall be covenants running with the Unit ownership interest and title thereto.
- 9.5 Each Unit Owner shall be a member of the Association so long as such owner is a Unit Owner, and the Association through its board of directors shall represent the Unit Owners in any proceedings, negotiations, settlements and agreements affecting all or part of the common elements. A Unit Owner's membership shall automatically terminate when such owner ceases to be a Unit Owner by the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, who shall at that time succeed to membership in the Association. The rights and obligations of ownership, and the transfer thereof, shall be governed by the provisions of this Lease Agreement, the Bylaws, and the Declaration.
- 9.6 Subject to Declarant's rights as set out in the Declaration and the Bylaws, each unit Owner shall be entitled to one vote, which shall be indivisible even if the ownership of a unit should be held by tenants in common, tenant by the entireties or other joint ownership.
- 9.7 The Association shall be responsible for and take all actions necessary to familiarize its Unit Owners and prospective Unit Owners with the contents of this Lease Agreement. Moreover, the Association shall at all times during the term hereof maintain a sufficient number of copies of this Lease Agreement and all amendments thereto for distribution to the Unit Owners upon request.
- 9.8 The Association shall at all times during the term hereof maintain a complete, current and accurate registry of all sales, transfers and ownership of Units within the Facility. Such registry shall contain the following: (i) the name and address of each Unit Owner, the date of purchase of each Unit owned by the Unit Owner, and (ii) the identification of the general aviation aircraft stored in any Unit and the identification of the said unit in which such aircraft is stored. The aforementioned registry shall be open to inspection by Lessor and its authorized representatives at all reasonable times during business hours.

X. SALES OF UNITS

Unit Owners shall be authorized to sell individual ownership in individual Units subject to the covenants, restrictions and limitations contained in this Lease Agreement and the Declaration, without the prior approval of Lessor, on conditions that (i) no such sale shall

have validity unless the purchaser, by instrument in the form and format of the Assumption Agreement attached hereto as **Exhibit 4**, assumes jointly and severally with Developer and all Unit Owners all agreements, undertakings and covenants on the part of Lessee and/or all Unit Owners to be performed under this Lease Agreement or any amendment thereto, and that (ii) a fully executed duplicate original of such Assumption Agreement, together with an executed copy of the deed or other instrument conveying the ownership of the Unit(s), is delivered to Lessor within ten (10) days after closing of the conveyance to such new Unit Owner.

XI. USE OF LEASED PREMISES

- 11.1 Lessor grants to Lessee the right to use the Leased Premises for the construction and occupancy of a building as hangar space for storage and maintenance of privately owned general aviation aircraft, and for such limited aeronautical purposes as may be directly related to such a Facility, to include offices space for aviation related businesses. No Unit may be used as a residence by Lessee or any assignee of Lessee unless approved in writing by the Aviation Director. Moreover, no sales to the public, whether wholesale or retail, or other commercial activity of whatever character shall be conducted from the Leased Premises. Business between Developer and Unit Owners shall not be considered to be sales to the public and/or commercial activity.
- 11.2 Lessee operations on the Leased Premises shall be in strict compliance with the following minimum restrictions:
 - 11.2.1 Facility will be utilized for the exclusive purpose of storing general aviation aircraft.
 - 11.2.2 Adequate fire extinguishers are required for each Unit.
 - 11.2.3 Overhead hoisting assemblies such as cranes, wenchers, and block and tackle will not be permitted.
 - 11.2.4 No major maintenance shall be performed on the Leased Premises.
 - 11.2.5 Storage of automobiles within the Units will not be permitted other than during such time as Unit Owner is utilizing the aircraft that Unit Owner stores in the Unit.
 - 11.2.6 Aircraft will not taxi in or out of the Facility, nor will there be any type of aircraft engine running activities.
 - 11.2.7 Lessee will ensure the Leased Premises are maintained in a clean, sightly and healthful condition at all times.

- 11.2.8 Lessor shall have the right to inspect the Facility and the Leased Premises at all reasonable times by providing 24 hour advanced notice to Lessee. Notwithstanding the foregoing, Lessor shall have the right to enter the Facility without notice in the event of an emergency.
- 11.2.9 Lessee shall abide by all federal, state, municipal and Airport rules, regulation, policies and procedures governing the operation and utilization of the Airport.
- 11.3 No fuel tanks, whether above-ground or below-ground, may be constructed or installed on the Leased Premises, nor are fuel sales permitted on the Leased Premises.

XII. CONSTRUCTION OF LESSEE IMPROVEMENTS

- 12.1 Lessee covenants that it will design and construct the Facility on the Leased Premises in accordance with state and local design standards, and subject to the following terms and conditions:
- 12.1.1 All plans and specifications for any Facility ("Plans and Specifications") shall be submitted to Lessor prior to commencement of construction. Landscape plans must be submitted to Lessor for approval prior to installation. Plans and Specifications and landscape plans shall be subject to the prior written approval of Lessor, which approval shall not be unreasonably withheld.
- 12.1.2 Lessee shall submit to the Aviation Director five (5) sets of Plans and Specifications, prepared by registered architects and engineers, for the Facility to be constructed by Lessee, no later than one hundred eighty (180) days following the commencement of the term of this Lease Agreement.
- 12.1.3 Lessor agrees to examine and approve or disapprove Plans and Specifications submitted in accordance with this Article 12, within thirty (30) business days after receipt thereof, and to give Lessee written notification of same. The approval by Lessor of the Plans and Specifications refers only to the conformity of same to the general architectural plan for the Leased Premises, as opposed to their architectural or engineering design. Lessor, by giving its approval, assumes no liability or responsibility therefor or for any defect in any work performed according to the Plans and Specifications. Lessee agrees not to commence any construction, renovations, alterations or improvements until Lessor, through the Aviation Director, has given written approval regarding Lessee's Plans and Specifications.
- 12.1.4 Prior to the commencement of construction, Lessee shall procure any and all additional approvals of the Plans and Specifications for its buildings and improvements required by any federal, state or municipal authorities, agencies, officers and departments having jurisdiction thereof and shall obtain any and all requisite building or construction licenses, permits or approvals. Construction

shall comply with applicable building code requirements and with applicable regulations promulgated by any federal, state or municipal agency or department having jurisdiction thereof. Lessee shall be responsible for all liabilities arising out of its failure to construct or cause the construction of the Facility or any other improvements in accordance with the Plans and Specification or by reason of defects in materials or workmanship, and Lessee shall hold Lessor harmless from and against any and all costs, damages or expenses, including attorneys' fees and court costs, claims, causes of action or liabilities, whether actual or potential, arising out of or in any way connected with or related to the construction of the Facility or other improvement, and Lessor shall be entitled to recover attorneys' fees and court costs in enforcing its rights of indemnification hereunder.

- 12.2 The cost of any construction of the Facility and any other construction, renovations, alterations or improvements upon the Leased Premises shall be borne and paid for solely by Lessee. Except as may be otherwise set forth herein, Lessor has no financial or other obligation of any kind under this Lease Agreement, other than the rental to Lessee of the premises which are the subject hereof, for the term and consideration hereinbefore set forth.
- 12.3 Upon completion of the Facility and any other renovations, construction, alterations or improvements, a conformed set of "as built" plans and a Certificate of Occupancy shall be provided by Lessee to the Aviation Director.
- 12.4 In undertaking the construction of the Facility or any other renovations, construction, alterations or improvements, it is expressly understood that, where applicable, unless otherwise agreed to in writing by the parties, Lessee shall be responsible, at its sole expense, for any and all construction and maintenance of taxiways and connections to the Airport's runway and taxiway system, along an alignment and in accordance with designs and plans approved in advance, in writing, by the Aviation Director. It is further expressly understood and agreed that any improvements and access thereto constructed by Lessee on the Leased Premises shall be performed in such a manner that shall not cause flowage of surface drainage onto adjacent tracts or interrupt flow to the storm drainage system.
- 12.5 Performance Bond. For each of the two phases of Facility construction, Lessee shall, prior to initiating any construction or improvements for a particular phase, furnish and file with Lessor, in the amounts required in this Article 12, the surety bonds described herein. The surety bond shall be signed by Lessee, as the Principal, as well as by an established corporate surety bonding company as surety. The surety bond shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign and shall include:
- 12.5.1 A good and sufficient performance bond in an amount equal to one hundred percent (100%) of the total cost of the Facility construction contract amount, guaranteeing the full and faithful execution of the work and performance of the construction of the Facility in accordance with the approved construction

documents and all other contract documents, including any extensions thereof, for the protection of Lessor. A performance bond obtained by the construction contractor is acceptable so long as it names both Lessee and Lessor as beneficiaries. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion.

- 12.6 Lessee shall be responsible for all connection and usage charges associated with utilities for to the Lease Premises, including but not limited to electricity, gas, sewer and water.

XIII. LIENS PROHIBITED

- 13.1 Lessee shall not suffer or permit any mechanics' or other liens to be filed against the fee of the Leased Premises, or against Lessee's leasehold interest in the land, Facility, or other buildings or improvements thereon, by reason of any work, labor, services or materials supplied, or claimed to have been supplied, to Lessee or to anyone holding the Leased Premises, or any part thereof, through or under Lessee.
- 13.2 If any such mechanics' lien or materialmen's lien shall be recorded against the Leased Premises, the Facility or any other improvements on the Leased Premises, Lessee shall cause the same to be removed or, in the alternative, if Lessee, in good faith, desires to contest the same, it shall be privileged to do so; however, in such case, Lessee hereby agrees to indemnify and save Lessor harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure on said mechanics' lien, cause the same to be discharged and removed prior to sale of the property or execution of such judgment.

XIV. MAINTENANCE AND REPAIR

- 14.1 Lessee shall pay or cause to be paid, any and all charges for water, heat, gas, electricity, sewer and any and all other utilities used on the Leased Premises, throughout the term of, or any extension of, this Lease Agreement, including, but not limited to, any connection fees and any and all additional costs related to utility connection, metering, maintenance, repair and usage.
- 14.2 Except as may be otherwise provided herein, Lessee shall, throughout the term of this Lease Agreement and any extension hereof, assume the entire responsibility, cost and expense, for all repair and maintenance of the Leased Premises, Facility, and any and all other buildings and improvements thereon in a prompt and complete manner, whether such repair or maintenance be foreseen or unforeseen, ordinary, extraordinary, structural, including all roofs, or otherwise. Additionally, without limiting the foregoing, Lessee shall:
- 14.2.1 at all times maintain the Facility and other buildings and improvements in a good state of repair and preservation, excepting ordinary wear and tear and obsolescence in spite of repair; and

- 14.2.2 replace or substitute any fixtures and equipment which have become inadequate, obsolete, worn out, unsuitable or undesirable, with replacement or substitute fixtures and equipment, free of all liens and encumbrances, which shall automatically become a part of the buildings and improvements; and
- 14.2.3 at all times keep the Leased Premises, Facility, other buildings, improvements, fixtures, equipment and personal property, in a clean and orderly condition and appearance; and
- 14.2.4 provide, and maintain in good working order, all obstruction lights and similar devices, fire protection and safety equipment, and all other equipment of every kind and nature required by laws, rules, orders, ordinances, resolutions or regulations of any competent authority, including Lessor and Aviation Director; and
- 14.2.5 observe all insurance regulations and requirements concerning the use and condition of the Leased Premises, for the purpose of reducing fire hazards and insurance rates on the Airport; and
- 14.2.6 repair any damage, caused by Lessee, to paving or other surfaces of the Leased Premises or the Airport, in connection with the scope of the Lease Agreement, caused by any oil, gasoline, grease, lubricants, flammable liquids and/or substances having a corrosive or detrimental effect thereon, or by any other reason whatsoever; and
- 14.2.7 take measures to prevent erosion, including, but not limited to, the planting and replanting of grass on all unpaved or undeveloped portions of the Leased Premises; the planting, maintaining and replanting of any landscaped areas; the designing and constructing of improvements on the Leased Premises; and
- 14.2.8 be responsible for the maintenance and repair of all utility services lines upon the Leased Premises, including, but not limited to, water and gas lines, electric power and telephone conduits and lines, sanitary sewers and storm sewers; and
- 14.2.9 keep and maintain all vehicles and equipment operated by Lessee on the Airport in safe condition, good repair and insured, as required by this Lease Agreement; and
- 14.2.10 replace broken or cracked plate glass, paint/repaint structures upon the Leased Premises and, where applicable, mow the grass; and
- 14.2.11 provide and use suitable covered metal receptacles for all garbage, trash and other refuse; assure that boxes, cartons, barrels or similar items are not piled in an unsightly, unsafe manner on or about the Leased Premises; provide a complete and proper arrangement, satisfactory to the Aviation Director, for the adequate

sanitary handling and disposal away from the Airport, of all trash, garbage and refuse caused as a result of the operation of its business.

- 14.3 The adequacy of the performance of the foregoing maintenance and repair by Lessee shall be determined by the Aviation Director, whose reasonably exercised judgment shall be conclusive. Should Lessee refuse or neglect to undertake any such maintenance or repair, or if Lessor is required to perform any maintenance or repair necessitated by the negligent acts or omissions of Lessee, its employees, agents, assignees, subtenants or licensees, then Lessor shall have the right, but not the obligation, to perform such maintenance or repair on behalf of and for Lessee. The costs of such maintenance or repair, plus any associated overhead reasonably determined by Lessor, shall be reimbursed by Lessee to Lessor no later than ten (10) days following receipt by Lessee of written demand from Lessor for same. In cases not involving maintenance or repair requiring exigent action, Lessor shall provide Lessee a written request that Lessee perform such maintenance or repair, at least thirty (30) days before Lessor effects such maintenance or repair on behalf of Lessee.

XV. TITLE

- 15.1 It is expressly understood and agreed that title to the Facility and all other structures on the Leased Premises shall be, and remain in, Lessee and Unit Owners until the expiration of the primary term of this Lease Agreement, or earlier termination in accordance with this Lease Agreement, at which time title to the Facility and all other structures on the Leased Premises shall vest in Lessor. No extension of the lease term beyond the primary term shall delay the transfer of title to the Facility from the Lessee to Lessor at the end of the primary term. If lease term is extended beyond the primary term, the title to the Facility shall vest in Lessee upon expiration of the primary term and Lessee shall be responsible for paying rental on the Facility at the then current rate for the duration of the extended lease term. It is further understood and agreed by the parties that the Facility, all other buildings and other permanent improvements hereafter constructed or erected on the Leased Premises shall remain thereon and shall not be removed therefrom unless specifically requested by Lessor. In the event of such expiration or termination, title to the Facility and all individual units thereof, to include permanent improvements thereto, shall immediately vest in Lessor free and clear of all liens, encumbrances or claims of whatever nature; and Lessee and each Unit Owner shall at that time deliver to Lessor: (i) deeds or other appropriate conveyance documents to Facility and every Unit ownership thereof, warranting title to the same and also warranting Facility and each unit ownership to be free and clear of all liens, encumbrances or claims of whatever nature; and (ii) other documentation satisfactory to Lessor evidencing the vesting of title to the Facility and each unit thereof in Lessor. Lessee covenants and agrees, upon Lessor's demand, on or after termination of the Lease Agreement, to execute any instruments requested by Lessor in connection with the conveyance of the Facility or any permanent improvements. Further, in the event of the above described expiration or termination, the monies expended by Lessee, Developer, or any Unit Owner for the construction of the Facility shall be deemed additional rent paid by Lessee and no compensation for the Facility or individual units thereof shall be paid or allowed Lessee or any Unit Owner.

- 15.2 Should Lessor elect not to take title to the Facility, any of the other buildings or other permanent improvements, or any portion thereof, as provided in this **Article 15**, same shall be removed by Lessee, at its sole cost and risk, in compliance with all applicable laws and regulations and, to the degree reasonably possible, the Leased Premises shall be restored to the condition that existed prior to the construction of same. Should Lessee fail to undertake such removal within ninety (90) days following the expiration or termination of this Lease Agreement, Lessor may undertake such removal at Lessee's expense
- 15.3 It is expressly understood and agreed that any and all items of personal property owned, placed or maintained by Lessee on the Leased Premises during the term hereof shall be and remain Lessee's property. Provided that Lessee is not in default under this Lease Agreement, it may remove or cause to be removed all such items from the Leased Premises. At Lessor's sole election, any such items remaining on the Leased Premises more than thirty (30) days after the expiration of the term hereof, shall then belong to Lessor without payment of consideration therefor, and any such items may be disposed of by Lessor in its sole and absolute discretion.

XVI. INDEMNIFICATION

- 16.1 **LESSEE** covenants and agrees to **FULLY INDEMNIFY** and **HOLD HARMLESS**, the **CITY OF SAN ANTONIO** and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Lessee's activities under this Lease, including any acts or omissions of Lessee, any agent, officer, director, representative, employee, consultant or subcontractor of Lessee, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Lease, all without however, the City waiving any governmental immunity available to the City under Texas Law and without waiving any defenses of the parties under Texas law. **IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS LEASE.** The provisions of this indemnity are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Lessee shall promptly advise the City in writing of any claim or demand against the City known to Lessee, and shall see to the investigation and defense of such claim or demand at Lessee's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Lessee of any of its obligations under this paragraph.

16.2 It is the express intent of the parties to this Lease, that the indemnity provided for in this **Article 16**, is an indemnity extended by Lessee to **indemnify, protect and hold harmless the City** from the consequences of the City's own negligence, provided however, that the indemnity provided for in this **Article 16** shall apply only when the negligent act of the City is a contributory cause of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. **LESSEE further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY**, any claim or litigation brought against the City and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this indemnity shall apply, as set forth above.

XVII. INSURANCE

17.1 Prior to occupancy of the Leased Premises and the conduct of any business thereupon, Lessee shall furnish copies of all required endorsements and completed Certificate(s) of Insurance ("Certificate(s)") to the City's Aviation Department, which shall be clearly labeled "Stinson Municipal Airport Lease for Leasehold Hangar Condominiums" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Aviation Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

17.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.

17.3 Lessee's financial integrity is of interest to the City; therefore, subject to Lessee's right to maintain reasonable deductibles in such amounts as are approved by the City, Lessee shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Lessee's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

Policy	Limits	Coverage
Workers' Compensation *	Amount required by Law in each state where Contractor conducts	

	operations	
Employer's Liability *	<ul style="list-style-type: none"> • \$1,000,000 for bodily injury (each accident) • \$1,000,000 for bodily injury by disease (policy limits) • \$1,000,000 for bodily injury by disease (each employee) 	
Commercial General Liability	<ul style="list-style-type: none"> • \$2,000,000 general aggregate limit • \$1,000,000 each occurrence limit (bodily injury/property damage) • \$1,000,000 personal injury and advertising injury limit • \$2,000,000 products and completed operations aggregate limit • \$1,000,000 damage to premises rented to you 	
Business Automobile Liability	\$1,000,000 combined single limit (bodily injury/property damage)	Must include coverage for all owned, non-owned and hired vehicles.
Real Estate Developer's Professional Liability *(Errors & Omissions)	\$1,000,000 each claim or wrongful act	
Contractor's Pollution Liability *	<ul style="list-style-type: none"> • \$2,000,000 aggregate limit • \$1,000,000 each occurrence limit 	
Property	Limits equal to the replacement cost of Contractor's Business Personal Property at the location where the work is to be performed.	Property insurance policy must include a waiver of subrogation in favor of Company, its Affiliates, and each of their respective officers, directors and employees.
Builder's Risk	<ul style="list-style-type: none"> • Limits equal to 100% replacement cost of construction. • Coverage on an all-risk basis including Flood, Vandalism and Malicious Mischief and 	Must include Contractor and the City of San Antonio as insureds.

	Theft. • Written on a Completed Value form	
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*Only Developer, not Unit Owners, must obtain and maintain these insurance policies for such time as Developer is a party to this Lease Agreement.

- 17.4 Lessee agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Lessee herein, and provide a certificate of insurance and endorsement that names the Lessee and the City as additional insureds. Respondent shall provide the City with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.
- 17.5 Lessee shall maintain, at its sole cost and expense, commercial property insurance covering the building, fixtures, equipment, tenant improvements and betterments. Commercial property insurance shall, at minimum, cover the perils insured under the ISO broad causes of loss form (CP 10 20). Commercial property insurance shall cover the replacement cost of the property insured. The amount insured shall equal the full estimated cost of the property insured. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form. The City shall be included as an insured and loss payee under the commercial property insurance. Lessee may, at its option, purchase business income, business interruption, extra expense or similar coverage as part of this commercial property insurance, and in no event shall the City be liable for any business interruption or other consequential loss sustained by Lessee, whether or not it is insured, even if such loss is caused by the negligence of the City, its employees, officers, directors, or agents.
- 17.6 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Lessee shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Lessee shall pay any costs incurred resulting from said changes.

City of San Antonio
 Aviation Department
 9800 Airport Blvd.
 San Antonio, Texas 78216

- 17.7 Lessee agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, with respect to operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
 - Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
 - Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.
- 17.8 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Lessee shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lessee's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- 17.9 In addition to any other remedies the City may have upon Lessee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Lessee to stop work hereunder, and/or withhold any payment(s) which become due to Lessee hereunder until Lessee demonstrates compliance with the requirements hereof.
- 17.10 Nothing herein contained shall be construed as limiting in any way the extent to which Lessee may be held responsible for payments of damages to persons or property resulting from Lessee's or its subcontractors' performance of the work covered under this Agreement.
- 17.11 It is agreed that Lessee's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.
- 17.12 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

- 17.13 Lessee and any Subcontractors are responsible for all damage to their own equipment and/or property.

XVIII. PERFORMANCE GUARANTEE

- 18.1 Lessee shall deliver to the Director on or before the execution of this Lease Agreement and shall keep in force throughout the term hereof either an Irrevocable Letter of Credit in favor of Lessor drawn upon a bank satisfactory to Lessor or a Surety Bond payable to Lessor. The foregoing shall be in form and content satisfactory to Lessor, shall be conditioned on the term hereof and shall stand as security for payment by Lessee of all valid claims by Lessor hereunder. If a bond shall be delivered, it shall be issued by a sound indemnity company authorized to do business in Texas. The amount of the Irrevocable Letter of Credit or Surety Bond to be delivered by Lessee to the Director on or before the date of the execution of this Lease Agreement shall be FOURTEEN THOUSAND FIVE HUNDRED U.S. DOLLARS AND 00/100 CENTS (\$14,500.00). The amount of the Irrevocable Letter of Credit or Surety Bond shall be adjusted as necessary so that such amount shall at all times equal at least one-half the total annual rental payable by Lessee to Lessor hereunder.
- 18.2 Lessee hereby gives to Lessor a lien upon all of its property now, or at any time hereafter, in or upon the Leased Premises, to secure the prompt payment of charges herein stipulated to be paid for the use of said Premises; all exemptions of such property, or any of it, being hereby waived.
- 18.3 In the event that the amount of the Performance Guarantee provided by Lessee under the terms of this Lease Agreement, at all times during the term hereof, shall equal the greater of the rentals, fees and charges payable by Lessee to Lessor for the current calendar year, or double the amount of the Performance Guarantee set forth in Section 18.1 above, then the provisions set forth in Section 18.2, above, shall not apply hereto.

XIX. ADDITIONAL FEES AND CHARGES

- 19.1 Fees and charges for miscellaneous items and services, including, but not limited to, employee badges, shall be assessed, by City ordinance, in connection with the ordinary usage of Airport facilities.
- 19.2 All rentals, fees and charges payable by Lessee to Lessor under the terms hereof, whether or not expressly denominated as rent, shall constitute rent for all purposes, including, but not limited to, purposes of the United States Bankruptcy Code.

XX. PRIVILEGES AND CONDITIONS

- 20.1 Lessor hereby grants to Lessee the following general, non-exclusive privileges, uses and rights, subject to the terms, conditions and covenants herein set forth:

- 20.1.1 The general use by Lessee, for commercial activities, of all common aircraft facilities and improvements, which are now, or may hereafter be, connected with or appurtenant to, said Airport, except as hereinafter provided. "Common airport facilities" shall include all necessary landing area appurtenances, including, but not limited to, approach areas, runways, taxiways, aprons, roadways, sidewalks, navigational and aviation aids, lighting facilities, terminal facilities or other common or public facilities appurtenant to said Airport.
- 20.1.2 The right of ingress to and egress from the Leased Premises, over and across common or public roadways serving the Airport for Lessee, its agents, servants, patrons, invitees, suppliers of service and furnishers of material. Said right shall be subject to such ordinances, rules and regulations as now, or may hereafter, apply at the Airport.
- 20.2 The granting and acceptance of this Lease Agreement is conditioned upon compliance with the covenant that the right to use said common Airport facilities, in common with others so authorized, shall be exercised subject to and in accordance with the laws of the United States, State of Texas and City of San Antonio, the rules and regulations promulgated by their authority with reference to aviation and navigation, and all reasonable and applicable rules, regulations and ordinances of Lessor, now in force or hereafter prescribed or promulgated by charter authority or by law.
- 20.3 Lessor reserves the right to enter the Leased Premises, to include the Facility, at any reasonable time for the purpose of inspecting same or verifying that fire, safety, sanitation regulations and other provisions contained in this Lease Agreement are being adhered to by Lessee.

XXI. ENVIRONMENTAL COMPLIANCE

- 21.1 Lessee shall, in conducting any activity or business on the Leased Premises, including environmental response or remedial activities, comply with all environmental laws, including, but not limited to, those regarding the generation, storage, use, transportation and disposal of solid wastes, hazardous materials, toxic chemicals, special wastes or other contaminants, and all laws, regulations and notice requirements pertaining to releases or threatened releases of hazardous materials, toxic chemicals, special wastes or other contaminants into the environment. Lessee shall not cause the release, or permit its employees, agents, permittees, contractors, subcontractors, sublessees, or others in Lessee's control, supervision, or employment, to release (whether by way of uncapping, pouring, spilling, spraying, spreading, attaching or otherwise), into or onto the Leased Premises or any other location upon or above the Airport (including the air, ground and ground water thereunder and the sewer and storm water drainage systems thereon), any quantity of hazardous substances (as defined or established from time to time by applicable local, state, or federal law and including, among other things, hazardous waste and any other substances that have been or may in the future be determined to be toxic, hazardous or unsafe). To the extent any such release may exceed quantities or volumes permitted by

applicable federal, Texas or local law, Lessee shall immediately notify the Aviation Director, TCEQ, and Local Emergency Planning Committee, as may be required under the federal Emergency Planning and Community Right To Know Act. The Lessee, or any occupant of Leased Premises, shall be responsible for compliance with said Act, in the event of any such release.

- 21.2 Lessee shall remedy any release or threatened release, caused by its operations at the Airport, as described above and, whether resulting from such release or otherwise, remove any hazardous materials, special wastes and any other environmental contamination caused by Lessee on, under or upon the Leased Premises, as may be required by a governmental or regulatory agency responsible for enforcing environmental laws and regulations. Such work shall be performed, at Lessee's sole expense, after Lessee submits to Lessor a written plan for completing such work. Lessor shall have the right to review and inspect all such work at any time, using consultants and representatives of its choice, at Lessor's sole cost and expense. Specific cleanup levels for any environmental remedial work shall be designed to meet all of the applicable environmental laws and regulations, to the satisfaction of the appropriate government or regulatory agency responsible for enforcing environmental laws and regulations.
- 21.3 With the exception of environmental matters not caused by, or reasonably discoverable by Lessee prior to the commencement of this Lease Agreement, Lessee agrees to defend, indemnify and hold harmless Lessor, its elected and appointed officials, officers, agents and employees, from and against any and all reasonable losses, claims, liability, damages, injunctive relief, injuries to person, property or natural resources, costs, expenses, enforcement actions, actions or causes of action, fines and penalties, arising as a result of action or inaction of Lessee, its employees, agents or contractors, in connection with the release, threatened release or presence of any hazardous material, contaminants, or toxic chemicals at, on, under, over or upon the Leased Premises and Airport, whether or not foreseeable, regardless of the source or timing of occurrence, release, threatened release, presence or discovery of same. The foregoing indemnity includes, without limitation, all reasonable costs at law or in equity for removal, clean-up, remediation and disposal of any kind, as well as all reasonable costs associated with determining whether the Airport is in compliance, and causing the Airport to be in compliance with, all applicable environmental laws and regulations and all reasonable costs associated with claims for damages to persons, property or natural resources. In the event that Lessor is named in any enforcement action or lawsuit by any party in connection with the environmental condition of the Leased Premises, caused by the action or inaction of the Lessee, Lessee shall defend Lessor and indemnify and hold harmless Lessor from any reasonable costs, damages, fines and penalties resulting therefrom.
- 21.4 In addition to any other rights of access herein regarding the Leased Premises, Lessor shall, upon reasonable notice, have access thereto in order to inspect and confirm that the Lessee is using same in accordance with all applicable environmental laws and regulations. Lessee shall, upon the Aviation Director's demand and at Lessee's sole expense, demonstrate to said Director (through such tests, professional inspections, samplings, or other methods as may be reasonably required by said Director) that Lessee

has not caused or permitted any release of hazardous substances or contaminants in excess of quantities or volumes permitted by applicable federal, Texas or local law. Qualified independent experts, chosen by Lessee, subject to Lessor's approval, which approval shall not be unreasonably withheld, shall conduct any such tests and assessments. Lessee shall provide copies of reports from any such testing or assessments to Lessor upon receipt. Should Lessee not provide same to Lessor, Lessor may conduct, or cause to be conducted, such tests, inspections, samplings and assessments, and Lessee shall reimburse Lessor for all costs of such actions, no later than thirty (30) days following receipt by Lessee of invoices therefor. Lessor reserves the right to conduct any of the above actions, at the Aviation Director's discretion, when in the opinion of same, additional or supplemental assessments are in Lessor's best interest.

- 21.5 Lessee, at Lessor's request, shall make available for inspection and copying, upon reasonable notice and at reasonable times, any or all of the non-privileged documents and materials Lessee has prepared pursuant to any environmental law or regulation, which may be retained by Lessor or submitted to any governmental regulatory agency; provided, such documents and materials relate to environmental regulatory compliance and pertain to the Airport or the Leased Premises. If any environmental law or regulation requires Lessee to file any notice or report of a release or threatened release of regulated materials on, under or about the Leased Premises or the Airport, Lessee shall promptly submit such notice or report to the appropriate governmental agency and simultaneously provide a copy of such report or notice to Lessor. In the event that any written allegation, claim, demand, action or notice is made against Lessee regarding Lessee's failure or alleged failure to comply with any environmental law or regulation, Lessee, as soon as practicable, shall notify Lessor in writing and provide same with copies of any such written allegations, claims, demands, notices or actions so made.
- 21.6 The parties to this Lease Agreement, including the tenants or sublessees who may enjoy a future right of occupation through Lessee, acknowledge a right and a duty in Lessor, exercised by the Aviation Director, to review safety and potential environmental impacts of any proposed operation, business, maintenance or other activity of the Lessee and its sublessees. To this end, said Director shall have authority to disapprove an activity of the Lessee and/or any sublessee, on the basis of a risk assessment. The parties understand that Airport premises are not intended for use involving refining, processing, manufacturing, maintenance, overhaul, or similar heavy industrial activities entailing use, storage, manufacture, or transport of critical volumes of regulated or hazardous materials or toxic chemicals. For purposes of this Lease Agreement, "critical volumes" are those which, in the discretion and judgment of the Aviation Director, pose or may pose an unreasonable risk to Airport property, its occupants, employees or the traveling public. Discretion and judgment are reserved to the Aviation Director due to the fact that combinations and proximity of such materials are synergistic. The Aviation Director's decision in this regard is final, and said Director shall exercise such review prior to any lease or sublease, from time to time, as he may deem necessary for appropriate risk assessment of existing leases and subleases.

XXII. SIGNS

Lessee shall neither erect signs nor distribute advertising matter upon Airport Premises, without the prior written consent of the Aviation Director. Such consent will not be unreasonably withheld or delayed.

XXIII. TIME OF EMERGENCY

During time of war or national emergency, Lessor shall have the right to lease the landing area or any part thereof to the United States for government use, and, if such lease is executed, the provisions of this Lease Agreement, insofar as they are inconsistent with those of the Government lease, shall be suspended.

XXIV. SUBORDINATION OF LEASE

This Lease Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States regarding operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. Should the effect of such agreement with the United States be to take any of the property under lease, or substantially alter or destroy the commercial value of the leasehold interest granted herein, Lessor shall not be held liable therefore, but, in such event, Lessee may cancel this Lease Agreement upon ten (10) days' written notice to Lessor. Notwithstanding the foregoing, Lessor agrees that, in the event it becomes aware of any such proposed or pending agreement or taking, Lessor shall utilize its best efforts to (i) give the maximum possible notice thereof to Lessee; and (ii) cooperate with Lessee to mitigate the impact of such agreement or taking or other government action upon Lessee, including, but not limited to, reasonably assisting Lessee in securing alternate premises and minimizing any disruption of or interference with Lessee's business.

XXV. SECURITY

- 25.1 Lessee shall comply with all rules, regulations, statutes, orders, directives or other mandates of the United States or State of Texas, regarding Airport security requirements or measures.
- 25.2 Lessee shall comply with all current and future mandates of the Transportation Security Administration for background investigations of its personnel.
- 25.3 Lessee shall indemnify and hold harmless Lessor, its officers and employees from any charges, fines or penalties that may be assessed or levied by any department or agency of the United States or State of Texas, by reason of Lessee's failure to comply with any applicable security provision and/or requirement for compliance set forth herein.

XXVI. DEFAULT AND REMEDIES

- 26.1 Each of the following shall constitute an event of default by Lessee:
- 26.1.1 Lessee shall fail to pay any rent as provided for in this Lease Agreement and such failure shall continue for a period of ten (10) days after receipt by Lessee of written notice thereof.
 - 26.1.2 Lessee shall fail to provide or maintain insurance as provided for in this Lease Agreement and such failure shall continue for a period of five (5) days after receipt by Lessee of written notice hereof provided, however, that Lessee shall not be entitled to any notice from Lessor under this provision when failure to maintain insurance is due to a cancellation or expiration of policy or coverage.
 - 26.1.3 Lessee shall neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained, and if such neglect or failure should continue for a period of thirty (30) days after receipt by Lessee of written notice of same, or if more than thirty (30) days shall be required because of the nature of the default, if Lessee shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default.
 - 26.1.4 Lessee shall become insolvent; take the benefit of any present or future insolvency statute; make a general assignment for the benefit of creditors; file a voluntary petition in bankruptcy or a petition or answer seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any state thereof; or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property.
 - 26.1.5 An Order of Relief shall be entered, at the request of Lessee or any of its creditors, under federal bankruptcy laws or any law or statute of the United States or any state thereof.
 - 26.1.6 A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Lessee and shall not be dismissed within thirty (30) days after the filing thereof.
 - 26.1.7 Pursuant to, or under the authority of, any legislative act, resolution, rule, or any court, governmental, agency or board order or decree or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Lessee and such possession or control shall continue in effect for a period of fifteen (15) days.
 - 26.1.8 Lessee shall become a corporation in dissolution or voluntarily or involuntarily forfeit its corporate charter.
 - 26.1.9 The rights of Lessee hereunder shall be transferred to, pass to or devolve upon, by operations of law or otherwise, any other person, firm, corporation or other entity,

in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation or other proceeding or occurrence described in paragraphs 26.1.4 through 26.1.8 of this Section 26.1.

26.1.10 Lessee shall voluntarily discontinue its operations at the Airport for a period of sixty (60) consecutive days.

- 26.2 In the event any default shall occur, Lessor then, or at any time thereafter, but prior to the removal of such condition of default, shall have the right, at its election, to terminate Lessee's right of possession of the Leased Premises, by giving at least twenty (20) days written notice to Lessee, at which time Lessee will then quit and surrender the Leased Premises to Lessor, but Lessee's obligations under the Lease shall remain in full force and effect. At the expiration of said twenty (20) days notice period, Lessor may enter upon and take possession of the Leased Premises (or any part thereof in the name of the whole), without demand or notice, and repossess the same as of the Lessor's former estate, expelling Lessee and those claiming under Lessee, without prejudice to any remedy for arrears of rent or preceding breach of covenant and without any liability to Lessee or those claiming under Lessee for such repossession. In addition to any other remedies herein, the parties shall be entitled to an injunction restraining the violation, or attempted violation, of any of the covenants, conditions or provisions hereof, or to a decree compelling performance of same; subject, however, to other provisions herein.
- 26.3 Lessor's repossession of the Leased Premises shall not be construed as an election to terminate this Lease Agreement nor shall it cause a forfeiture of rents or other charges remaining to be paid during the balance of the term hereof, unless a written notice of such intention be given to Lessee, or unless such termination is decreed by a court of competent jurisdiction.
- 26.4 Upon repossession, Lessor shall have the right, at its election and whether or not this Lease Agreement shall be terminated, to relet the Leased Premises or any part thereof for such period(s), which may extend beyond the term hereof, at such rent and upon such other terms and conditions as Lessor may, in good faith, deem advisable. Notwithstanding any law or anything contained herein to the contrary, to the full extent permitted under applicable law, Lessee and Lessor agree that Lessor's duty to relet the premises or otherwise to mitigate damages hereunder shall be limited to those requirements set forth in the Texas Property Code, as amended. Lessor shall in no event be liable, and Lessee's liability shall not be affected or diminished whatsoever, for failure to relet the Leased Premises, or in the event the Leased Premises are relet, for failure to collect any rental under such reletting, so long as the Lessor uses objectively reasonable efforts to comply with said Property Code. Lessor and Lessee agree that any such duty shall be satisfied and Lessor shall be deemed to have used objective reasonable efforts to relet the Premises and mitigate Lessor's damages by: (1) posting a "For Lease" sign on the Premises; and (2) advising Lessor's lease agent, if any, of the availability of the Premises.

- 26.5 In the event that Lessor elects to relet, rentals received by same from such reletting shall be applied: first, to the payment of any indebtedness, other than rent due hereunder from Lessee under this Lease Agreement; second, to the payment of any cost of such reletting; third, to the payment of rent due and unpaid hereunder; and finally, the residue, if any, shall be held by Lessor and applied hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of rent hereunder, be less than the rent payable during that month by Lessee hereunder, then Lessee shall pay such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. Lessee shall also pay to Lessor, as soon as ascertained, any costs and expenses incurred by Lessor in such reletting not covered by the rentals received from such reletting of the Leased Premises.
- 26.6 If Lessor shall terminate this Lease Agreement or take possession of the Leased Premises by reason of a condition of default, Lessee and those holding under Lessee, shall forthwith remove their goods and effects from the Leased Premises. If Lessee or any such claimant shall fail to effect such removal forthwith, Lessor may, without liability to Lessee or those claiming under Lessee, remove such goods and effects and store same for the account of Lessee or of the owner thereof at any place selected by Lessor, or, at Lessor's election, and upon giving fifteen (15) days' written notice to Lessee of date, time and location of sale, Lessor may sell the same at public auction or private sale on such terms and conditions as to price, payment and otherwise, as Lessor in its sole discretion may deem advisable. If, in Lessor's judgment, the cost of removing and storing, or of removing and selling any such goods and effects, exceeds the value thereof or the probable sale price thereof, as the case may be, Lessor shall have the right to dispose of such goods in any manner Lessor may deem advisable.
- 26.7 Lessee shall be responsible for all costs of removal, storage and sale, and Lessor shall have the right to reimburse the Airport Revenue Fund from the proceeds of any sale for all such costs paid or incurred by Lessor. If any surplus sale proceeds remain after such reimbursement, Lessor may deduct from such surplus any other sum due to Lessor hereunder and shall pay over to Lessee any remaining balance of such surplus sale proceeds.
- 26.8 If Lessor shall enter into and repossess the Leased Premises as a result of Lessee's default in the performance of any of the terms, covenants or conditions herein contained, then Lessee hereby covenants and agrees that it will not claim the right to redeem or re-enter the said Premises to restore the operation of this Lease Agreement, and Lessee hereby waives the right to such redemption and re-entrance under any present or future law, and does hereby further, for any party claiming through or under Lessee, expressly waive its right, if any, to make payment of any sum or sums of rent, or otherwise, of which Lessee shall have made default under any of the covenants of the Lease Agreement and to claim any subrogation of the rights of Lessee under these presents, or any of the covenants thereof, by reason of such payment.
- 26.9 All rights and remedies of Lessor herein created or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to

exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently, whenever and as often as deemed desirable.

- 26.10 If proceedings shall, at any time, be commenced for recovery of possession, as aforesaid, and compromise or settlement shall be effected either before or after judgment whereby Lessee shall be permitted to retain possession of said Premises, then such proceeding shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or to this Agreement.
- 26.11 Any amount paid or expense or liability incurred by Lessor for the account of Lessee may be deemed to be additional rental and the same may, at the option of Lessor, be added to any rent then due or thereafter falling due hereunder.

XXVII. HOLDING OVER

Should Lessee hold over against Lessor's will, Lessee agrees to pay to Lessor, as monthly rent during such period of non-consensual holding over, for the Leased Premises (including Ground Rent, the Facility, and all other improvements located thereon, whether title to such Facility and improvements is in the name of Lessor or Lessee) for each month of such tenancy, three hundred percent (300%) of the Ground Space Rental paid for the last month of the Lease Agreement term plus all applicable fees, including but not limited to any other fees authorized by this Agreement and/or authorized by Ordinance. Lessee shall be liable to Lessor for all loss or damage resulting from such holding over against Lessor's will after the termination of this Lease Agreement, whether such loss or damage may be contemplated at such time or not. It is expressly agreed that acceptance of the foregoing rental by Lessor, in the event that Lessee fails or refuses to surrender possession, shall not operate to give Lessee any right to remain in possession beyond the period for which such amount has been paid nor shall it constitute a waiver by Lessor of its right to immediate possession thereafter. Title to the Facility and any other improvements shall vest upon City at the end of the primary term and Lessee, during the hold over period, shall also pay rent for such building(s) at rental rates established through an appraisal process.

XXVIII. ASSIGNMENT

Lessee shall not transfer or assign this Lease Agreement or Lessee's interest in or to the Leased Premises, or any part thereof, without having first obtained Lessor's prior written consent, which may be given only by or pursuant to an ordinance enacted by the City Council of the City of San Antonio, Texas. Notwithstanding anything the foregoing, Lessee may sell ownership interests in Units in the Facility to third parties without first obtaining consent from Lessor in accordance with the provisions herein.

XXIX. DAMAGE OR DESTRUCTION OF LEASED PREMISES

- 29.1 In the event any structure, Improvements, and/or betterments on the Leased Premises are destroyed or damaged to the extent that they are unusable, Lessee shall have the election of

repairing or reconstructing structure, Improvements, and/or betterments substantially as they were immediately prior to such casualty, or in a new or modified design, or not to construct the Improvements. Lessee shall give the Director written notice of its election within sixty (60) days after the occurrence of such casualty. If the entirety or substantially all of the structure, Improvements, and/or betterments are damaged or destroyed and Lessee elects not to repair or reconstruct the damaged or destroyed structure, Improvements, and/or betterments within the sixty (60) day election period, the Director may terminate this Lease by written notice to Lessee given within sixty (60) days following expiration of Lessee's election period, whereupon (i) this Lease shall terminate and Lessee shall abandon the Leased Premises and (ii) the insurance proceeds covering the Improvements shall be paid to the owner of the structure, Improvements, and/or betterments as of the date of such damage or destruction (provided, however, Lessee shall have the right to retain there from its actual costs paid in making improvements to the damaged or destroyed Improvement). If such damage or destruction is to less than substantially all of the structure, Improvements, and/or betterments and Lessee elects not to repair or reconstruct the damaged or destroyed structure, Improvements, and/or betterments within the said 60-day period following such damage or destruction, then (i) this Lease shall be deemed modified (and the rentals hereunder adjusted) so as to terminate the Lease as to such structure, Improvements, and/or betterments, and (ii) the insurance proceeds covering the structure, Improvements, and/or betterments shall be paid to the owner of the structure, Improvements, and/or betterments as of the date of such damage or destruction (provided, however, Lessee shall have the right to retain there from its actual costs paid in making improvements to the damaged or destroyed structure, Improvements, and/or betterments). In the event of damage or destruction to any of the structure, Improvements, and/or betterments upon the Leased Premises, the City shall have no obligation to repair or rebuild the structure, Improvements, and/or betterments or any fixtures, equipment or other personal property installed by Lessee on the Leased Premises.

29.2 If Lessee elects to repair or reconstruct the structure, Improvements, and/or betterments, Lessee shall use its insurance proceeds from the policy covering the destroyed structure, Improvements, and/or betterments. If the insurance proceeds are not sufficient, Lessee agrees to pay the deficiency. If Lessee elects to repair or reconstruct, Lessee shall, at its expense, replace and repair any and all fixtures, equipment and other personal property necessary to properly and adequately continue its authorized activities on the Leased Premises. In no event shall Lessee be obligated to provide equipment and fixtures in excess of those existing prior to the damage or destruction. Lessee agrees that such work will be commenced and completed with due diligence.

29.3 Prior to any repair or reconstruction described above, Lessee shall submit plans and specifications to the Director for his written approval. Such repair or reconstruction shall be in accordance therewith. Any changes must be approved in writing by the Director.

XXX. LAWS AND ORDINANCES

Lessee agrees to comply promptly with all laws, ordinances, orders and regulations affecting the Leased Premises, including, but not limited to, those related to its

cleanliness, safety, operation, use and business operations. Lessee shall comply with all Federal and State regulations concerning its operation on the Airport and shall indemnify and hold harmless Lessor, its officers and employees, from any charges, fines or penalties that may be assessed or levied by any department or agency of the United States or the State of Texas, by reason of Lessee's failure to comply with the terms of this Article or with any other terms set forth in this Lease Agreement.

XXXI. REGULATIONS

Lessee's officers, agents, employees and servants shall obey all rules and regulations promulgated by Lessor, its authorized agents in charge of the Airport, or other lawful authority, to insure the safe and orderly conduct of operations and traffic thereon.

XXXII. TAXES AND LICENSES

Lessee shall pay, on or before their respective due dates, to the appropriate collecting authority, all Federal, State and local taxes and fees, which are now or may hereafter be levied upon the Lessee, Leased Premises (including leasehold taxes), the business conducted thereon or upon any of Lessee's property used in connection therewith. Lessee shall also maintain, in current status, all Federal, State and local licenses and permits required for the operation of its business.

XXXIII. NONDISCRIMINATION & AFFIRMATIVE ACTION REGULATIONS

- 33.1 Lessee, as a party to a contract with the City, understands and agrees to comply with the Non-Discrimination Policy of the City contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. As part of said compliance, Lessee shall adhere to Lessor's Non-Discrimination Policy in the solicitation, selection, hiring or commercial treatment of vendors, suppliers or commercial customers, further, Lessee shall not retaliate against any person for reporting instances of such discrimination.
- 33.2 Lessee for itself, its heirs, representatives, successors and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on the Premises, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 C.F.R. Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- 33.3 Lessee for itself, its representatives, successors and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that: (1) no person, on the grounds of race, color, creed, sex, age, religion, national origin or

handicap, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, in the use of said facilities; (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, creed, sex, age, religion, national origin or handicap shall be excluded from participation, denied the benefits of, or otherwise be subjected to discrimination; and (3) that Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to 49 C.F.R. Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

- 33.4 Lessee agrees that it will comply with applicable statutes, Executive Orders and such rules as are promulgated by applicable state, federal or municipal agencies to assure that no person shall be excluded from participating in any activity conducted with or benefiting from Federal assistance on the basis of race, creed, color, national origin, sex, age, or handicap. Lessee, its successors and assigns, shall be obligated to comply with the provisions of this Section 33.4 for the period during which Federal assistance is extended to the Airport, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures of improvements thereon. In these cases, this Section 33.4 shall apply to Lessee, its successors and assigns, through the later of: (a) the period during which such property is used by Lessor, its successors and assigns for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which Lessor, its successors or assigns, retains ownership or possession of the Leased Premises.

XXXIV. FORCE MAJEURE

Each party shall be excused from performing any obligation provided for in this Lease Agreement (except Lessee's obligation to pay rent) so long as performance of the obligation is prevented, delayed, retarded or hindered by Act of God, fire, earthquake, flood, explosion, war, riot, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies, or any other cause not within the reasonable control of the hindered party, but excluding failure caused by a party's financial condition or negligence.

XXXV. NOTICES

- 35.1 Notices required by this Lease Agreement to be given by one party to the other shall be in writing and sent by (i) United States certified, or express mail, postage prepaid, (ii) recognized national courier (such as FedEx, UPS, DHL), (iii) personal delivery, (iv) facsimile transmission, to the addresses in the preamble of this Lease Agreement or such other addresses as the parties may designate in writing. Service of process must be made in accordance with state law.

If intended for CITY, to:
[insert info here]

If intended for Lessee, to:

XXXVI. CONFLICT OF INTEREST

- 36.1 Lessee acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.
- 36.2 Pursuant to Section 36.1 above, Lessee warrants and certifies, and this contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Lessee further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XXXVII. TEXAS LAW TO APPLY

All obligations under this Lease Agreement are performable in Bexar County, Texas, and shall be construed pursuant to the laws of the State of Texas, except where state law shall be preempted by any rules, laws or regulations of the United States. Venue for any actions brought to enforce or interpret this Lease Agreement shall be Bexar County, Texas.

XXXVIII. GENERAL PROVISIONS

- 38.1 Gender. Words of either gender used in this Lease Agreement shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 38.2 Captions. The captions of the provisions contained herein are for convenience in reference and are not intended to define, extend or limit the scope of any provision of this Lease Agreement.
- 38.3 Incorporation Of Exhibits. All exhibits referred to in this Lease Agreement are intended to be and hereby are specifically made a part of this Agreement.
- 38.4 Severability. If any clause or provision of this Lease Agreement is illegal, invalid or unenforceable under present or future laws, it is the parties' intention that the remainder hereof not be affected. In lieu of each clause or provision that is illegal, invalid or unenforceable, the parties intend that there be added, as a part of this Lease Agreement, a

clause or provision, as similar in terms to such illegal, invalid or unenforceable clause or provision, as may be possible, yet be legal, valid and enforceable.

- 38.5 Wages. Lessee shall pay at least the minimum wage, as required by Federal and State statutes and City ordinances, to employees of its operations hereunder.
- 38.6 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship, between Lessor and Lessee. It is understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, creates a relationship other than one of Lessor and Lessee. Lessee is not an employee or agent of City by reason of this Lease Agreement, or otherwise. Lessee shall be solely responsible for its acts and omissions arising from or relating to its operations or activities at Airport, or lease of property herein.
- 38.7 Nonexclusive Rights. It is understood and agreed that nothing herein contained shall be construed to grant to Lessee any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Lessee shall have the right to exclusive possession of the Leased Premises.
- 38.8 Removal of Disabled Aircraft. Lessee shall promptly remove any disabled aircraft that is in the care, custody, or control of Lessee from any part of the Airport (other than the Leased Premises) (including, without limitation, runways, taxiways, aprons, and gate positions) and place any such disabled aircraft in such storage areas as may be designated by the Director. Except as to aircraft subject to bailment and/or for which Lessee is owed money from a customer, Lessee may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by Lessor. If Lessee fails to remove any of disabled aircraft promptly, the Director may, but shall not be obligated to, cause the removal of such disabled aircraft, provided, however, the obligation to remove or store such disabled aircraft shall not be inconsistent with federal laws and regulations and Lessee agrees to reimburse Lessor for all costs of such removal, and Lessee further hereby releases Lessor from any and all claims for damage to the disabled aircraft or otherwise arising from or in any way connected with such removal by Lessor unless caused by the negligence or recklessness of Lessor.
- 38.9 Airport Access License/Permit. Lessor reserves the right to establish a licensing or permit procedure for vehicles requiring access to the Airport operational areas and to levy directly against Lessee or its suppliers a reasonable regulatory or administrative charge (to recover the cost of any such program) for issuance of such Airport access license or permit.
- 38.10 Compliance With Part 77, Title 14, C.F.R. Lessee agrees to comply with the notification and review requirements covered in Part 77, Title 14, Code of Federal Regulations, Federal Aviation Administration Regulations, in the event future construction of a

building is planned for the leased premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased premises. Lessee shall coordinate and obtain approval for the use of any cranes or other equipment and machinery which may constitute a hazard obstruction to navigable air space utilized by users of Stinson Municipal Airport. All use of such equipment shall be coordinated through the Stinson Airport Manager.

- 38.11 Reservations Re: Airspace And Noise. There is hereby reserved to Lessor, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises.
- 38.12 Inspection Of Books And Records. Lessor, at its expense and on reasonable notice, shall have the right from time to time to inspect and copy the books, records, and other data of Lessee relating to the provisions and requirements hereof, provided such inspection is made during regular business hours.
- 38.13 Noise Control. Lessee, for itself and each of its officers, representatives, agents, employees, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, or suppliers shall not conduct any operation or activity on the Leased Premises, or elsewhere at Airport, in which the sound emitting therefrom is of such volume, frequency or intensity at such time as to constitute a nuisance. The Aviation Director shall have the sole and exclusive authority to determine what constitutes a nuisance under the provisions of this Lease Agreement except that operations and activities having noise levels not in violation of federal, State, or local governmental standards shall not be deemed a nuisance.
- 38.14 Time Is Of The Essence. Time shall be of the essence in complying with the terms, conditions and provisions of this Agreement.
- 38.15 Vehicular And Equipment Parking. Vehicular and equipment parking in areas other than the Leased Premises by Lessee, its officers, representatives, agents, employees, guests, patrons, volunteers, contractors, subcontractors, licensees, suppliers or other invitees shall be restricted to such areas at Airport as are designated by the Airport Director.
- 38.16 Approvals By Lessor/ Authority Of Aviation Director. Whenever this Lease Agreement calls for approval by Lessor, such approval shall be evidenced, in writing, by either the Aviation Director or the City Manager of the City of San Antonio or his designee. The Aviation Director shall administer this Agreement on behalf of Lessor. Unless otherwise provided herein or required by applicable law, the Aviation Director shall be vested with all rights, powers, and duties of Lessor herein.
- 38.17 Parties Bound. This Lease Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as permitted hereby.

- 38.18 Attorneys' Fees and Costs. The Parties expressly agree that neither Party shall be responsible for payment of attorney's fees pursuant to Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code §271.153, common law or any other provision for payment of attorney's fees. Both Parties expressly waive any claim to attorney's fees should litigation result from any dispute in this Agreement.
- 38.19 Net Agreement. It is the intent and purpose of Lessor and Lessee that all rental payable by Lessee herein shall be absolutely net to Lessor so that this Lease Agreement shall yield to Lessor the entire rent specified, in each year of this Lease Agreement, free of any charges, assessments, impositions or deductions of any kind or character which may be charged, assessed, or imposed on or against Lessee or the Leased Premises, without abatement, deduction or set-off by Lessee.

XXXIX. CUMULATIVE REMEDIES -NO WAIVER

Specific remedies of the parties under this Lease Agreement are cumulative and do not exclude any other remedies to which they may be lawfully entitled, in the event of a breach or threatened breach hereof. The failure of either party ever to insist upon the strict performance of any covenant of this Lease Agreement, or to exercise any option herein contained, shall not be construed as its future waiver or relinquishment thereof. Lessor's receipt of a rent payment, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach. Further, no waiver, change, modification, or discharge by either party of any provision of this Lease Agreement shall be deemed to have been made or be effective, unless in writing and signed by the party to be charged. In addition to other remedies herein, the parties shall be entitled to an injunction restraining the violation, or attempted violation, of any of the covenants, conditions or provisions hereof, or to a decree compelling performance of same; subject, however, to other provisions herein.

XL. ENTIRE AGREEMENT

This Lease Agreement, together with all the exhibits hereto, comprises the final and entire agreement, including all terms and conditions thereof, between the parties hereto, and supersedes all other agreements, oral or otherwise, regarding the subject matter hereof, none of which shall hereafter be deemed to exist or to bind the parties hereto. The parties intend that neither shall be bound by any term, condition or representation not herein written.

XLI. AMENDMENTS

- 41.1 No amendment, change, modification or discharge, or deletion of any provision of this Lease Agreement shall be binding, unless the same is in writing, dated subsequent hereto, and executed by both parties. So long as such amendment, change, modification or discharge, or deletion does not significantly change the terms of this agreement, is a

EXHIBIT 1
CONDOMINIUM DECLARATION

WHEN RECORDED, RETURN TO:

Bradley H. Logan
Hinshaw & Culbertson LLP
2375 East Camelback Rd. Suite 750
Phoenix, Arizona 85016

DECLARATION ESTABLISHING
THE STINSON 99 LEASEHOLD CONDOMINIUM ASSOCIATION
AND
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION AND THESE COVENANTS, CONDITIONS AND RESTRICTIONS are made as of the date hereinafter set forth by Lone Western Star Development (Western LLC), a Colorado limited liability company (the "Company"), and Stinson 99, a Texas non-profit corporation (the "Association"), and are made in reference to the following Recitals which are a material part of this Declaration.

RECITALS:

- A. The Company is the long term lessee of that certain Ground Lease situated in the City of San Antonio, County of Bexar, State of Texas, at the Stinson Municipal Airport.
- B. The Company intends to develop the Property (as defined herein), to include six (6) hangers in one building for aviation hangar and aviation-related office use (the "Building"). The Building is further described at Exhibit "A" attached hereto and incorporated herein.
- C. Declarant desires to submit the Property to a condominium plan of description and ownership pursuant to Title 7, Chapter 82, of the Condominium Act (as defined herein), and upon development it will be composed of aviation hangar condominiums to be sold pursuant to this Declaration.
- D. The Association has been formed by the Company for common area management and for other purposes benefiting the entire Property and the Owners and Occupants of the Property, as hereinafter defined. The Company and the Association intend that the Unit Owners shall share certain Common Elements (as hereinafter defined) and shall own undivided leasehold interests in these Common Elements. In order to provide such common area management to the Property, the Association may (a) acquire, construct, operate, manage, maintain, repair and replace a variety of Common Elements upon the Property; (b) establish, levy, collect and disburse assessments and other charges imposed hereunder to pay for the services described in subsection (a); and (c) administer and enforce all provisions hereof, ensure Unit Owner compliance with the obligations established by the Ground Lease, and enforce use and other restrictions imposed on the Property, or any part thereof.

E. The Company and the Association further desire to declare and establish, for their assignees and their own benefit, and for the mutual benefit of all Owners and Occupants of the Property or any part thereof, whether present or future, certain easements and rights in, over, upon and under the Property or any part thereof, whether present or future, and certain mutually beneficial covenants, restrictions and obligations with respect to the proper use, conduct and maintenance of the Property, including, but not limited to, (i) establishing certain easements for ingress and egress by aeronautical, vehicular, and pedestrian traffic in, over and upon the Property, (ii) establish certain public and/or private utility easements under, through and across the Property, and (iii) establish certain other covenants, conditions and restrictions upon the Property and all parts thereof which will constitute a general scheme for the use and enjoyment by the Owners and Occupants of the Property.

F. This Declaration provides for the management duties and rights of the Association for the maintenance of the Property, to include Common Elements, as described herein, including the ability to make assessments in order to fulfill such obligations, and establishes the easements and restrictions governing the use and occupancy of the Property.

G. It is desirable to have covenants, conditions and restrictions binding upon the Property and each and every portion thereof and to have certain mutually beneficial restrictions and obligations with respect to the proper use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. The Company desires and intends that the Property's assignees, Owners, mortgagees, beneficiaries and trustees under trust deeds, Subtenants, Occupants, permittees and all other Persons hereafter acquiring any interest in the Property or any part thereof, shall at all times enjoy the benefits of, and shall hold their interests subject to, the rights, easements, privileges and restrictions hereinafter set forth. The rights, easements, privileges and restrictions included here shall all run with the land for the term of the Ground Lease and be binding upon the Property, the Company, and all Persons having or acquiring any right, title or interest in or to the Property, or any part thereof during the term of the Ground Lease. All are declared to be in furtherance of a plan to promote and protect the cooperative use, conduct and maintenance of the Property, are established for the benefit of the Property and all parts thereof and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

AGREEMENTS:

NOW, THEREFORE, pursuant to Title 7, Chapter 82, of the Condominium Act, the Company and the Association hereby submit the Building and all Common Elements and Limited Common Elements as defined herein to the Condominium to be known as "Stinson 99" and hereby declares that the entire Property and each part thereof shall be subject to these covenants, conditions and restrictions, and shall be held and used subject to the following covenants, conditions, restrictions, easements and equitable servitudes. The covenants, conditions, restrictions, easements and equitable servitudes set forth in this Declaration shall run with the land for the term of the Ground Lease, shall be binding upon all Persons having or acquiring any right, title or interest in the Property, or any part thereof; shall inure to the benefit of the Property, and each portion thereof, and any interest therein; shall inure to the benefit of and be binding upon any assignee and successor in interest of the Company or the Association

and each Owner and Occupant; and may be enforced by Company, by any Owner or Occupant, or their assignees and/or successors in interest, or by the Association (as herein defined).

ARTICLE 1 DEFINITIONS

1.1 General Definitions. Capitalized terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Condominium Act.

1.2 Defined Terms. The following capitalized terms shall have the general meanings described in the Condominium Act, and for purposes of this Declaration shall have the specific meanings set forth below:

1.2.1 "Alleged Defect" means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Elements or any Unit, including, without limitation, any claim or cause of action that the Common Elements or the Units are defective or that the Declarant, its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof.

1.2.2 "Allocated Interests" means undivided interests in the Common Elements, the Common Expense Liability, and votes in the Association allocated to each Owner as more particularly set forth in Section 3.6.

1.2.3 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as the same may be amended from time to time.

1.2.4 "Assessment" includes the Annual, Special and Supplemental Assessments levied pursuant to Article 9.

1.2.5 "Association" means the Stinson 99 Leasehold Condominium Association, a Texas non-profit corporation, its successors and assigns, formed or to be formed to administer, exercise and enforce this Declaration of Covenants, Restrictions and Conditions and any documents related thereto, and to exercise the rights, powers and duties set forth herein and the applicable provisions in the Condominium Act.

1.2.6 "Association Rules" means the rules and regulations adopted by Board pursuant to Article 8, as such rules and regulations may be amended from time to time.

1.2.7 "Aviation Purposes" shall mean the non-commercial use for the storage of aircraft and directly related activities and non-commercial aviation purposes.

1.2.8 "Board" or "Board of Directors" means the Board of Directors of the Association.

1.2.9 "Building" means each of the buildings located on the Property and designated as a building on the Project Plat.

1.2.10 "Bylaws" means the Bylaws of the Association required by the Condominium Act, as the same may be amended from time to time.

1.2.11 "City" means the City of San Antonio, Texas.

1.2.12 "Claim" means (a) any claim or cause of action arising out of or related in any way to an Alleged Defect; or (b) any claim or cause of action against the Declarant or any employee, agent, director, member or officer of Declarant arising out of or in any way related to the development of the Condominium or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty.

1.2.13 "Collection Costs" means all costs, fees, charges and expenditures (including, without limitation, attorneys' fees, court costs, filing fees, and recording fees) incurred by the Association in collecting and/or enforcing payment of Assessments, monetary penalties, late fees, interest or other amounts payable to the Association pursuant to this Declaration.

1.2.14 "Common Elements" means all of those portions of the Property or Condominium not included within the description of any Limited Common Element or any Unit, except that the exterior face of the exterior walls of any Building shall be included as a Common Element. The Common Elements are more particularly described and shown on the Project Plat, as amended, and as follows: all real and personal property and easements which the Association owns, leases or otherwise holds possessory or use rights in and for the common use and enjoyment of the Owners, including, without limitation, parking areas; driveways; landscaped areas; together with all "Common Elements" of any of the Buildings, as that term is defined in the Condominium Act at §82.003(5), including, without limitation, exterior walls; foyer areas; mechanical and maintenance rooms; common storage areas; public restrooms; corridors and stairways (interior and exterior), windows, easements, roof and utility and mechanical facilities such as plumbing, electrical, lighting, heating and air conditioning systems servicing the public areas and all other shared portions of the Property and Buildings, unless such items are shown as Limited Common Elements on the Project Plat. The Common Elements are more particularly described and shown on the Project Plat.

1.2.15 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocation for reserves. Common Expenses shall also include, without limitation, the following: rental charges for or the costs of acquisition of maintenance equipment; all premiums for insurance required to be carried; real estate taxes or assessments on any portion of the Common Elements; all personal property taxes levied or assessed on equipment, fixtures and other personal property which are located on or used in connection with the maintenance and operation of the Common Elements; all costs of cleaning, collection, storage and removal of rubbish, dirt and debris from the Common Elements; all costs of water to the Common Areas and the Units; provided, however, the Board reserves the right to require a Unit Owner to obtain and pay for a separate water meter and pay for its own water consumption, with no adjustment to that Unit's Assessment, if the Association determines that the Unit Owner consumes an inordinate amount of water in comparison to the average consumption of the other Units; all costs of landscaping maintenance and supplies; all charges

for utilities services, together with all costs of maintenance of lighting fixtures and other utilities, equipment and fixtures; assessments of the Declaration; all debt service and carrying costs for capital improvements or purchases which are financed; all costs associated with cleaning, sweeping, striping, repairing, and resurfacing the parking areas; license, permit and inspection fees; professional fees, including fees for legal and accounting services rendered by independent contractors and directly related to effectuation of the covenants, conditions and restrictions herein set forth; costs of services of independent contractors retained by the Declarant to perform duties related to the maintenance and operation of the Common Elements, including charges for restriping and/or re-asphalting the relevant portions of the Common Elements as and when reasonably necessary; costs of supplies; all reasonable and necessary costs of compensation (including employment taxes and fringe benefits) of all persons employed to perform regular and recurring duties in connection with the day-to-day operation, maintenance and repair of the Common Elements; and all other reasonable and necessary costs required to be incurred in order to fully satisfy the maintenance and repair obligations. Common Expenses shall be determined in accordance with generally accepted accounting principles consistently applied. The real property taxes assessed against each Unit shall not be Common Expenses; however, until the Bexar County Tax Assessor-Collector separately allocates real estate taxes among the Units, the Board shall allocate such taxes among the Unit Owners in the same proportion as their interest in the Common Elements and require payment of each Unit Owner's share together with Assessments.

1.2.16 "Common Expense Liability" means the assessment levied against the Units for Common Expenses pursuant to Section 3.6.

1.2.17 "Condominium" or "Leasehold Condominium" means the Property, together with the Buildings and all other Improvements located thereon created pursuant to the Condominium Act.

1.2.18 "Condominium Act" means Title 7, Chapter 82, of the Texas Property Code, the Uniform Condominium Act, as amended from time to time.

1.2.19 "Condominium Documents" means this Declaration and the Articles, Bylaws, and Rules.

1.2.20 "Declarant" means the Company and its successors and any Person to whom it may transfer any Special Declarant Right by a Recorded Instrument pursuant to this Declaration or the Condominium Act.

1.2.21 "Declaration" means this Condominium Declaration Establishing the Stinson 99 Leasehold Condominium Association and Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

1.2.22 "Development Rights" means any right or combination of rights reserved by or granted to a Declarant in this Declaration to do any of those things as described and set forth in the Condominium Act §82.003(12) .

1.2.23 "Enforcement Assessment" means an assessment levied pursuant to Section 9.11.

1.2.24 "First Mortgage" means any mortgage or deed of trust on any Building or Unit with first priority over any other mortgage or deed of trust upon the same Building or Unit.

1.2.25 "First Mortgagee" means the holder of any First Mortgage.

1.2.26 "Ground Lease" means the lease agreement between the City and Declarant for the Property, as more fully described in Section 2.2.

1.2.27 "Improvement" means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Condominium, including, but not limited to, buildings, private drives, paving, fences, walls sculptures, signs, hedges, plants, trees and shrubs of every type and kind.

1.2.28 "Invitee" means any person whose presence within the Condominium is approved by or is at the request of a particular Owner, Subtenant, or Occupant, including, without limitation, family members, guests, employees and contractors.

1.2.29 "Limited Common Elements" means a portion of the Common Elements specifically allocated by this Declaration or by operation of the Condominium Act for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements are more particularly described and shown on the Project Plat.

1.2.30 "Majority" or "Majority of Members" means a group of Members owning more than eighty-five percent (85%) of the votes entitled to be cast.

1.2.31 "Member" means any Person who is or becomes a member of the Association.

1.2.32 "Mortgage" means any recorded, filed or otherwise perfected instrument given in good faith and for valuable consideration which is not a fraudulent conveyance under Texas law as security for the performance of an obligation, including, without limitation, a deed of trust, but does not mean any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.2.33 "Mortgagee" means a person secured by a Mortgage, including a trustee and beneficiary under a deed of trust.

1.2.34 "Occupant" means a person or persons, other than an Owner, in possession of a Unit at the request of or with the consent of the Owner including, but not limited to, a Subtenant.

1.2.35 "Owner" or "Unit Owner" means the record owner, whether one or more Persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the leasehold interest of a Unit, which interest shall be subject at all times to the Ground Lease. Owner shall not include: (1) Persons or entities having an interest in a Unit merely as security for the performance of an obligation, or (ii) a lessee or Subtenant of a Unit or a part of a Unit. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar

contract through which a seller has conveyed to a purchaser equitable title in a Unit under which the Seller is obligated to convey to the purchaser the remainder of seller's title in the same, whether legal or equitable, on payment in full of all monies due under the contract. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of a Unit the title to which is vested in a trustee pursuant to Texas Property Code §51.0001, et seq., the Trustor shall be deemed to be the Owner. In the case of a Unit, the title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the same shall be deemed to be the Owner.

1.2.36 "Parking Space" means each of the separate parking spaces lined in the parking areas allocated under the Project Plat.

1.2.37 "Party Wall" means a wall located between two Units.

1.2.38 "Perimeter Building Walls" means the perimeter walls of the Buildings, including all windows and doors, but excluding (a) any fixtures, lines, pipes, wires, ducts or conduits within the wall which serve only one Unit; and (b) any lath, furring, wallboard, plasterboard, plaster, paint, wallpaper, paneling or other materials that constitute any part of the finished surfaces of the interior surface of the perimeter walls.

1.2.39 "Period of Declarant Control" means the time period commencing on the date this Declaration is Recorded and ending on the earlier of: (a) ninety (90) days after the conveyance of seventy-five percent (75%) of the Units to Owners other than the Declarant; or (b) four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business.

1.2.40 "Permittees" means all Occupants or Owners and all customers, employees, licensees and other business invitees of such Occupants or Owners.

1.2.41 "Person" means an individual, corporation, partnership, limited liability company, trustee or other entity capable of holding title to real property and their respective heirs, personal representatives, successors and assigns.

1.2.42 "Project" means all of the, Buildings, Condominiums, Leased Premises, Units and other structures of the Property, and Common Elements, as more particularly described on the Project Plat.

1.2.43 "Project Plat" or "Plat" means the final plat of survey of the entire Property, which Project Plat was recorded on _____ as Instrument No. _____ in the real property records of the Bexar County Clerk, Texas.

1.2.44 "Property" means the real property known as Stinson 99, as more particularly described at Exhibit "A" attached hereto and the Condominium and all Buildings and Units, other improvements and permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

1.2.45 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes an Owner, except for a Person who purchases a Unit and then leases it to the Declarant for use in connection with the sale of other Units, or a Person who, in addition to purchasing a Unit, is assigned any Special Declarant Right.

1.2.46 "Record" or "Recording" means placing an instrument of public record in the office of the Bexar County Clerk, Texas, and "Recorded" means having been so placed of public record.

1.2.47 "Rules" or "Rules and Regulations" means the same thing as the Association Rules, as herein before indicated.

1.2.48 "Special Declarant Rights" means any right or combination of rights reserved by or granted to a Declarant in this Declaration to do any of those things or perform any acts as set forth in the Condominium Act §82.003(22).

1.2.49 "Sublease" means any agreement for the leasing or rental of any Unit, or a portion thereof, and the interest in the Common Elements and Limited Common Elements appurtenant to such Unit.

1.2.50 "Subtenant" means any sublessee or subtenant of a Unit which is the subject of a Sublease.

1.2.51 "Unit" means any portion of any Condominium located at the Property, which is shown on the Project Plat, or any subsequent amendment thereto, designed and designated for separate ownership or occupancy, all as defined in the Condominium Act at §82.003(23) and shall not include any of the Common Elements. Each Unit is described on Exhibit "B".

ARTICLE 2
ESTABLISHMENT OF THE LEASEHOLD CONDOMINIUM
AND
PROPERTY SUBJECT TO DECLARATION, INCLUDING UNITS

2.1 Submission to Condominium Act. The Declarant hereby submits the Property to the provisions of the Condominium Act for the purpose of creating a condominium in accordance with the Condominium Act. Declarant further declares that all of the Units shall be leased, transferred, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions, and other provisions of the Condominium Documents and the Condominium Act. The entire Property and Condominium and each and every Building or Unit included therein shall be subject to all the terms, covenants, conditions and restrictions, easements and equitable servitudes set forth in this Declaration. This Declaration shall be binding upon and shall be for the benefit of the Association and its Members, and shall be enforceable by the Association. Declarant makes no warranties or representations, express or implied as to the binding effect or enforceability of all or any portion of the Condominium Documents, or as to the compliance of

any of the provisions of the Condominium Documents with public laws, ordinances and regulations applicable thereto.

2.2 Ground Lease. The Property is not owned by Declarant, but is instead leased by Declarant from the City. The Ground Lease was executed between the City and Declarant on _____, 2015, for which a Memorandum of Lease was recorded on _____, 2015 at _____, Official Records of Bexar County Clerk, State of Texas. The Ground Lease may be amended from time to time. An original and/or fully executed copy thereof may be inspected in the office of Declarant.

2.3 Term of the Ground Lease. The term of the Ground Lease commenced on _____ and has a total term of forty (40) years from such date. Accordingly, the Ground Lease is scheduled to terminate on _____.

2.4 Scope of Ground Lease. This Leasehold Condominium is created from the buildings, improvements, paved areas, easements and other rights and appurtenances constructed upon, and belonging to, the leasehold interest in the land identified in the Ground Lease, which land comprises the Property legally described on Exhibit "A" hereto. This Declaration and the Leasehold Condominium is subject, and subordinate in all respects, to the terms of the Ground Lease. Any provisions of this Declaration, which are inconsistent with or in conflict with any provisions of the Ground Lease, will be of no force and effect as against the City.

2.5 Right to Acquire Title. A Unit Owner has no right to acquire title to its Unit free of the Ground Lease, and each Unit Owner's interest is subject to the terms of the Ground Lease.

2.6 Rights on Expiration. Upon expiration of the Ground Lease, title to the Property will revert to the City of San Antonio, free and clear of this Leasehold Condominium. The Ground Lease expressly provides that title to any buildings or other improvements situated on the land subject to the Ground Lease at the termination of the Ground Lease, whether such termination occurs at the end of the initial term, at the end of any renewal term, or at an earlier date as a result of a default thereunder, shall revert to, and be owned by, the City or its successors and/or assigns. Except for trade fixtures and personal property, no Declarant, the Association nor any Unit Owner has the right to remove any improvements upon expiration or termination of the Ground Lease.

2.7 Right to Renew the Ground Lease. A Unit Owner has no right to renew the Ground Lease.

2.8 Early Termination. By signing this Declaration below, the City acknowledges that early termination of the Ground Lease by the City shall not occur for reason of nonpayment of the Ground Lease by any one or multiple Unit Owners without the City first providing the Association in writing of the default and the City's intent to terminate the Ground Lease. The Association, as the representative of the Unit Owners as put forth in Section 2.9 below, shall have 30 days to cure any and all monetary defaults by a Unit Owner or the Association prior to the City exercising any termination rights with respect to the leasehold interest of any Unit Owner or the Association.

2.9 Assignment of Leasehold Interest. Declarant is the Tenant under the Ground Lease with the City. It is intended by Declarant, and so permitted in the Ground Lease, that subsequent to the recordation of this Declaration and the Plat, the formation of the Association and the conveyance of all Units within the Leasehold Condominium by Declarant, the tenant's interest in the Ground Lease presently held by Declarant shall be assigned to the Unit Owners. Pursuant to the Ground Lease, the Association shall be the governing body of the Unit Owners and shall assume and fulfill all the terms and conditions of the Ground Lease, except as to Development Rights and Special Declarant Rights reserved by or granted to Declarant in this Declaration, which are specifically reserved unto Declarant. The Association shall then become and be the sole representative of the Unit Owners with regard to all dealings with the City under the Ground Lease.

2.10 Payment of Ground Lease Rent. Each Unit Owner shall be responsible to pay its share (as determined by Section 3.5) of Ground Lease rentals to the Association, which shall be responsible for tender of Ground Lease rentals directly to the City. Upon prior written notice, the Board may elect to pay the Ground Lease rent as part of the Common Expenses.

2.11 Consent. Under the Ground Lease and elsewhere in this Declaration, the consent of the City to certain activities or conduct of Declarant, the Association and the Unit Owners is required. Where such consent is required, it must be evidenced in writing, but shall not be unreasonably withheld.

ARTICLE 3
DESCRIPTION OF THE CONDOMINIUM
UNITS AND ELEMENTS

3.1. Name of Condominium. The Condominium shall be hereafter known as "Stinson 99" and the name of the Association is "Stinson 99 Condominium Association."

3.2. Buildings. The entire Condominium shall consist of one (1) Building and includes all Units, Common Elements, and Limited Common Elements located thereon as further described on the Project Plat.

3.3. Units. The Building is divided into Units described on Exhibit "B".

3.4. Unit Boundaries. The boundaries of each Unit shall be determined shall be determined in the following manner:

3.4.1. "Vertical Boundaries". The vertical boundaries are the exterior surfaces of the Perimeter Building Walls (and the exterior surface of any windows or doors in the Perimeter Building Walls) of the Building in which the Unit is located and a vertical plane running through the center of any Party Wall separating the Unit from another Unit.

3.4.2. "Horizontal Boundaries". The upper horizontal boundary is three feet below the exterior surface of the roof of the Building in which the Unit is located. The lower horizontal boundary is the unfinished floor of the Unit.

3.4.3. All spaces, interior partitions and other fixtures and improvements (including but not limited to, chutes, flues, wires, conduits, heating and air conditioning units, hot water heaters and gas, cable television, water and electric pipes, lines or meters) within the boundaries of a Unit and which serve only the Unit are part of the Unit, and any such fixtures or improvements located within the boundaries of a Unit but which serve more than one Unit are part of the Common Elements. No deductions from the square footage of a Unit shall be made for columns or projections necessary to the Building (including bracing elements and walls enclosing the same).

3.4.4. The location and dimensions of the perimeter walls of the Units as shown on the plat are based on architectural drawings and are approximate. The actual location and dimensions of the perimeter walls of the Units may vary from the location and dimensions of the perimeter walls as shown on the Plat. The actual physical location and dimensions of the perimeter walls shall be considered the location and dimensions of the perimeter walls of the Units for the purposes of this Declaration regardless of any variances from the location and dimensions of the perimeter wall as shown on the Plat.

3.5. Allocation of Common Element Interest and Common Expense Liabilities. Each Unit is allocated a percentage of undivided interests in the Common Elements and in the Common Expenses calculated by dividing the square footage of each Unit by the square footage of all Units in the Condominium. The square footage of each Unit is shown on the Plat. Each Owner of a Unit shall have allocated to it a share of the Common Expense Liability in the same proportion as its interest in the Common Elements, as set forth in this Section 3.6. Said allocation has been determined by the Declarant to be the fair share of the Common Expense Liability to be borne by each Owner.

3.6. Allocation of Limited Common Elements. The following portions of the Common Elements are Limited Common Elements and are allocated to and limited to the use of one or more Units as follows:

3.6.1. Any chute, flue, pipe, duct, wire, conduit or other fixture (including, but not limited to, heating and air conditioning units and related equipment and natural gas, cable television, water and electric pipes, lines or meters), located outside of the boundaries of a Unit, which serve only one Unit are a Limited Common Element allocated solely to the Unit served.

3.6.2. The space between the upper horizontal boundary of the Units within each building and the exterior surface of the roof shall be a Limited Common Element allocated solely to the Units within the particular building.

3.6.3. So long as the Declarant owns any Unit, the Declarant shall have the right to allocate as a Limited Common Element any part of the Common Elements which has not previously been allocated as a Limited Common Element. Any such allocation shall be made by an amendment to this Declaration executed by the Declarant. After the Declarant no longer owns any Unit, the Board of Directors shall have the right, with the approval of a Majority of Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common

Element. Any such allocation by the Board of Directors shall be made by an amendment to this Declaration and an amendment to the Plat if required by the Condominium Act.

3.7. Relocation of Boundaries Between Adjoining Units. The Boundaries between or among adjoining Units may be relocated by an amendment to this Declaration. The Owners of the Units affected by the relocation of boundaries shall prepare an amendment to this Declaration and the Plat that identifies the Units involved, specifies the outer boundaries of the Units and their dimensions, and includes the Units' identifying numbers. If the Owners of the adjoining Units have specified a reallocation between their Units of the allocated interests in the Common Elements, in the Common Expenses and in the votes in the Association, the amendment shall state the proposed reallocation in a reasonable manner. The amendment shall be executed by the Owners of those Units, shall contain words of conveyance between or among them and, before recording the amendment, shall be submitted to the Board of Directors. Unless the Board of Directors determines within thirty (30) days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the Association shall execute its approval and record the amendment.

3.8. Subdivision of Units. A Unit may be subdivided into two or more Units only if such subdivision will still allow for aeronautical uses consistent with the Ground Lease and this Declaration. A Unit Owner desiring to subdivide his Unit shall prepare an amendment to the Declaration and the Plat which identifies the Unit involved, specifies the boundaries of each Unit created and the dimensions, assigns an identifying number to each Unit created and allocates the allocated interest in the Common Elements, in the Common Expenses and in the votes in the Association formerly allocated to the subdivided Unit to the new Units in a reasonable manner. The amendment shall be executed by the Owner of the Unit to be subdivided and, before recording, submitted to the Board of Directors. Unless the Board of Directors determines within thirty (30) days that the proposed amendment is unreasonable, which determination shall be in writing and shall specifically state the reasons for disapproval, the Association shall execute its approval and record the amendment.

3.9. Combination of Units. If the Declarant conveys adjoining Units to one Person, the Declarant may not construct the Party Wall between the adjoining Units so that the adjoining Units can be used as one Unit. If adjoining Units were initially conveyed by the Declarant to different Persons but subsequently become owned by the same Person, the Owner of the adjoining Units may remove all or a portion of the Party Wall between the adjoining Units provided the removal of a portion or all of the Party Wall is approved by the Board of Directors prior to removal. The provisions of Section 13.4 shall apply to any request by an Owner of adjoining Units to remove all or a portion of the Party Wall between the Units. The Board of Directors shall not approve the request unless the Board of Directors is satisfied that the removal of the Party Wall will not impair the structural integrity or mechanical systems of the Building or lessen the support of any portion of the Condominium. The fact that a Party Wall is removed with approval of the Board of Directors shall not affect the respective Units' percentage undivided interests in the Common Elements or the Units' Common Expense Liability. A Party Wall between adjoining Units which is removed with approval of the Board of Directors may be constructed or reconstructed with the prior written approval of the Board of Directors. The Board of Directors shall not approve the request unless the Board of Directors is satisfied that the construction or reconstruction of the Party Wall will not impair the structural integrity of

mechanical systems of the Building or lessen the support of any part of the Condominium. If the construction or reconstruction of a Party Wall is approved by the Board of Directors, the provisions of Section 13.4 shall apply to the construction or reconstruction of such Party Wall.

ARTICLE 4
PARKING SPACES

4.1 Description. Parking Spaces shall be part of the Common Elements as shown on the Project Plat subject to the provisions contained herein.

4.2 Assigned Parking Spaces. The Project Plat shall indicate the number of covered/reserved parking spaces, handicapped and designated visitor spaces within the Property. The covered/reserved parking spaces shall be allocated among all Owners as determined by the Board.

4.3 Unassigned Parking Spaces. Uncovered Parking Spaces shall be available for use by all Owners of Units, their employees and invitees, their Occupants or the employees and invitees of the same, on a first come, first serve basis; provided, the Declarant or Board shall have the right to assign additional Parking Spaces and to establish Rules and Regulations for the operation and management of the Parking Spaces for and on behalf of the Association as the Declarant or Board from time to time shall establish. Owner shall require their employees to park in areas designated by the Board away from the Units.

ARTICLE 5
EASEMENTS

5.1. Utility Easement. There is hereby created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, replacement, repair and/or maintenance of all utilities and utility facilities, including, but not limited to, water, sewer, satellite, DSL, cable, microwave, telecommunications uses, heating, ventilation and cooling systems and ducting, telephone, fire sprinklers, cable television and/or electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company or governmental agency to erect and maintain the necessary equipment on the Common Elements. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Elements except as presently exists or as approved by the Board. This easement shall in no way affect any other recorded easements on the Common Elements.

5.2. Easements for Encroachments. Each Building and Unit and the Common Elements appurtenant thereto shall be subject to an easement for encroachments, including, but not limited to, encroachments of walls, ceilings, ledges, floors, and roofs created by the construction, settling and overhangs as originally designed or constructed, or as created by discrepancies between the Project Plat and the actual construction. All walls between Units shall be constructed so that the boundary line between the Units shall be the centerline of the wall. If any portion of the Common Elements shall actually encroach upon any Building or Unit, or if any Building or Unit shall actually encroach upon any portion of the Common Elements, or if any Building or Unit shall actually encroach upon another Building or Unit, as the Common

Elements, Buildings and the Units are shown on the Project Plat, a valid easement for any of said encroachments and for the maintenance thereof, so long as they stand, shall and does exist. Easements shall not exist, however, for encroachments created with the encroaching Owner's knowledge. In the event any Building, Unit or Common Element is repaired, altered, or reconstructed, the Owner(s) of the Building or Unit agree that similar encroachments shall be permitted and that a valid easement for said encroachments and for the maintenance thereof shall exist.

5.3. Easement for Repair and Maintenance. The Owners of adjoining Units shall both have the right and a non-exclusive easement to use the portion of the Party Wall within the boundaries of the adjoining Unit for the installation, maintenance, repair, and replacement of chutes, conduit, wires, pipes, cables, lines and other fixtures which provide utility services to such Owner's Unit; provided however, that an Owner shall not penetrate the wallboard or drywall on the interior surface of the Party Wall of the adjoining Unit. In addition, the Owners of all Units within the same Building shall both have the right and a non-exclusive easement to use the inside of the Perimeter Building Walls of the Building in which the Unit is located for the installation, maintenance, repair, and replacement of chutes, conduit, wires, pipes, cables, lines and other fixtures which provide utility services to such Owner's Unit; provided however, that an Owner shall not penetrate the wallboard or drywall on the interior surface of the Perimeter Building Wall located within the boundaries on any other Unit.

5.4. Easement for Ingress and Egress. There is hereby granted and created an easement for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Elements, and an easement for ingress and egress for pedestrian, vehicular, and aeronautical traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such use. Such rights and easements shall extend to each Owner and Occupant and the agents, servants, and invitees of the Owner or Occupant of each Unit, or any portion thereof. Such rights and easements shall be subject to such limitations, restrictions, Rules and Regulations as may from time to time be promulgated by the Association or its Board including, but not limited to, the right of the Board to suspend the right of any Unit Owner to vote pursuant to the provisions of Article 8 hereof for any period during which an Assessment attributable to such Owner's Unit remains unpaid for a period of at least fifteen (15) days and for any violations of Rules and Regulations promulgated by the Board. Such a suspension may be applied for a period not to exceed sixty (60) days.

5.5. Easement for Use of Common Elements. There shall be appurtenant to each Unit, a nonexclusive and perpetual right and easement to use the Common Elements in common with all other Persons entitled to use the Common Elements (subject to the right of an Owner for use of the Parking Space(s) assigned to such Building or Unit pursuant to Article 4 above) as may be required for the purposes of access, ingress and egress to and from, and the use, occupancy and enjoyment of the Property, Buildings, Condominium, Units and the Common Elements for their intended purposes as provided herein and in the applicable Condominium Documents. Such right and easement shall pass with title to every Unit and shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered

upon the sale of any Unit. The rights and easements set forth herein are subject to the following provisions:

5.5.1. The right of the Association to adopt reasonable rules and regulations governing the use of the Common Elements.

5.5.2. The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth in the Condominium Act.

5.5.3. The right of the Association to grant non-exclusive easements over all or a portion of the Common Elements if the Board of Directors determines that the granting of the easement is necessary for the development or maintenance of the Common Elements or beneficial to the Owners and Occupants.

5.5.4. The right of the Association to suspend the right of an Owner, Subtenant, or Occupant to use the Common Elements for any period during which the Owner, Subtenant or Occupant is in violation of any provision of the Condominium Documents.

5.5.5. The right of the Association to grant easements or licenses to Owners, Subtenants, or Occupants to install, maintain, repair and replace panels on the monument sign or signs located on the Common Elements.

5.6. Easements and Rights of the Association.

5.6.1. The Common Elements and the Units shall be subject to an easement in favor of the Association and its agents, employees and contractors for the purpose of: (a) making emergency repairs to the Common Elements and those components of the Units the Association is obligated to maintain pursuant to this Declaration; (b) inspection, upkeep, maintenance, repair and replacement of the Common Elements and those components of the Units which the Association is obligated to maintain pursuant to this Declaration; (c) exercising all rights and powers of the Association and discharging all duties and obligations of the Association; (d) inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible; (e) correction of conditions (including, without limitation, broken or leaking water pipes, broken hot water heaters or obstructed sewer lines) in one or more Units or Limited Common Elements which have damaged or if left uncorrected could damage, the Common Elements, the Limited Common Elements, or other Units; and (f) inspection of the Units and the Limited Common Elements in order to verify that the Provisions of the Condominium Documents are being complied with by the Unit Owners, Subtenants and Occupants of the Unit. Except in case of emergency, the Association shall only enter a Unit at reasonable times and upon reasonable notice to the Unit Owner or, if the Unit is subleased, to the Subtenant. In the event of an emergency, the Association may enter a Unit without prior notice to the Unit Owner or the Subtenant, but promptly following the Association's entry into the Unit, the Association shall notify the Unit Owner or the Subtenant of the nature of the emergency condition which required entry without notice.

5.6.2. Each Unit shall be subject to an easement in favor of the Association and the agents, employees and contractors of the Association for the purpose of performing such pest control activities as the Association may deem necessary to control or prevent the infestation of the Condominium by insects, rodents or other pests or to eradicate insects, rodents or other pests from the Condominium.

5.6.3. The Declarant and the Board shall have the authority to lease, convey easements, make dedications, transfer or grant concessions consistent with the overall character and use of the Property with respect to parts of the Common Elements and to change the character, description and use thereof, subject to the provisions of this Declaration, the Articles and the Bylaws, but the right of the Board to convey, dedicate or transfer all or part of the Common Elements to any public agency, authority or utility is subject to the approval of Members entitled to cast at least two-thirds (2/3) of the membership votes in the Association and written approval by the City. No such conveyance, dedication or transfer shall be effective unless an instrument has then been recorded with the Bexar County Clerk's Office. The foregoing requirement shall not apply in the case of utility easements covered by Section 5.1 which may be granted by the Declarant or the Board. Any funds received by the Association from leases, concessions or other sources shall be held and used for the benefit of the Members pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

5.7. Other Matters Relating to Use of Common Elements.

(a) Occupants. If a Unit, or a portion thereof, is subleased or rented by the Owner, the Occupant, its agents and employees, shall have the right to use the Common Elements of that Owner, including any Parking Spaces assigned to the Occupant (to the same extent as the Owner had prior to such leasing or renting) during the term of the sublease, and the Owner of such subleased portion of the Unit shall have no right to use the Common Elements if all of the Owner's Unit is subleased or rented, until the termination or expiration of such sublease, except to the extent necessary to perform its obligations under and to enforce the sublease, or except as agreed to in writing by the Owner and the Occupant.

(b) Guests and Invitees. The guests and invitees of any Member, Owner, Occupant or other Person entitled to use the Common Elements, may use the Common Elements, subject to the Rules and Regulations promulgated by the Board.

(c) Limitation on Transfer. An Owner's right of easement and enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Building or Unit, such right of easement and enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred or alienated upon the sale or transfer of any Owner's Building or Unit, notwithstanding that the description in the instrument of conveyance, transfer or alienation may not refer to such right and easement.

(d) HVAC. Each Owner shall be responsible for the installation, maintenance, repair and replacement and of its own HVAC Equipment at its own expense. The Association shall not be responsible for HVAC Equipment except to the extent it services Common Elements. Owner shall use licensed contractors for the installation of said equipment, not place loads upon

the ceiling structure which would damage the roof in any way, and indemnify and hold harmless the Association from any damage the Owner's HVAC equipment might cause).

ARTICLE 6 USE AND OCCUPANCY RESTRICTIONS

6.1. Use of Buildings. Buildings and Units may only be used for Aviation Purposes in accordance with the Ground Lease. A Unit may only be used for a use other than the uses permitted under the preceding sentence of this Section, if (a) such other use is approved in writing by the City, (b) such other use is permitted under the zoning for the Condominium, and (b) such other use is approved by (i) the Board of Directors if approved during the Period of Declarant Control or (ii) all Unit Owners if the use is approved after the termination of the Period of Declarant Control.

6.2. Generally. Subject to the terms of this Declaration, and any applicable Condominium Documents, all of the Property and Condominium and each portion thereof, shall be subject to the rules, regulations, ordinances and laws of all Governmental agencies, including, but not limited to, zoning laws and regulations, and shall be utilized only for those uses set forth in Sections 6.1 and 6.2 herein and for no other uses or purposes unless specifically approved by the City and (i) specifically authorized by the Declarant during the Period of Declarant Control, or (ii) a Majority of Members if the use is approved after the termination of the Period of Declarant Control. Without limiting the generality of the foregoing, no portion of the Property or Condominium shall be utilized for commercial activities; sales to the public, whether wholesale or retail; office; housing; or living purposes. Business transacted between Unit Owner and Declarant shall not be considered to be commercial activity. No fuel tanks, whether above-ground or below-ground, may be constructed or installed on the Property, nor are fuel sales permitted on the Property.

6.3. Misuse and Nuisance. No nuisances shall be allowed upon the Property or Condominium or any portion thereof, which is the source of annoyance to any Owner or Occupant or which interferes with the peaceful possession and proper use of the Property by its Owners and Occupants; provided, however, that noises and odors from adjoining Units shall not constitute a nuisance if they occur in the ordinary course of such Owner's or Occupant's aeronautical related activities. Each Unit and the Common Elements shall be kept in a clean and sanitary condition and no fire hazard shall be allowed to exist. No Owner or Occupant shall permit or suffer anything to be done or kept upon his Unit or make any use of his Unit or the Common Elements which will increase the rate of insurance upon the Property or any part thereof.

6.4. Diseases and Insects. No Owner or Occupant shall permit any thing or condition to exist upon the Property, Condominium or any Unit which shall induce, breed or harbor plant disease or noxious insects.

6.5. Animals. No animals, reptiles, fish (except a fish aquarium maintained inside a Unit) or birds of any kind shall be raised, bred or kept on or in any Unit or on the Common Elements, unless approved in writing by the Board of Directors.

6.6. Motor Vehicles and Bicycles. Except for emergency repairs, no automobile, motorcycle, van, sport utility vehicle, truck, motorbike or other motor vehicle shall be constructed, reconstructed, serviced or repaired on any portion of the Condominium, and no inoperable vehicle may be stored or parked on any exterior portion of a Building or Unit. No automobile, motorcycle, motorbike, van, sport utility vehicle, truck or other motor vehicle shall be parked upon any part of the Condominium, except in the Parking Spaces. If a Parking Space is assigned to a Unit, then no Unit Owner, Subtenant or Occupant may park any automobile, motorcycle, motorbike or other motor vehicle owned or leased by such Unit Owner, Subtenant or Occupant in any Parking Spaces other than the Parking Space assigned to the Unit. Bicycles may not be parked, kept or stored on any part of the Condominium except in a Unit.

6.7. Trucks, Trailers, Campers and Boats. No mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, kept, maintained, constructed, reconstructed or repaired on any exterior portion of a Building or Unit.

6.8. Parking. All vehicles belonging to an Owner, Occupant, or an employee, customer, visitor or invitee of any Owner or Occupant shall be parked only in a designated reserved Parking Space, in an uncovered Parking Space, or within the Unit as described in Article 4.

6.9. Towing of Vehicles. The Board of Directors shall have the right to have any automobile, sport utility vehicle, van, truck, recreational vehicle, motorcycle, motorbike, or other motor vehicle park, kept, maintained, constructed, reconstructed or repaired in violation of the Condominium Documents towed away at the sole cost and expense of the owner of the vehicle. Any expense incurred by the Association in connection with the towing of any vehicle shall be paid to the Association upon demand by the owner of the vehicle.

6.10. Trash Containers and Collection. No garbage or trash shall be placed on the exterior of any Unit, except in containers meeting the specifications of the City and the Board, and the placement, maintenance and appearance of all such containers shall be subject to Rules and Regulations. No rubbish, trash or garbage shall be allowed to accumulate inside any Unit.

6.11. Burning and Incinerators. No fires or burning shall be permitted on the Property or any part thereof, at any time, and no incinerators or like equipment shall be placed, allowed or maintained upon the Property unless approved in writing by the Board.

6.12. Machinery and Equipment. Each Owner shall be responsible for installing and maintaining heating and air conditioning equipment to service its individual Unit. No machinery or equipment of any type, including, without limitation, heating and air conditioning equipment, shall be placed, allowed or maintained on the outside of any Unit, except with prior written approval and authorization of the Board. All heating and air conditioning equipment and meters must be installed where indicated by the Declarant or the Board.

6.13. Flammable Material. Owners and Occupants shall not permit or keep on or in their Unit, except fuel inside a fuel tank of an aircraft or as approved in writing by the Board, any flammable, combustible or explosive material, chemical or substance in a manner, which may, by virtue of the type of material or quantity kept, increase the insurance rate or make insurance on the Building or Condominium unobtainable or unenforceable. All such substances shall be kept in containers or other receptacles as directed by the applicable fire department, insurance agency, or other governmental authority. Further, no toxic materials of any kind in quantities exceeding that allowable by law shall be stored or kept in or on any Unit, or any portion thereof. All such material shall be kept on the Property in strict accordance with all applicable laws, statutes, rules, ordinances and regulations.

6.14. Signs. No signs (including, but not limited to, "For Sale" or "For Rent" signs) shall be permitted on the exterior of any Building or in the interior of a Unit if the signs would be visible from the exterior of the Building in which the Unit is located, or on any other portion of the Condominium without the prior written approval of the Board of Directors. The Board of Directors may permit signs identifying the Unit Owner, Subtenant or Occupant of a Unit to be installed on the outside of the Building in which a Unit is located, provided that the location, size, color, style and appearance of the sign is acceptable to the Board of Directors, and the Board of Directors may permit such sign to be placed at any location on the outside of the Building that is acceptable to the Board of Directors. The Board of Directors may adopt criteria regarding the location, size, color, style and appearance of signs, and the methods of affixation to the Units, that may be placed or installed in the Condominium. In addition to the approval of the Board of Directors required by this Section, any sign must also comply with applicable City ordinances. The Association shall have the power and authority to grant licenses or easements to Unit Owners, Subtenants or Occupants for the installation, maintenance, repair or replacement of panels on the monument sign or signs located on the Common Elements for such consideration and upon such terms and conditions as the Board of Directors may determine to be reasonable and prudent.

6.15. Window Coverings. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Unit without the prior written approval of the Board of Directors. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of Unit shall be constructed or installed without the prior written consent of the Board of Directors. The Board of Directors may establish a "Condominium Standard" window treatment plan to ensure uniformity that will be complied with by all Owners.

6.16. Plantings, Fences, Screens, Etc. No shades, awnings, aluminum screens or other types of shade screening that can be viewed from the outside of any Unit or the Common Elements shall be placed on windows on or about any Unit or the Common Elements unless approved in writing by the Board. Further, no fences, hedges, walls, trees, or landscaping shall be placed or maintained upon the Property, including outside an individual Unit, except as are initially installed by the Declarant or which may be approved from time to time by the Board. Without the prior written approval of the Board, an Owner or Occupant shall not change the color or reflective properties of any window tint installed by the Developer on exterior windows.

6.17. Lawful Use. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Property or any portion thereof shall be the same (either the responsibility of the Owner or of the Association) as the responsibility for the maintenance and repair of the particular part of the Property affected.

6.18. Environmental Matters.

6.18.1. Definitions.

6.18.1.1. The term "Hazardous Substance" means any substance that is at any pertinent time defined or listed in, or otherwise classified, designated, or regulated pursuant to, any Environmental Law as a hazardous substance, hazardous material, extremely hazardous substance, hazardous waste, hazardous chemical, infectious waste, toxic substance, toxic pollutant or solid waste, or any other legislative or regulatory formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity or EP toxicity, including, without limitation, friable asbestos and polychlorinated biphenyls and also including oil and petroleum, petroleum products, by-products and wastes, and by-products associated with the extraction, refining, or use of petroleum or petroleum products, whether or not so defined, listed, classified, designated or regulated in "Environmental Laws."

6.18.1.2. The term "Environmental Law" means any statute, law, act, ordinance, rule, regulation, order, decree, or ruling of any Federal, State and/or local governmental, quasi-governmental, administrative or judicial body, agency, board, commission or other authority relating to the protection of health and/or the environment or otherwise regulating and/or restricting the use, storage, disposal, treatment, handling, release, and/or transportation of Hazardous Substances, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act, The Resource Conservation and Recovery Act, The Federal Water Pollution Control Act, The Clean Air Act, The Hazardous Materials Transportation Act, The Toxic Substances Control Act, The Emergency Planning and Community Right To Know Act, and the Environmental Control Laws of the State of Texas, each as now or hereafter amended, and all regulations and interpretive guidelines respectively promulgated thereunder.

6.18.2. Environmental Covenants.

6.18.2.1. Owner will not, and it will cause all Occupants to not, use, handle, generate, manufacture, produce, store, discharge, treat, remove, transport, or dispose of Hazardous Substances at, in, upon, under, to or from the Property except (A) in de minimis quantities necessary for or incidental to the conduct of the business at a Unit, and/or (B) in strict compliance with all Environmental Laws.

6.18.2.2. Owner will, and will cause all Occupants and invitees to, at its sole cost and expense, observe, perform, and comply with the environmental provisions set out in the Ground Lease.

6.18.2.3. Owner will, and will cause all Occupants to, immediately deliver to the Board complete copies of all notices, demands, or other communications received by Owner or any Occupant from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way (A) alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Property which is or could be dangerous to life, limb, property, or the environment (including without limitation water or air quality), or (B) releases or threatened releases in excess of reportable quantities of Hazardous Substances upon, under, at, in, or from the Property.

6.18.2.4. Owner shall immediately advise the Board in writing (and orally in the event of a release or other emergency) of (A) any and all enforcement, clean-up, removal, and mitigation orders or other governmental, regulatory, or judicial acts or orders instituted, or threatened pursuant to any Environmental Law affecting the Unit, the Condominium, the Property, Owner, or any Occupant; (B) all claims made or threatened by any third party against the Unit, the Condominium, the Property, Owner or any Occupant (if and when actually known to Owner) relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any actual, proposed, or threatened use, handling, generation, manufacture, production, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal, and/or presence of any Hazardous Substance on, under, from, to, or about the Unit, Condominium or the Property; (C) the discovery by Owner or any Occupant of any occurrence or condition at the Unit, Condominium or the Property that could cause the Unit, Condominium or Property to be the subject of a claim, order, or action under any Environmental Law, and/or (D) the discovery by the Owner or any Occupant of any occurrence or condition which could subject the Property, Owner, or any Occupant to any material adverse effect on ownership, occupancy, transferability, marketability, or use of the Property under or as a consequence of any Environmental Law.

6.18.2.5. Owner shall, and shall cause any Occupant to, at its sole cost and expense, observe, perform, and comply with all Environmental Laws applicable to the activities of Owner or such Occupant at the Property and all enforcement, cleanup, removal, and mitigation orders or other governmental, regulatory, or judicial acts or orders instituted pursuant to any Environmental Law affecting the Property, Owner or any Occupant which relate to or arise out of acts or failures to act on the part of Owner or such Occupant, and shall, and shall cause any Occupant to, make all repairs and restorations to the Property required following the completion thereof.

6.18.2.6. Owner shall obtain and maintain in full force and effect during the periods required by law each license, permit, or other governmental or quasi-governmental consent or approval relating to the use, handling, generation, manufacture, production, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal, or presence of Hazardous Substances, (the "Environmental Permits"), and shall immediately notify Landlord in writing of the actual or threatened termination or non-renewal of any of the Environmental Permits then required by law to be maintained by Owner.

6.18.2.7. Owner will, and will cause all Occupants to, provide to the Board upon the Board's request copies of all (A) Material Safety Data Sheets with respect to Hazardous Substances known to Owner to be present upon the Unit, and (B) Chemical Inventory Reporting Forms filed by Owner pursuant to the Emergency Planning and Community Right To Know Act ("EPCRA") or any state or local laws or ordinances enacted pursuant to or in furtherance of EPCRA.

6.18.2.8. The Board will immediately deliver to Owner complete copies of all notices, demands, or other communications received by the Board from any governmental or quasi-governmental authority, or any insurance company or board of fire underwriters or like or similar entities, regarding in any way (A) alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Property which is or could be dangerous to life, limb, property, or the environment (including without limitation water or air quality), or (B) releases or threatened releases in excess of reportable quantities of Hazardous Substances upon, under, at, in, or from the Property.

6.18.2.9. The Board shall immediately upon the Board receiving actual notice thereof advise Owner in writing (and orally in the event of a release or other emergency) of (A) any and all enforcement, cleanup, removal, mitigation, or other governmental, regulatory, or judicial acts or orders instituted, contemplated, or threatened pursuant to any Environmental Law affecting the Property or any Occupant thereof; (B) all claims made or threatened by any third party against the Property or any Occupant thereof relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any actual, proposed, or threatened use, handling, generation, manufacture, production, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal, and/or presence of any Hazardous Substance on, under, from, to, or about the Property; (C) the discovery by the Board of any occurrence or condition at the Property that could cause the Property to be the subject of a claim, order, or action under any Environmental Law, and/or (D) the discovery by the Board of any occurrence or condition at the Property which could subject the Property, Owner, or any Occupant to any material adverse effect on ownership, occupancy, transferability, marketability, or use of the Property under or as a consequence of any Environmental Law.

6.18.2.10. The Board shall, at its sole cost and expense, observe, perform, and comply with all Environmental Laws applicable to the activities of the Association and all enforcement, clean-up, removal, and mitigation orders or other governmental, regulatory, or judicial acts or orders instituted pursuant to any Environmental Law affecting the Property, Owner or any Occupant which relate to or arise out of acts or failures to act on the part of the Board, and shall make all repairs and restorations to the Property required following the completion thereof.

6.19. Oil and Mineral Activity. Subject to any existing reservations of record, if any, no oil explorations, drilling development or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels, or mineral excavations or shafts shall be permitted upon or under any Unit or other portion of the Property; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on the Property, or any part thereof.

6.20. Business Use Restrictions. Property shall only be used for aeronautical purposes and activities directly supporting such aeronautical purposes. At no time shall the Property or any portion thereof be used for any one or combination of the following: a discotheque or dance hall, adult book store, adult theater, adult amusement facility or similar shop selling or displaying sexually explicit or pornographic materials, pawn shop, flea market, second hand store, massage parlor, dry-cleaning facility with on premises dry cleaning plant, junk yard, automobile, truck or trailer repair, sales or leasing, mortuary or funeral parlor, or sleeping quarters or lodging.

6.21. Structural Changes. Nothing shall be done upon, in or to any Building, or Unit or in, on, or to any other structure on the Property which would structurally change any such Building or Unit, fence or other structure unless prior approval therefor has been given by the Board.

6.22. Exterior Changes, Modifications and Additions. Except with the prior approval of the Declarant or the Board, as applicable, no change, modification or addition of any kind whatsoever, including, but not limited to, painting, decorating, planting, installation of awnings and sunshades, shall be made or carried out on the exterior of any Unit or on the Common Elements.

6.23. Subleasing. Any Sublease or rental agreement for any Unit or any part thereof shall be in writing, shall in all respects be subject to and in compliance with the provisions of this Declaration, the Articles and Bylaws, and shall expressly provide that a violation of any such provisions shall be a default under such Sublease. A copy of any such Sublease or rental agreement shall be delivered to the Board prior to the commencement of the term thereof. Each Sublease and/or rental agreement must contain a clause that each Subtenant, as an occupant of the Property, shall be subject to and bound by this Declaration and the Condominium Documents.

6.24. Change in Intended Use. No portion of the Condominium may be developed or redeveloped otherwise than in accordance with its original intended use, without the prior written approval and authorization of the Board and/or Declarant, as applicable.

6.25. Architectural Control. Except for construction work and/or alterations undertaken by Declarant with respect to any Unit or the Common Elements, no building, fence, wall, antenna, tower, awning, sign or other structure of any kind or character shall be constructed, erected, placed or maintained within or on the Property, nor shall any exterior addition, change, or alteration be made thereto or therein, including, without limitation, to any building exterior or parking area, whether or not part of any Unit, which is visible from any part of the Property and no additions to, changes in, or alterations of landscaping, grading or drainage shall be made until plans and specifications showing the nature, kind, color, shape, height, materials, location and other physical attributes of the same shall have been approved by City in accordance with the provisions of the Ground Lease and submitted to and approved in writing by a two-thirds (2/3) vote of the Board or Architectural Control Committee established by the Board. In the event the Board or Architectural Control Committee fails to approve or disapprove such proposal within thirty (30) days after proper plans and specifications have been received by it, such approval will not be required, and this Section will be deemed to have been fully complied with. All such plans and specifications shall be delivered for submittal to the Board at the Association's principal place of business. The restrictions contained in this Section shall not apply to the Declarant in any way. All plans for improvements to a Unit shall be submitted to the Board or Architectural Control Committee for its review and approval, prior to commencing any construction. All construction shall be performed outside regular business hours to avoid interfering with other Unit Owners, unless approved in advance by the Architectural Control Committee.

6.26. Additional Provisions.

6.26.1. Wherever any "Owner" is limited or restricted by these occupancy and use restrictions contained in this Article 6, the same restrictions and/or limitations shall be applicable to all Occupants.

6.26.2. Any consent or approval given by the Board with respect to the use restrictions set forth under this Article 6, may be amended or repealed at any time by resolution of the Board. Reasonable Rules and Regulations concerning the use of the Property and Condominium and all portions thereof and imposing reasonable restrictions upon the Owners and Occupants, and the use of the Property, Condominium or any part thereof, may be made and amended from time to time by the Board, subject to the provisions of the Ground Lease.

6.26.3. The Board or its authorized agents may enter any Unit in which a violation of these restrictions exists upon giving reasonable notice to the Owner and may correct such violation at the expense of the Owner of such Unit. Such expense shall be enforced against the offending Owner's Unit in the same manner and with the same interest rate as the Enforcement Assessments provided for in Section 9.11 hereof.

ARTICLE 7
MAINTENANCE AND IMPROVEMENTS

7.1. Duties of Association. The Association shall maintain, repair and replace all Common Elements, except for the Limited Common Elements which the Unit Owners are obligated to maintain, repair and replace pursuant to Section 7.2. In addition, the Association

shall maintain, repair and replace the Perimeter Building Walls, except for the doors and windows of the Perimeter Building Walls. The cost of all such maintenance, repairs and replacements made by the Association shall be a Common Expense and shall be paid for by the Association. The Board of Directors shall be the sole judge as to the appropriate maintenance, repair and replacement of all Common Elements, but all Common Elements shall be maintained in good condition and repair at all times. No Owner, Subtenant, Occupant or other Person shall construct or install any Improvements on the Common Elements or alter, modify or remove any Common Elements without the prior written approval of the Board of Directors. No Owner, Subtenant, Occupant, or other Person shall obstruct or interfere with the Association in the performance of the Association's maintenance, repair and replacement of the Common Elements.

7.2. Duties of Unit Owners. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements of his own Unit, except as hereinafter provided or as determined by the Declarant or the Association, as applicable, and any portion of the air conditioning, electrical, plumbing and heating systems and lines which exclusively serve his Unit; and each Owner shall keep any Common Elements exterior to his Unit in a neat, clean and attractive condition. If, due to the willful or negligent act of any Owner, agent, employee, guest or other Occupant or visitor of such Owner, or other person for whom such Owner may be responsible, damage shall be caused to the Common Elements, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Owner, if responsible for such damage, upon receipt of a statement from the Association shall pay for such damage and for such maintenance, repairs or replacements as may be determined by the Association. The amount payable for such maintenance, repairs or replacements shall be immediately due and payable, together with interest at the rate of eighteen percent (18%) per annum from the date such amount is due plus costs and attorneys' fees, shall be enforceable as an Enforcement Assessment against the Owner or the Unit of such Owner as provided in Section 9.11 hereof. An authorized representative of the Association, or of the manager or managing agent of the Property, and all contractors and repairmen employed or engaged by the Association or such manager or managing agent, shall be entitled to access at anytime to each of the Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements.

7.3. Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Limited Common Element which he is obligated to maintain under this Declaration and the required maintenance, repair or replacement is not performed within fifteen (15) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the nonperforming Unit Owner pursuant to Article 9.

7.4. Improvements and Alterations.

7.4.1. Any Owner, Subtenant or Occupant may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board of Directors, except that no Owner shall make any additions, alterations or improvements to the Perimeter Building Walls or any Party Wall without the prior written

consent of the Board of Directors. Any Owner making any nonstructural additions, alterations or improvements within his Unit shall be responsible for any damage to other Units and to the Common Elements which results from any such alterations, additions or improvements. No Owner, Subtenant or Occupant shall make any structural additions, alterations or improvements within a Unit, unless prior to the commencement of each addition, alteration or improvement, the Owner, Subtenant or Occupant receives the prior written approval of the Board of Directors, and an architect or engineer, licensed in Texas, certifies that such addition, alteration or improvement will not impair the structural integrity or the mechanical systems of the Building or lessen the support of any portion of the Condominium. All construction, whether or not such construction must be approved by the Board of Directors, shall be subject to reasonable rules, regulations or guidelines established from time to time by the Board of Directors.

7.4.2. Notwithstanding subsection 7.4.1, no additions, alteration or improvement within a Unit, whether structural or not, which would be visible from the exterior of a Building shall be made without the prior written approval of the Board of Directors, which approval shall only be granted if the Board of Directors affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding improvements. No Owner shall make any addition, alteration or improvement to the Common Elements without the prior written approval of the Board of Directors. Except as expressly permitted by this Section 7.4, no wall, partition, fixture or other improvement situated within a Unit shall be constructed, installed or modified without the prior written approval of the Board of Directors.

7.4.3. No Owner, Subtenant or Occupant shall overload the electric wiring in the Building, or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board of Directors, an unreasonable disturbance to others or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior consent of the Board of Directors, acting in accord with the direction of the Board of Directors. No Owner, Subtenant or Occupant shall overload the floors of any Unit.

7.4.4. The Board of Directors may condition the approval of any proposed additions, alterations or improvements to a Unit or the Common Elements in any manner, including, without limitation: (a) retaining approval rights of the contractor to perform the work; (b) restricting the time during which such work may be performed; (c) requiring the placement of a security deposit in an amount determined by the Board of Directors in an account controlled by the Board of Directors; (d) requiring the provision to the Board of Directors of plans and specifications prepared and sealed by a professional engineer or architect duly licensed by the State of Texas; and (e) requiring that the Owner requesting the change obtain, prior to commencing any work, and maintain until completion of such work, comprehensive general liability insurance in such amounts as may be required by the Board of Directors. The Owner shall be obligated to designate Declarant, the Association, the Board of Directors and any other Person designated by the Board of Directors as additional insureds under the policies. The Owner shall be responsible for all costs incurred by the Board of Directors in connection with the Board of Director's review of proposed changes to the Owner's Unit, including, without limitation, all costs

of architects, engineers and other professionals which may be retained by the Board of Directors to assist in their review. Any such cost not timely paid by the Unit Owner shall be deemed an individual expense Assessment.

7.4.5. Proposed additions, alterations and improvements to a Unit of the Common Elements shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, may only be made once all required permits have been obtained and must be in compliance with any conditions imposed by the Association with respect to design, structural integrity, sound attenuation, water-proofing, construction details, lien protection or otherwise. The Owner of a Unit to which additions, alterations or improvements are made shall defend, indemnify and hold harmless the Association, Declarant and all other Owners, Subtenants or Occupants for, from and against any and all liability, loss or damage resulting from such additions, alterations or improvements and shall be solely responsible for the maintenance, repair and insurance of such additions, alterations and improvements from and after their date of installation or construction as may be required by the Association.

7.4.6. In addition to any other provisions in this Article 7, any proposed additions, alterations and improvements to a Unit or Common Elements must be approved in writing by City in accordance with the Ground Lease and must meet all requirements set out therein.

7.4.7. The Association shall have the right to stop any work that is not in compliance with the terms contained in this Section 7.4 or any rules of the Association governing additions, alterations or improvements to the Units or the Common Elements. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither Declarant, the Association nor any of the officers, directors, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other Person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval of any plans or submissions. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity, with building or other codes or industry standards, or compliance with governmental requirements. Further, each Owner agrees to indemnify and hold City, Declarant, the Association and their respective directors, officers, agents and employees harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review, approval or disapproval by the Board of Directors of plans submitted by the Owner or any Subtenant or Occupant of the Owner's Unit.

ARTICLE 8
ASSOCIATION

8.1. Purposes, Rights, Powers and Duties of Association.

8.1.1. The Association shall be a non-profit Texas corporation. The Association has been, or will be formed, to constitute the Property's "Unit Owner's Association," as that term is defined in the Condominium Act at §82.003(3). The Association shall serve as the governing body for all of the Owners for the protection, improvement, alteration, expansion, augmentation, disposal, divestment, redescription, maintenance, repair, replacement, administration and operation of the Property and Condominium (excluding maintenance, repair, replacement of a Unit), the assessment of expenses, payment of losses, disposition of hazard insurance proceeds received by the Association, and other matters as provided in this Declaration, the Condominium Act and in the Condominium Documents. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws. Unless this Declaration or the Condominium Documents specifically require a vote of Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The initial Board for the Association shall be composed of those Persons named in the Articles.

8.2. Board of Directors.

8.2.1. The affairs of the Association shall be conducted by the Board and such officers and committees as its Directors may elect and appoint in accordance with the Articles and Bylaws.

8.2.2. The Board, from time to time and subject to the provisions of this Declaration, may adopt, amend and repeal Rules and Regulations. The Rules and Regulations may, among other things, restrict and govern the use of any area by any Owner or Occupant, or by any invitees, licensees or Subtenants of such Owner or Occupant; provided, however, that the Rules and Regulations shall not unreasonably discriminate among Owners and Occupants and shall not be inconsistent with the Ground Lease, the Condominium Act, this Declaration, the Articles or the Bylaws. A copy of the Rules and Regulations as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and may be recorded.

8.2.3. The Board may act as an Architectural Control Committee pursuant to Section 6.25 to regulate the external design, appearance, use and maintenance of the Condominium and Property and to perform such other functions and duties as are imposed upon it by separate, validly executed agreements.

8.2.4. No director or officer of the Association, no member of any committee of the Association, and no other person acting on behalf of the Board of Directors shall be personally liable to any Member, or to any other Person, for any damage, loss or

prejudice suffered or claimed on account of any act, omission, error or negligence in the discharge of such person's duties and responsibilities under the Condominium Documents; provided such person acted in good faith and without intentional misconduct.

8.2.5. Each director, after the initial Director(s) selected by the Declarant, shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership, limited liability company, association or trust, a director may be an officer, partner, manager, member, or beneficiary of such Owner). Only one Director per Unit may serve on the Board at any one time. If a director shall cease to meet such qualifications during his term, he will thereupon cease to be a director, and his place on the Board shall be deemed vacant until filled in accordance with the Articles of Incorporation and the Bylaws of the Association.

8.2.6. Subject to the rights and remedies outlined in Article 15 hereof, in the event of any dispute or disagreement between the Owners relating to the Property or Condominium, or any question of interpretation or application of the provisions of this Declaration, the Articles or Bylaws, the determination thereof by a two-thirds (2/3) vote of the Board shall be final and binding on each and all of such Owners.

8.2.7. To the extent permitted by the Condominium Act, all actions required to be taken by the Owners, acting as a Unit Owners' Association for the Condominium, shall be taken through its directors and officers, such actions to include without limitation, adoption or ratification of the Bylaws and Rules and Regulations for the Condominium hereby created.

8.2.8. The Articles and the Bylaws may contain any provision not inconsistent with the applicable Texas law or with this Declaration relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents and members.

8.3. Declarant. During the Period of Declarant Control, any action for which the consent or approval of the Board of Directors is required under this Declaration may be taken only if such action is also consented to or approved by the Declarant, which consent or approval shall not be unreasonably withheld.

8.4. Membership Identity. Membership in the Association shall be limited to and shall consist of all Owners, with each Owner being a Member as soon and so long as he shall be an Owner. Such membership shall automatically terminate when an Owner ceases for any reason to be an Owner, and the new Owner shall likewise automatically succeed to such membership in the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Unit to which it is appurtenant (and then only to the purchaser involved in such sale) or by intestate succession, testamentary disposition, foreclosure of a Mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the Person to whom such fee simple title is transferred). Any attempt to make a prohibited transfer of a membership will be null and void and will not be recognized by or reflected upon the books and records of the Association. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in such Owner's name upon the sale of such Owner's Unit

to the purchaser of such Owner's Unit, the Association shall have the right to enter a transfer upon books the had been surrendered.

8.5. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all Owners (with the exception of Declarant so long as Declarant is a Class B Member) and each Class A Member shall be entitled to that number of votes equal to the number of Units each Member owns.

Class B: The Class B Member shall be Declarant and shall be entitled to that number of votes equal to the product of (i) the number four (4) multiplied by (ii) the number of Units the Declarant owns. The Class B membership shall cease (and if then an Owner, the Class B Member shall become a Class A Member) upon the termination of the Period of Declarant Control.

8.6. Corporate or Partnership Owner. In the event a Unit is owned by a corporation, partnership, limited liability company, or association, the corporation, partnership, limited liability company or association shall be a Member and shall designate in writing to the Association at the time of its acquisition of the Unit, the name and title of the Person who shall have the power to vote the membership of the corporation, partnership, limited liability company or association in the Association. The Person so designated shall be the only Person who shall be entitled to cast the vote(s) for the Unit(s) owned by such corporation, partnership, limited liability company or association. If the corporation, partnership, limited liability company, or association fails to designate the Person who shall have the right to vote the membership of the corporation, partnership, limited liability company or association, then until such designation is made, such corporation, partnership, limited liability company, or association shall lose its right to vote and it shall not be considered a Member for the purpose of determining the requirement for a quorum or any other purpose requiring the approval of a Person entitled to cast the vote for the Unit owned by such entity.

8.7. Trust Ownership. In the event any Unit or any portion thereof is held in Trust, the membership shall be issued in the name of the Trust and the Trustee shall have the power to vote such membership, unless the Trustee notifies the Association in writing (Association may rely upon such written notice) that in accordance with the trust instrument another person has such power. In the event that there is more than one trustee of such trust, they shall designate in writing to the Association one of their number who shall have the power to vote the membership on behalf of the Trust.

8.8. Association's Right to Rely. Until the Association has received a designation, in writing, of the individual authorized to vote on behalf of the Unit's Owner, the Association shall have the right to rely on any previous designation in writing received by it; or in the absence of any such written designation, the Association's designation.

8.9. Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of any assessment or other amounts due under the terms of this Declaration or the other Condominium Documents for a period of fifteen (15) days, such Owner's right to vote as a Member shall be automatically suspended and shall remain suspended until all payments,

including accrued interest and attorney's fees, are brought current. In the event any Owner is in material breach of any other provisions of this Declaration or of the applicable Condominium Documents, such Owner's voting rights may be suspended by the Board for a period not to exceed sixty (60) days for any such infraction.

ARTICLE 9

ASSESSMENTS FOR COMMON ELEMENTS MAINTENANCE EXPENSES AND RESERVE

9.1. Duties of the Board; Purpose of Assessment. Pursuant to the Uniform Condominium Act §82.102(a)(2), the Board is hereby expressly authorized to adopt and amend budgets for the administration and operation of the Common Elements without ratification by the Owners, subject to the provisions of this Article 9. The Board shall, within thirty (30) days after adoption of any proposed budget for the Condominium, provide a summary of the budget to all the Owners. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants, for the improvement and maintenance of the Common Elements, and for all purposes set forth in this Declaration and the Condominium Documents, including, but not limited to, insurance premiums, expenses for maintenance, repairs and replacements of Common Elements, and reserves for depreciation and contingencies.

9.2. Creation of the Lien; Personal Obligation for Assessments; Allocation of Common Expense Liability. Each Owner, by acceptance of a deed conveying a Unit or otherwise becoming the Owner thereof, is deemed to covenant and agree to pay to the Association: (i) annual assessments, (ii) special assessments, and (iii) supplemental assessments, as applicable pursuant to declaration of the Board. The assessment, together with interest, costs, reasonable attorneys' fees and all other amounts payable to the Association under this Declaration shall be a lien on the Unit against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of each Person who was the Owner of such Unit at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to an Owner's proportionate share of the Common Expense Liability payable by each Owner which shall be equal to the proportionate interest in the Common Elements appurtenant to each Owner as provided in Section 3.6.

9.3. Annual Assessments. The annual assessments shall be in an amount to be determined by the Association of the following aggregate costs referred to as Common Expenses:

9.3.1. All charges, costs and expenses whatsoever incurred by the Association for and in connection with the administration of the Common Elements (and the Units where this Declaration so provides) including, but not limited to, operation, maintenance, repair, replacement and restoration, any additions and alterations thereto, all utility service, labor, services, materials, supplies, fixtures, furniture and equipment therefor, insurance, taxes, management fees, investment costs and expenses, leasing and related charges and all liability whatsoever for loss or damage arising out of or in connection with the Common Elements (and the Units where this Declaration so provides) or any nuisance thereon.

9.3.2. Such sums as the Association shall determine to be fair and prudent for the establishment and maintenance of a reserve (if the Association elects to establish a reserve) for repair, maintenance, taxes, insurance, management and administrative costs and other charges as specified, subject to a credit to the Owners for any excess assessments paid by them.

9.3.3. The cost to the Association of all expenses and related charges necessary to carry out any construction of additional improvements.

9.3.4. Costs to the Association of indemnifying officers and directors of the Association in their official capacity as provided in the Articles and Bylaws.

9.4. Special Assessments. In addition to annual assessments, the Association may levy, in any fiscal year of the Association, such special assessment(s) applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have first been approved by Declarant (if applicable) and then by a Majority of Members who are voting in person or by proxy at a meeting duly called for such purpose.

9.5. Supplemental Assessments. In the event the Board shall determine that its funds budgeted or available in any fiscal year are, or will, become inadequate to meet all expenses of the Association for any reason, including nonpayment of assessments, it shall immediately determine the approximate amount of such inadequacies for such fiscal year and issue a supplemental budget and levy of a supplemental assessment against the Owners of each Unit for the amount required to pay all such expenses; provided, however, that any such supplemental assessment must first be approved by Declarant (if applicable) and then by a Majority of Members who are voting in person or by proxy at a meeting duly called for such purpose.

9.6. Unallocated Tax Assessments. In the event that any taxes are assessed against the personal property of the Association, such taxes shall be included in the assessments made under the provisions of this Article, and, if necessary, a supplemental or special assessment may be levied against the Units in an amount equal to such taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

9.7. Notice of Quorum for any Action Authorized Under Sections 9.3, 9.4 or 9.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 9.3, 9.4, or 9.5 shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of a Majority of Members or of proxies entitled to cast votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum for the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

9.8. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided for herein shall commence as to all Owners on the first day of the month

following the conveyance of the first Unit to a purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board shall fix the amount of the annual assessment against each Owner at least thirty (30) days in advance of each fiscal year. If the annual assessment is not fixed by the Board at least thirty (30) days in advance of the fiscal year, then the annual assessment for the prior fiscal year shall remain in effect until the thirtieth (30th) day after the Board fixes the annual assessment for the then current fiscal year. Written notice of the annual assessment shall be sent to every Owner subject thereto prior to commencement of the fiscal year; provided, however, that failure to give such notice shall not affect the validity or enforceability of the assessment as fixed by the Board. The Board may require that the annual, supplemental or special assessments be paid in installments, monthly or at other intervals as established by the Board. Unless otherwise specified by the Board, special and supplemental assessments shall be due thirty (30) days after they are levied by the Association and notice of the assessment is given to Owners. "Fiscal year" as used herein shall mean the fiscal year set by the Members.

9.9. Rate of Assessment. Annual, special and supplemental assessments shall be fixed at a uniform rate for each Owner based on the percentage of Common Expense Liability allocated to each Owner as set forth in Exhibit "B". Any Units controlled by Declarant for which certificates of occupancy from the City have not been issued shall be assessed at 25% of the Assessment for a period not to exceed two years following the Association first levying an Assessment.

9.10. Effect of Nonpayment of Assessments; Remedies of the Association.

9.10.1. Any assessment, or any installment of an assessment, which is not paid within fifteen (15) days after the assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum until paid in full.

9.10.2. Any assessment, or any installment of an assessment, which is delinquent shall become a continuing lien on the Unit against which such assessment was made. The lien shall be perfected by the recordation of a "Notice of Claim of Lien" which shall set forth: (a) the name of the delinquent Owner(s), (b) the legal description or street address of the Unit against which the claim of lien is made, (c) the amount claimed as of the date of the recording of the notice including interest, collection costs, lien recording fees and reasonable attorney's fees, (d) the name of the Owner(s) of the Unit as shown in the records of the Association, and (e) the name and address of the Association. In the event the Association records a Notice of Claim of Lien against a Unit, the Owner(s) of such Unit shall be obligated to pay to the Association a lien fee in such amount as may be established from time to time by the Board. The Association's lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien except for tax liens for real property taxes on the Unit, assessments on any Unit in favor of any municipal or other governmental body and the liens which are specifically described in this Declaration.

9.10.3. Before recording a lien against any Unit, the Association shall make a written demand to the defaulting Owner(s) for payment. Such demand shall state the date

and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Unit of the defaulting Owner(s).

9.10.4. The Association shall have the right, at its option, to enforce collection of any delinquent assessment in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner(s) personally obligated to pay the delinquent assessments and such action may be brought without waiving any lien securing any such delinquent assessments, (b) bringing an action to foreclose its lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale.

9.10.5. The lien for the assessments provided in this Declaration is prior to all other liens and encumbrances on a Unit except those liens and encumbrances discussed in the Uniform Condominium Act §82.113 (including those recorded prior to the recordation of this Declaration, liens for real estate taxes and other governmental assessments or charges against the Unit and the lien of any First Mortgage). Any First Mortgagee or other party acquiring title or coming into possession of a Unit through foreclosure of a First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid assessments and charges against the Unit which became payable prior to such sale or transfer. Any such delinquent assessment pursuant to this Section may be reallocated and assessed to all Units as a Common Expense, with any assessments and charges against the Unit which accrue prior to such sale or transfer remaining the personal obligation of the defaulting Owner(s) of the Unit.

9.11. Enforcement Assessments. The Board may impose reasonable assessments against an Owner for violation of this Declaration or other Condominium Documents by the Owner, tenants or guests. The amount of the assessment for each violation shall be established by the Board and shall be payable by the Owner within fifteen (15) days after notice of the Enforcement Assessment is given to the Owner by the Association. Any Enforcement Assessment not paid within fifteen (15) days after the Enforcement Assessment first became due shall bear interest from the due date at the rate of interest established from time to time by the Board. In addition, the Board may establish a late fee up to \$15.00 or 10% of the amount of the unpaid Enforcement Assessment, whichever is greater, to be charged to any Owner who has not paid any Enforcement Assessment, within fifteen days after such payment was due.

9.11.1. The Board shall have the right, at its option, to enforce collection of any delinquent Enforcement Assessments together with interest, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, bringing an action at law against the Owner personally obligated to pay the delinquent Enforcement Assessment.

9.11.2. After entry of a judgment for the Enforcement Assessment and other charges from a court of competent jurisdiction, the Association shall have a lien on the Owner's Unit for (i) the amount of the judgment, (ii) all interest, lien fees, late charges and other fees and charges assessed against the Unit or payable by the Owner of the Unit, and (iii) all attorney fees, court costs, and other costs and fees of litigation, which shall be effective upon conveyance of the Unit, if not previously satisfied by the Owner. The Association shall not be obligated to release the Judgment Lien until all delinquent Enforcement Assessments, interest, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Unit have been paid in full.

9.12. Exemption of Owner. No Owner of a Unit may exempt himself from liability for payment of assessments and other charges levied pursuant to this Declaration by waiver and nonuse of any the Common Elements and facilities or by the abandonment of his Unit.

9.13. Certificate of Payment. The Association shall, upon demand of an Owner, furnish to such Owner a certificate in writing signed by an officer of the Association setting forth whether the assessments on a particular Unit have or have not been paid and the amount of any unpaid assessments. The Association may charge the Owner requesting the certificate a reasonable fee in an amount established by the Board for each such certificate. Such certificate shall be conclusive evidence of payment of any assessment described in the certificate as having been paid.

9.14. No Offsets. All assessments shall be payable in accordance with the provisions of this Declaration, and no offsets against any such assessment shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration or the Condominium Documents.

9.15. Initial Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each purchaser of a Unit from the Declarant shall pay to the Association, immediately upon becoming the Owner of the Unit, a sum equal to a three (3) months' portion of the annual assessment on his Unit. Such amount shall not be considered as an advance payment on any assessment levied by the Association pursuant to this Declaration, which shall include all costs and fees incurred in forming the Association.

9.16. Reserve Contribution.

9.16.1. Except as provided in subsection 9.16.2, each Person who purchases or otherwise purchases or otherwise becomes the Owner of a Unit shall pay to the Association, immediately upon becoming the Owner of the Unit, a contribution (the "Reserve Contribution") to the reserves to be established pursuant to Section 9.17. The amount of the initial Reserve Contribution shall be set by the Board of Directors prior to the conveyance of the first Unit to a Purchaser. The Board of Directors may from time to time thereafter increase or decrease the amount of the Reserve Contribution, but the amount of the Reserve Contribution may not be increased by the Board of Directors by

more than twenty percent (20%) during any twelve month period without the approval of Members holding more than fifty percent (50%) of the votes in the Association.

9.16.2. No Reserve Contribution shall be payable with respect to: (a) the transfer or conveyance of a Unit by devise or intestate succession; (b) a transfer or conveyance of a Unit to a family trust, family limited partnership or other Person for bona fide estate planning purposes; (c) a transfer or conveyance of a Unit to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Reserve Contribution in which event a Reserve Contribution shall be payable with respect to such transfer or conveyance; (d) the conveyance of a Unit by a trustee's deed following a trustee's sale under a deed of trust; or (e) a conveyance of a Unit as a result of the foreclosure of a realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a recorded contract for the conveyance of real property.

9.16.3. All Reserve Contributions shall be deposited in the Reserve Account established pursuant to Section 9.17. Reserve Contributions shall be non-refundable and shall not be considered as an advance payment of Assessments.

9.17. Maintenance of Reserve Fund. The budget adopted by the Board of Directors shall include reasonable amounts as determined by the Board of Directors collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Elements, or any other purpose as determined by the Board of Directors. The reserves may be funded from the Reserve Contributions paid pursuant to Section 9.16, from the Common Expense Assessments or from any other revenues of the Association. All amounts collected as reserves, whether pursuant to this Section or otherwise shall be deposited by the Board of Directors in a separate bank account (the "Reserve Account") to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds in the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board of Directors shall not expend funds designated as reserve funds for any other purpose other than those purposes for which they were collected. After the termination of the Period of Declarant Control, the Board of Directors shall obtain a reserve study at least once every three years, which study shall at a minimum include (a) identification of the major components of the Common Elements which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the study; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

9.18. Surplus Funds. Surplus funds of the Association remaining after payment of the Common Expenses and any prepayment of reserves may, in the discretion of the Board of Directors, be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments.

9.19. Transfer Fee. Each Purchaser of a Unit (other than the Purchaser of a Unit from the Declarant) shall pay to the Association immediately upon becoming the Owner of the Unit a transfer fee in the amount set from time to time by the Board of Directors to compensate the association for the administrative cost resulting from the transfer of a Unit.

ARTICLE 10
INSURANCE

10.1. Insurance Requirements Generally. Prior to the first conveyance of a Unit to an Owner other than the Company or the Association, and at all times thereafter, the Association shall obtain and maintain in full force and effect certain insurance as hereinafter provided, including all insurance coverages required under the Ground Lease. All such insurance shall be obtained from responsible companies duly authorized to transact insurance business in the State of Texas with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below . All such insurance shall name the Association or its authorized representative or trustee as the insured, in its individual capacity for the benefit of the Owners and also either as attorney-in-fact or trustee for all Owners.

Policy	Limits	Coverage
Workers' Compensation	Amount required by Law in each state where Contractor conducts operations	Must include coverage for alternate employers, if leased employees will be used.
Employer's Liability	<ul style="list-style-type: none"> • \$1,000,000 for bodily injury (each accident) • \$1,000,000 for bodily injury by disease (policy limits) • \$1,000,000 for bodily injury by disease (each employee) 	
Commercial General Liability	<ul style="list-style-type: none"> • \$2,000,000 general aggregate limit • \$1,000,000 each occurrence limit (bodily injury/property damage) • \$1,000,000 personal injury and advertising injury limit • \$2,000,000 products and completed operations aggregate limit • \$1,000,000 damage to premises rented to you 	Must be written on Insurance Services Office (ISO) Form CG 00 01 12 07 or a substitute form providing equivalent coverage, covering liability arising from premises, operations, personal injury, advertising injury, products/completed operations, and liability assumed under an insured contract (including tort liability of a third party assumed in a business contract).

		Completed Operations Extension for 10 years.
Business Automobile Liability	\$1,000,000 combined single limit (bodily injury/property damage)	Must include coverage for all owned, non-owned and hired vehicles.
Property	Limits equal to the replacement cost of Condo Association's Business Personal Property at the location.	Property insurance policy must include a waiver of subrogation in favor of the City of San Antonio, its Affiliates, and each of their respective officers, directors and employees.
Director's & Officer's Liability	\$2,000,000 Limit	

10.2. The City reserves the right to review the insurance requirements of this Article during the effective period of this Declaration ~~and any extension or renewal hereof~~ and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

10.3. Association agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

10.3.1. Contain a special condominium endorsement providing for a waiver of subrogation by the insurer as to claims against the City, Association, its directors, officers, employees and agents and against each Owner and each Owner's employees, agents and invitees, and against each Mortgagee of all or any part of the Property, and any other person for whom the Association, any Owner or Mortgagee may be responsible and shall provide for recognition of any authorized representative or trustee of the Association, if applicable;

10.3.2. Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

10.3.3. Provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee of all or any part of the Condominium or any Unit and that the insurance policy shall not be brought into contribution with insurance maintained by the Owner or Mortgagee of all or any part of the Condominium or any Unit;

10.3.4. Contain a standard without contribution mortgage clause endorsement in favor of the Mortgagee, its successors and assigns, of any Unit or all or any part of the Condominium or Property;

10.3.5. Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

10.3.6. Provide that the policy of insurance shall not be suspended, terminated, and/or canceled, nor shall coverage be reduced or materially changed, without at least thirty (30) days prior written notice to the City, the Association and to each Owner and to each Mortgagee covered by any standard mortgage clause endorsement; and

10.3.7. Contain a "severability of interest endorsement" which shall preclude the insurer from denying the claim of any Owner or the Association due to the negligent acts of the Association or any Owner(s).

10.3.8. Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.

10.4. As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Association shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Association shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Aviation Department
9800 Airport Boulevard
San Antonio, Texas 78216

10.5. Failure to provide and to maintain the required insurance shall constitute a material breach of this the Ground Lease. City shall have the option to terminate the Ground Lease should there be a lapse in coverage at any time. Under no circumstances shall any policies of insurance be obtained where: (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the City, Association, any Owner or any Mortgagee; or (ii) under the terms of the insurance carrier's charter, bylaws or policy, loss payments are contingent upon action by the insurance carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clauses which could prevent City, any Owner or any Mortgagee from collecting insurance proceeds.

10.6. Certificates of insurance coverage or copies of insurance policies shall be issued to and at the expense of each Owner and each Mortgagee who makes or on whose behalf written request is made to the Association for any such certificate or copy.

10.7. The cost and expense of all insurance obtained by the Association, except insurance covering additions, alterations or improvements made to a Unit by an Owner, or other insurance obtained at the request of and specifically benefiting any particular Owner, shall be a Common Expense.

10.8. Casualty Insurance. The Association shall obtain and maintain a policy or policies of casualty insurance covering the Common Elements, and all fixtures and building service equipment to the extent such is a part of the Common Elements insuring against loss or damage by fire (and floods, if flood insurance is available on terms and conditions approved by the Board) and such other hazards as are covered under the standard extended coverage policies, for not less than one hundred percent (100%) of the replacement cost of the Common Elements, as determined on an annual basis by an appraisal made in accordance with the rules and regulations of the Board of Underwriters or like board or body recognized and accepted by the insurance company or companies issuing such insurance. Such policy or policies of casualty insurance shall, to the extent available, contain a standard all risk endorsement and shall insure against all other perils which are customarily covered with respect to condominium projects which are similar in construction, location and use. Each Owner shall be responsible for obtaining casualty insurance covering his Unit and all personal property contained therein or thereon.

10.9. Insurance by Owners/Occupants. Each Owner or Occupant shall be free to obtain such additional or other insurance as he deems desirable, including insurance covering his Unit, furnishings and personal property, and covering personal liability of himself and his employees, agents and invitees and any other persons for whom such Owner or Occupant may be responsible. Any insurance policy obtained by an Owner or Occupant must not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and must, to the extent possible, contain a waiver of the rights of subrogation by the insurer as to any claim against the City, the Association, its officers, directors, agents and employees and against other Owners or Occupants and their employees, agents and invitees and against any Mortgagee of all or any part of the Property, the Condominium, any Unit or other Person for which the Association or any such Owner, Occupant or Mortgagee may be responsible.

10.10. Receipt and Application of Insurance Proceeds. Except in a case where a Mortgagee or any other Person shall have the legal right to receive insurance proceeds directly, in the event of any damage to or destruction of the Common Elements or any portion thereof by fire or other insured casualty, all insurance proceeds under policies carried by and maintained by the Association shall be paid to and received by an independent financial institution or title company selected by the Association authorized to act as escrow agent (the "Escrow Agent") for the benefit of the Association, the Company, all Owners and all Mortgagees of any Unit or all or any part of the Property or Condominium as their respective interests may appear. Subject to the rights of any Mortgagee, the Association shall have the right, acting alone, to adjust or settle any claim by it under any insurance maintained by it. Such funds shall be disbursed by the Escrow

Agent in accordance with the following priorities, subject to such evidence of application as the Escrow Agent shall require, and shall be applied by the Association as follows: first, as expressly provided in this Article 10 hereof; second, to the City, Owners or Persons whom the Association determines are legally or equitably entitled thereto; and third, the balance, if any, to the Owners in proportion to their respective interest in the Common Elements. Notwithstanding any provisions contained herein to the contrary, the rights of and lien priority of any First Mortgagee shall not be affected by any loss, damage or destruction and shall continue in any insurance proceeds payable with respect to the Unit subject to the First Mortgage in accordance with the provisions of the First Mortgage.

10.11. Annuities. Pursuant to the powers granted in the Articles and Bylaws, the Association may, at the Board's discretion, invest its working capital and reserves with or without security, including, but not limited to, investing in annuities, for the purpose of providing additional funds to maintain and keep the Property, the Condominium and its Common Elements in good condition and repair, including, but not limited to, providing funds for the payment of assessments against the Property or Condominium, including any street improvements assessment or other similar type of assessment brought against the Property or Condominium by the City.

ARTICLE 11
DESTRUCTION, OBSOLESCENCE,
AND RESTORATION OR SALE OF PROPERTY

11.1. Definition. As used herein, the following terms shall be defined as follows:

11.1.1. "Substantial Destruction" shall exist whenever the Board determines that, as a result of any casualty, damage to or destruction of the Property or Condominium or any part thereof, the excess of estimated costs of Restoration (as herein defined) over Available Funds (as herein defined) is fifty percent (50%) or more of the estimated Restored Value of the Property or Condominium (as herein defined). "Partial Destruction" shall mean any other casualty, damage to or destruction of the Property or Condominium or any part thereof.

11.1.2. "Substantial Obsolescence" shall exist whenever the Majority of Members determined by vote that the Property or Condominium or any part thereof has reached an undesirable state of obsolescence or disrepair. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

11.1.3. "Restoration" in the case of any casualty, damage or destruction, shall mean restoration of the Property or Condominium, or any part thereof, to a condition the same or substantially the same as the condition in which the Property or Condominium existed prior to the casualty, damage or destruction; in the case of condemnation, shall mean restoration of the remaining portion of the Property or Condominium, or any part thereof, to an attractive, sound and desirable condition; and, in the case of obsolescence, shall mean restoration of the Property, or any part thereof, to an attractive, sound and desirable condition.

11.1.4. "Restored Value" shall mean the value of the Property or Condominium, or any part thereof, after restoration as determined by the Board.

11.1.5. "Available Funds" shall mean any proceeds of insurance or condemnation awards or payments in lieu of condemnation received by the Association or Owner and any uncommitted reserves of the Association other than amounts derived through assessment or special assessments. Available Funds shall not include that portion of insurance proceeds or condemnation awards or payments in lieu of condemnation legally required to be paid to a Mortgagee of all or any part of the Property or Condominium, or that portion of any condemnation award or payment in lieu of condemnation paid to the Owner of a Unit for the condemnation or taking of that Owner's individual air space.

11.2. Restoration of Common Elements. Restoration of the Property or Condominium shall be undertaken by the Association as to the Common Elements without a vote of the Owners in the event of Partial Destruction or Partial Obsolescence, but shall not be undertaken in the event of Substantial Destruction or Substantial Obsolescence unless the Majority of Members vote to approve such restoration.

11.3. Restoration of Units. Restoration of the Units shall be undertaken by the Owner as to his Unit in the event of a Partial or Substantial Destruction or Partial or Substantial Obsolescence at the expense of the Owner and shall be completed as promptly as practicable and in a lawful and workmanlike manner. Such restoration shall also be performed substantially in accordance with this Declaration and the original plans and specifications for the Property, Building, Common Elements, and the Units.

11.4. Negotiations with Insurer. The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such building or any other portion of the Common Elements. Any settlement made by the Association in good faith shall be binding upon all Owners and First Mortgagees. Insurance proceeds for any damage or destruction of any part of the Condominium covered by property insurance maintained by the Association shall be paid to the Association and not to any First Mortgagee or other lienholder. The Association shall hold any proceeds in trust for the Unit Owners and lienholders as their interests may appear. Except as otherwise provided in Section 11.4, all insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged or destroyed Common Elements have been completely repaired or restored or the Condominium is terminated. Notwithstanding any provisions of this Article 11 to the contrary, the distribution of insurance proceeds resulting from the damage or destruction of all or any part of the Common Elements shall be distributed as provided in the Condominium Act in the event of a termination of the Condominium.

11.5. Special Assessments for Restoration. Whenever Restoration of the Common Elements is to be undertaken, the Association may levy and collect assessments from each Owner in proportion to their respective interests in the Common Elements, payable over such period as the Association may determine, to cover the costs and expenses of Restoration to the

extent not covered by the Available Funds. Should any Owner not pay such special assessment when due, such special assessment, together with interest at the rate of fifteen percent (15%) per annum from the date such special assessment became due, costs and reasonable attorneys' fees, shall be secured by a lien on the Unit of each such Owner in the same manner as the lien for assessments provided for in Article 9 hereof.

11.6. Ground Lease. The provisions of this Article 11 are subject at all times to the terms and conditions of the Ground Lease.

ARTICLE 12 EMINENT DOMAIN

12.1. Total Taking of a Unit. If a Unit is acquired by eminent domain, or if a part of a Unit is acquired by eminent domain, leaving the Owner with a remnant which may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for his Unit and interest in the Common Elements, regardless of whether any Common Elements are taken. Upon such a taking, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall automatically be reallocated to the remaining Units in proportion to their respective allocated interests immediately before the taking. Upon such a taking, the Association shall prepare, execute and record an amendment to the Declaration in compliance with the Condominium Act. Any remnant of a Unit remaining after part of a Unit is taken becomes a Common Element.

12.2. Partial Taking of a Unit. Except as provided in Section 12.1, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in the value of his Unit and interest in the Common Elements, regardless of whether any Common Elements are taken. On acquisition, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be reduced in proportion to the reduction in size of the Unit and the portion of the allocated interests divested from the partially acquired Unit shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced interest.

12.3. Taking of Common Elements. If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Association for the benefit of the Unit Owners, and any portion of the award attributable to the acquisition of a limited Common Element shall be divided among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

12.4. Priority and Power of Attorney. Nothing contained in this Article shall entitle an Owner to priority over any First Mortgagee under a lien encumbering his Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Elements, or any part thereof. This power of attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns or an Owner.

12.5. Ground Lease. The provisions of this Article 12 are subject at all times to the terms and conditions of the Ground Lease.

ARTICLE 13
AMENDMENT

13.1. Except as otherwise provided in this Declaration and except as otherwise permitted by the Condominium Act, the provisions of this Declaration may only be changed, modified or amended by an instrument in writing setting forth such change, modification or amendment, signed by Declarant as long as Declarant holds any ownership interest in the Condominium created hereby, or thereafter signed (and duly acknowledged) by a Majority of Members; provided, however, that so long as Declarant holds any interest in the Condominium created hereby, Declarant must approve of any such change, modification or amendment; provided further that the Aviation Director must approve any change, modification or amendment to this Declaration. Anything to the contrary notwithstanding contained herein, any amendment which would delete or modify any right granted to the Declarant by this Declaration must be approved in writing by the Declarant as long as Declarant has an ownership interest in the Condominium created hereby.

13.2. Notwithstanding anything contained herein to the contrary, if the Condominium Act, this Declaration, the Articles or the Bylaws require the consent or agreement of the Owners to which a specified percentage of the undivided interests in the Common Elements is appurtenant and/or any other persons having any interest in the Condominium, including, without limitation, the Association, for any such amendment or for any action specified in this Declaration, then any instrument so amending this Declaration or any provision hereof or providing for such action shall be signed by the Association and/or the Owners of not less than such specified percentage. In the absence of any such percentage, the Declaration, including the Plat, may be amended only by a vote of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated. Any such change, modification or amendment accomplished under any of the provisions of this Article 13 shall be effective upon recording of a signed and acknowledged instrument.

13.3. An amendment to the Declaration shall not terminate or decrease any unexpired Development Right, Special Declarant Right or Period of Declarant Control unless the Declarant approves the amendment in writing.

13.4. During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to: (a) comply with the Condominium Act or any other applicable law if the amendment does not adversely affect the rights of any Unit Owner; (b) correct any error or inconsistency in the Declaration if the amendment does not affect the rights of any Unit Owner; or (c) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including without limitation, the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Mortgage Corporation.

ARTICLE 14
RESERVATION OF DEVELOPMENT RIGHTS
AND PLAN OF DEVELOPMENT

Declarant hereby expressly reserves the following Development Rights, as provided in the Uniform Condominium Act §82.003(12) and the right to exercise such rights without the consent of any Mortgagee or any Owner:

14.1. Declarant shall have the right and an easement to maintain sales or leasing offices, management offices, storage areas, models and related facilities throughout the Condominium and to maintain one or more marketing, directional or advertising signs on the Common Elements so long as the Declarant is marketing the Units in the Condominium. Declarant reserves the right to maintain models, management offices, storage areas and sales and leasing offices in any Units owned or subleased by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate. Declarant may from time to time relocate models, storage areas, management offices and sales and leasing offices to different locations within the Condominium. Declarant shall have the right and an easement to post signs, flags and banners on the Common Elements in connection with its marketing of Units. Declarant's rights under this Section 14.1 shall expire on the date that is six (6) months after the conveyance of the last Unit by the Declarant.

14.2. So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to restrict the use of the Parking Spaces which are not allocated as Limited Common Elements. Such right shall include reserving such Parking Spaces for use by prospective Unit purchasers, Declarant and Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

14.3. The Declarant reserves the right, subject to the Ground Lease, to retain all personal property and equipment used in the sales, management, construction and maintenance of the Condominium that has not been represented to the Association as property of the Association. The Declarant reserves the right, subject to the Ground Lease, to remove from the Condominium any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

14.4. Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over and across the Common Elements and the Units to erect and construct the Common Elements and the Units shown on the Plat and all other Improvements the Declarant may deem appropriate, and to use the Common Elements and any Units owned by Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work in the Condominium.

14.5. The Declarant and its employees, agents, contractors and subcontractors shall have an easement through the Units for the purpose of completing any installations, renovations, servicing, repairs, warranty work or modifications to be performed by Declarant.

14.6. The Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Condominium Act and the Condominium Documents and for the purpose of exercising Special Declarant Rights whether arising under the Condominium Act or reserved in this Declaration.

14.7. To the extent not expressly reserved by or granted to Declarant by other provisions of this Declaration, Declarant reserves all Development Rights and Special Declarant Rights.

14.8. Subject to the Ground Lease, in the event of any conflict or inconsistency between this Article 14 and any other provisions of the Condominium Documents, this Article 14 shall control and prevail over such other provisions.

ARTICLE 15 CLAIM AND DISPUTE RESOLUTION/LEGAL ACTIONS

It is intended that the Project will be constructed in compliance with all applicable building codes and ordinances and that all improvements will be of a quality that is consistent with the good construction and development practices in the area where the Project is located. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and the responsibility therefor. It is intended that all disputes and claims regarding Alleged Defects in any improvements on any Unit or Common Element, or Limited Common Element will be resolved amicably, without the necessity of time-consuming and costly litigation. Accordingly, Declarant, the Association, the Board, and all Owners shall be bound by the following claim resolution procedures; however, and notwithstanding the foregoing, this Article 15 does not apply to disputes arising under the Ground Lease.

15.1. Alternative Dispute Resolution. Any dispute or claim between or among the Declarant (or its brokers, agents, consultants, contractors, subcontractors, or employees) on the one hand, and any Owner(s) or the Association on the other hand, and arising out of or relating to (i) the design or construction of any portion of the Project, (ii) or an Alleged Defect, but excluding disputes relating to the payment of any type of Assessment (collectively a "Dispute"), shall be subject first to Declarant's right to cure, then negotiation, then mediation, and then arbitration as set forth in this Article 15 prior to any party to the Dispute instituting litigation with regard to the Dispute.

15.2. Right to Cure Alleged Defect. If a Person, Owner, or Subtenant (collectively "Claimant") claims, contends, or alleges an Alleged Defect, each Declarant, or any of its contractors as the case may be, shall have the right to inspect, repair and/or replace such Alleged Defect as set forth herein.

15.2.1. Notice of Alleged Defect. If a Claimant discovers an Alleged Defect, within fifteen (15) days after discovery thereof, Claimant shall give written notice of the Alleged Defect ("Notice of Alleged Defect") to Declarant.

15.2.2. Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by Declarant of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by Declarant, Declarant shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into Claimant's Unit for the purposes of inspecting and/or conducting testing and, if deemed necessary by Declarant at its sole discretion, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

15.2.3. No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Article shall be construed to impose any obligation on a Developer to inspect, test, repair, or replace any item or Alleged Defect for which such Declarant is not otherwise obligated under applicable law or any warranty. The right reserved to Declarant to enter, inspect, test, repair and/or replace an Alleged Defect shall be irrevocable and may not be waived or otherwise terminated with regard to a Declarant except by a written document executed by Declarant and recorded.

15.3. Negotiation. Each party to a Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving a Dispute by good faith negotiation. Upon receipt of a written request from any party to the Dispute, the Board may appoint a representative to assist the parties in resolving the dispute by negotiation, if in its discretion the Board believes its efforts will be beneficial to the parties and to the welfare of the Condominium. Each party to the Dispute shall bear their own attorneys' fees and costs in connection with such negotiation.

15.4. Mediation. If the parties cannot resolve their Dispute by negotiation within such time period as may be agreed upon by such parties (the "Termination of Negotiations"), the party instituting the Dispute (the "Disputing Party") shall have thirty (30) days after the Termination of Negotiations within which to submit the Dispute to mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other independent entity providing similar services upon which the parties to the Dispute may mutually agree. No person shall serve as a mediator in any Dispute in which such person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the Dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. If the Disputing Party does not submit the Dispute to mediation within thirty days after Termination of Negotiations, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to Persons not a party to the foregoing proceedings.

15.4.1. Position Memoranda; Pre-Mediation Conference. Within ten (10) days of the selection of the mediator, each party to the Dispute shall submit a brief memorandum setting forth its position with regard to the issues to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties to the Dispute shall attend unless otherwise agreed. The mediation shall commence within ten (10) days following

submittal of the memoranda to the mediator and shall conclude within fifteen (15) days from the commencement of the mediation unless the parties to the Dispute mutually agree to extend the mediation period. The mediation shall be held in Bexar County or such other place as is mutually acceptable by the parties to the Dispute.

15.4.2. Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Dispute and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the parties to the Dispute agree to obtain and assume the expenses of obtaining such advice as provided in subsection 15.4.4 below. The mediator does not have the authority to impose a settlement on any party to the Dispute.

15.4.3. Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

15.4.4. Expenses of Mediation. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof of expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute unless agreed to otherwise. Each party to the Dispute shall bear their own attorneys' fees and costs in connection with such mediation.

15.5. Final and Binding Arbitration. If the parties cannot resolve their Dispute pursuant to the procedures described in Sections 15.3 and 15.4 above, the Disputing Party shall have thirty (30) days following termination of mediation proceedings (as determined by the mediator) to submit the Dispute to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as modified or as otherwise provided in this Section 15.5. If the Disputing Party does not submit the Dispute to arbitration within thirty days after termination of mediation proceedings, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to Persons not a party to the foregoing proceedings. The existing parties to the Dispute shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding.

15.5.1. Place. The arbitration proceedings shall be heard in Bexar County, Texas, or such other place as is mutually acceptable to the parties to the Dispute.

15.5.2. Arbitrator. Within twenty (20) days of the delivery and receipt of such notice of Dispute consistent with the terms of this Agreement, the Parties shall mutually name an arbitrator to resolve such dispute or controversy with substantial experience with

comparable commercial real estate transactions. If the Parties fail to timely select an arbitrator, either Party may apply to the Presiding Civil Judge of the Superior Court of Bexar County, Texas, requesting that he appoint an arbitrator with substantial experience with comparable real estate transactions, and shall provide notice of such application to the other Party. If the Presiding Civil Judge either declines or fails to make such appointment within ten (10) days after his receipt of such application, any Party may thereafter submit such dispute to the local office of the American Arbitration Association which shall appoint an arbitrator who is not affiliated with either Party and who has substantial experience with comparable commercial real estate transactions and issues. The Party demanding arbitration shall be solely responsible for any arbitration filing fee that may be required by the arbitrator or arbitration entity. A demand for arbitration shall not be considered initiated until the complaining Party has paid the arbitration filing fee.

15.5.3. Arbitration Process. The arbitrator shall conduct all proceedings pursuant to Vernon's Texas Civil Statute, Title 7 (or successor provisions) and the Rules of the American Arbitration Association governing commercial transactions then existing (the "Rules"), to the extent that such Rules are not inconsistent with the Texas Statutes and this Declaration. In all events, unless waived by the Parties, the arbitrator, shall be a person experienced in the subject matter of the Dispute, will conduct an arbitration hearing at which the Parties and their counsel shall be present and have the opportunity to present evidence and examine the evidence presented by the other Party. The proceedings at the arbitration hearing shall, unless waived by the Parties, be conducted under oath and before a court reporter. Upon the conclusion of the arbitration hearing, the arbitrator shall and must select the position offered by one of the Parties with respect to each individual Dispute (*i.e.*, each issue presented for resolution), without variation. The Parties shall cooperate in good faith to permit a conclusion of the arbitration hearing within thirty (30) days following the appointment of the arbitrator, and shall endeavor to submit a joint statement setting forth each Dispute to be resolved, including a summary of each Party's position on each Dispute. The decision of the arbitrator with respect to any Dispute shall be final and binding on the Parties and shall be treated as an approval of the matter subject to the Dispute by the Parties.

15.5.4. Standards of Conduct. The Parties agree that with respect to all aspects of the dispute resolution process contained herein they will conduct themselves in a manner intended to assure the integrity and fairness of that process. To that end, if a Dispute is submitted to arbitration, the Parties agree that they will not contact or communicate with the arbitrator with respect to any Dispute either *ex parte* or outside of the contacts and communications contemplated by this Article 15, and the Parties further agree that they will cooperate in good faith in the production of documentary and testimonial evidence in a prompt and efficient manner to permit the review and evaluation thereof by each Party and the arbitrator.

15.5.5. Remedies. Any arbitrator contemplated by this Declaration shall be entitled to order specific performance of any of the obligations of the Parties and may award actual damages on account of the default of any of the Parties hereunder; provided that the Parties expressly agree that actual damages only may be awarded in the event of default and in no event shall special, punitive or consequential damages be awarded.

Judgment upon the decision rendered by the arbitrator shall be final and binding upon the Parties, and may be entered in any court having jurisdiction.

15.5.6. Costs and Fees. Each party to the Dispute shall bear all of its own costs incurred prior to and during the arbitration proceedings, including the fees and costs of its attorneys or other representatives, discovery costs, and expenses of witnesses produced by such party. Each party to the Dispute shall share equally all charges rendered by the arbitrator unless otherwise agreed to by the parties.

15.6. Other Claims and Disputes. All other claims and disputes not subject to the provisions of Sections 15.1-15.6, including disputes arising under the Ground Lease, shall be resolved at law or in equity.

15.6.1. Association Actions. In the event that any Owner, and/or any Mortgagee shall fail to comply with the provisions of the Condominium Act, this Declaration, the Articles, the Bylaws, or the Rules and Regulations, the Association shall have each and all of the rights and remedies provided for in this Declaration, the Articles, the Bylaws, or the Rules and Regulations, or which may be available at law or in equity, and may prosecute any action or other proceeding against such Owner for enforcement of such provisions or foreclosure of its lien and the appointment of a receiver for the Unit, or damages, or injunctive relief, or specific performance, or judgment for payment of money and collection thereof, or to sell the same as hereinafter provided, or any combination of such remedies or any other and further relief which may be available at law or in equity, all without notice and without regard to the value of such Unit or the solvency of such Owner. The proceeds of any rental or sale shall first be applied to discharge court costs, other litigation costs, including, without limitation, reasonable attorneys' fees, and all other expenses of the proceeding and sale. The remainder of such proceeds shall be applied first to the payment of any unpaid assessment or other charges and the satisfaction of any other damages, and any balance shall be held by the Association for the payment of any future assessment or other charges. Upon the confirmation of the sale, the purchaser of such Unit shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for a writ of possession for the purpose of acquiring such possession. The purchaser at any such sale shall take the Unit sold subject to all of the covenants, conditions and restrictions contained in this Declaration. All expenses of the Association in connection with any such action or proceeding, including court costs and reasonable attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, shall be secured by a lien upon the Unit of such defaulting Owner as provided in Article 9 hereof and shall bear interest at the rate of eighteen percent (18%) per annum or the maximum allowed per law, whichever is lower, from the date such were incurred until paid in full. In addition to the remedies granted to the Association pursuant to this Article 15, in the event that any Owner or the Association shall fail to comply with the provisions of the Condominium Act, this Declaration, the Articles, the Bylaws, or the Rules and Regulations, any non-defaulting Owner shall have each and all of the rights and remedies provided for in the Condominium Act, this Declaration, the Articles, the Bylaws or the Rules and Regulations or which may be available at law or in equity and may prosecute any action or other proceeding against

such defaulting Owner or the Association for the enforcement of such provisions, injunctive relief and/or specific performance.

15.6.2. Notwithstanding any provision of this Declaration to the contrary, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien and/or rights of any mortgagee except as herein expressly provided, each and all of such covenants, conditions, restrictions, reservations and servitudes shall be binding upon and effective against any Subtenant under any Sublease or against any Owner of any Unit whose title thereto is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

15.7. Time of the Essence. The Parties agree that time is of the essence with respect to the resolution of any Disputes arising hereunder. In no event shall demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statutes of limitations, statutes of repose, or contractually imposed time limits.

ARTICLE 16 GENERAL PROVISIONS

16.1. Notices. Notices provided for in the Condominium Act, this Declaration, the Articles or the Bylaws shall be in writing and shall be mailed by certified mail postage prepaid if to the Association or the Board addressed to the address to which payments of assessments are then sent; and, if to an Owner, addressed to his Unit at the Condominium. The Association or the Board may designate a different address or addresses to which notices shall be sent from time to time by giving written notice of such change of address to all Owners. Any Owner may also designate a different address or addresses to which notices shall be sent by giving written notice of his change of address to the Association. Notices shall be deemed delivered upon receipt shown on the certified or registered receipt, after being deposited, properly addressed, in the United States mail, postage prepaid, or immediately upon delivery in person. Upon written request to the Board, which written request specifies an address to which notices may be sent, any Mortgagee shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner subject to the Mortgage held by such Mortgagee.

16.2. Public Dedication. Nothing contained in this Declaration shall be deemed to constitute a dedication for public use or to create any rights in the general public. Nothing contained in this Declaration shall be construed as creating an obligation on the part of the County of Bexar in the State of Texas or any other governmental authority having jurisdiction over the Property to maintain, repair or replace any Unit or the appurtenances thereto.

16.3. Severability. If any provision of this Declaration, the Articles, the Bylaws or the Rules and Regulations, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid by a Court of competent jurisdiction, the validity of the remainder of this Declaration, the Articles, the Bylaws or the Rules and Regulations, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstance shall not be affected thereby, shall remain in full force and effect as if such invalid

part shall be promptly amended as herein provided or reformed by such court so as to implement the intent hereof to the maximum extent permitted by law.

16.4. Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Owner or Member from any liability or obligation incurred under, or in any way connected with, the Association during the period of such ownership or membership, or impair any rights or remedies which the Association may have against such former Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

16.5. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws or the Association Rules, the provisions of this Declaration shall prevail.

16.6. Perpetuities and Restraints on Alienation. If any of the easements, privileges, covenants, interests or rights created by this Declaration would otherwise be unlawful, void or voidable for violation of the rule against perpetuities, then such shall continue in existence until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, Barack Obama, or the Governor of Texas, Greg Abbott.

16.7. Rights and Obligations. Each grantee of Declarant, by the acceptance of a deed of conveyance, each purchaser under any agreement of sale, by execution of such agreement for sale, and each Mortgagee, by the acceptance of any instrument conveying any interest in the Property as security for the performance of an obligation, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration and the Ground Lease. All rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and equitable servitudes and shall be binding upon and shall inure to the benefit of any grantee, purchaser or any person having at any time any interest or estate in the Property in a like manner as though the provisions of this Declaration and the Ground Lease were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument of transfer, and each grantee shall be entitled to bring, and shall be subject to, an action for the recovery of damages, and for injunctive relief, or both, resulting from any breach of any such provisions.

16.8. Waiver. Any right or remedy provided for in this Declaration shall not be deemed to have been waived by any act or omission, including, without limitation, any acceptance of payment or partial performance or forbearance, except by an instrument in writing specifying such right or remedy and executed by the person against whom enforcement of such waiver is sought.

16.9. Professional Management Agreement. The Association may employ a responsible individual, corporation or other entity as manager to manage, operate and maintain the Common Elements, with all of the administrative functions and such other powers and duties as the Association may delegate from time to time and for such fees as the Association may establish. The cost of such Manager shall be a Common Expense. The Association may also

employ the Company to act as Manager for a fee consistent with the charges of a third party manager. The Manager employed by the Association may also be employed by any Owner to manage, operate, repair and maintain its respective Unit or Units provided, however, that the costs, expenses and fees incurred in connection therewith shall be accounted for separately and shall not be the obligation of the Association.

16.10. Taxes. Each Owner shall pay when due all real estate and personal property taxes, charges and assessments levied against each Unit.

ARTICLE 17
TERMINATION

This Declaration shall remain in full force and effect for the term of the Ground Lease, as may be extended or renewed.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the ____ day of _____, 2015.

_____, a Texas limited liability company By: _____ Its: Manager	_____, an Texas non-profit corporation By: _____ Its: _____
---	---

STATE OF TEXAS)
) ss.
COUNTY OF BEXAR)

This instrument was acknowledged before me this ____ day of _____, 2015, by _____, the Manager of _____, an Texas limited liability company, on behalf of said company.

My commission expires:

Notary Public

STATE OF TEXAS)
) ss.
COUNTY OF BEXAR)

This instrument was acknowledged before me this ____ day of _____, 2015, by _____, the _____ of the _____, a Texas non-profit corporation, on behalf of said corporation.

My commission expires:

Notary Public

LESSOR CITY OF SAN ANTONIO CONSENT

Pursuant to the Uniform Condominium Act §82.056, the City of San Antonio, by Ordinance _____; hereby consents to the foregoing Declaration Establishing the Stinson 99 Leasehold Declaration of Covenants, Conditions and Restrictions.

Dated this ____ day of _____, 2015.

By: _____
Its: _____

STATE OF TEXAS

COUNTY OF BEXAR

On the _____ day of _____, 2015, before me, the undersigned authority, this instrument was acknowledged by _____, _____ of the City of San Antonio, a Texas Municipal Corporation, on behalf of that entity in the capacity stated.

Notary Public, State of Texas

Approved as to Form:

By: _____
City Attorney

EXHIBIT "A"

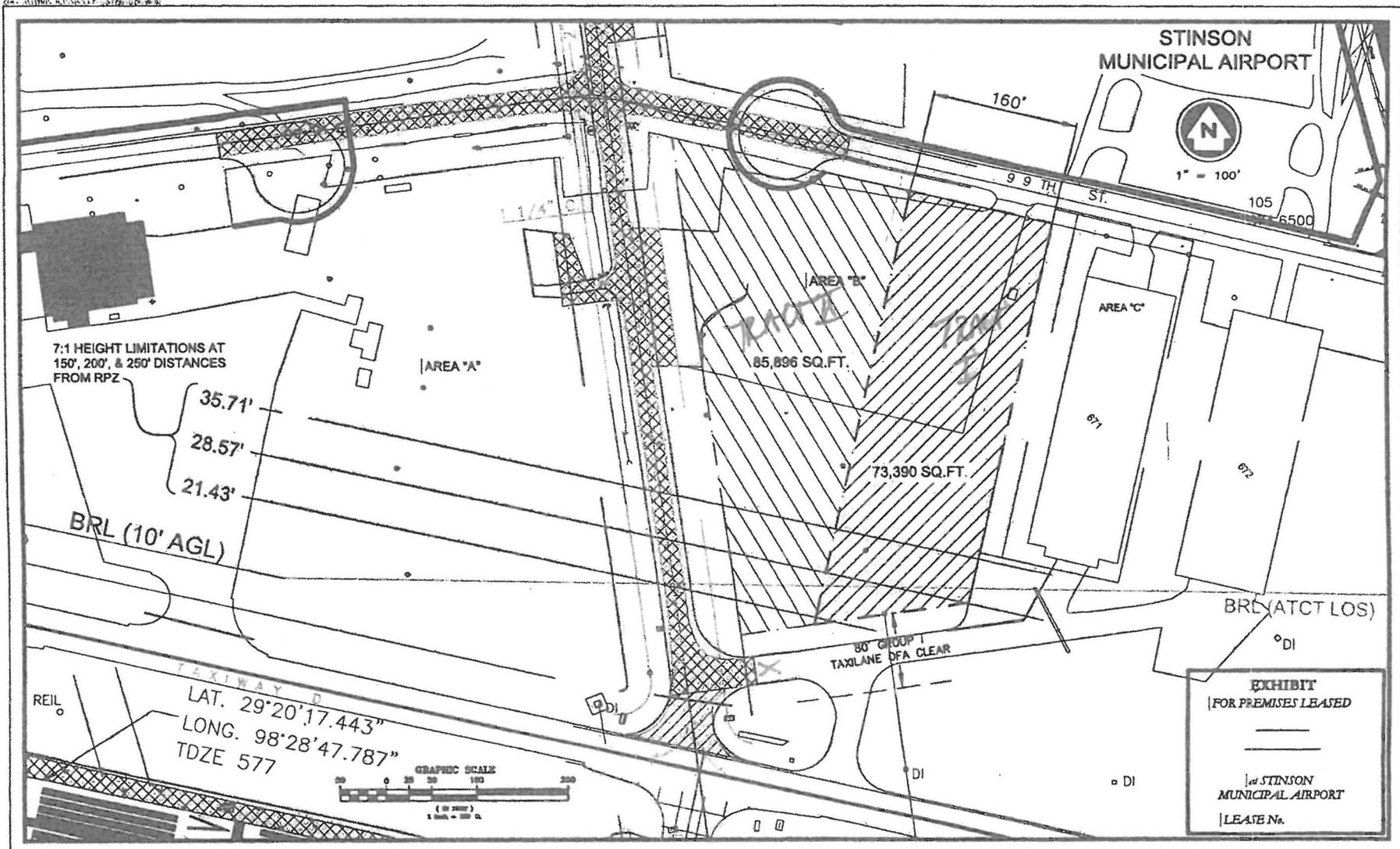
Legal Description of the Building

EXHIBIT "B"

Units and Common Element Percentage

Unit	Net Square Feet	Common Element Percentage
1		
2		
3		
4		
5		
6		

EXHIBIT 2
LEASE PREMISES



STINSON MUNICIPAL AIRPORT



1" = 100'

105
6500

160'

9 9 TH ST.

AREA "A"

AREA "B"

85,896 SQ.FT.

AREA "C"

73,390 SQ.FT.

671

672

BRL (ATCT LOS)

DI

DI

DI

7:1 HEIGHT LIMITATIONS AT
150', 200', & 250' DISTANCES
FROM RPZ

35.71'

28.57'

21.43'

BRL (10' AGL)

LAT. 29°20'17.443"
LONG. 98°28'47.787"
TDZE 577

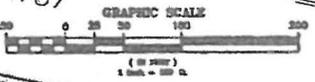


EXHIBIT
FOR PREMISES LEASED

of STINSON
MUNICIPAL AIRPORT

LEASE No.

EXHIBIT 3

ASSUMPTION AGREEMENT

WHEREAS, City of San Antonio ("Lessor") and Lone Western Star Development, LLC ("Developer") a Texas limited liability corporation, have heretofore entered into Stinson Municipal Airport Lease ("Lease Agreement") whereby Lessee has leased a portion of Stinson Municipal Airport ("Airport") for construction thereon by Developer of a multi-hangar facility ("Facility") for the sole purpose of conveying individual hangar units ("Units") to qualifying owners for the storage of general aviation aircraft; and

WHEREAS, the Lease Agreement provides, inter alia, (i) Lessor will permit Developer to construct the Facility at its sole cost and expense; (ii) after completion of the Facility, Developer and Unit Owners (as defined below) will have the use and occupancy of the Facility for the term of the Lease Agreement; and (iii) title to the Facility will vest in Lessor free and clear of any and all liens and encumbrances of whatever character upon the expiration of the Lease Agreement or earlier termination of the Lease Agreement due to default of Lessee; and

WHEREAS, under the Lease Agreement, Lessor will receive Ground Rental for the leased premises and additional fees and charges as set forth in the Lease Agreement; and

WHEREAS, Lessee pursuant to Lease Agreement will consist, jointly and severally, of Developer and each and every owner of a Unit and the Leased Premises ("Unit Owner") by reason of the fact that Developer intends to create and sell ownership interests in individual units of the Facility and the Leased Premises pursuant to a leasehold condominium declaration in accordance with Chapter 82. Uniform Condominium Act of the Texas Property Code, as it may be amended; and, when Developer has sold all such Units, Developer will, in legal effect, have assigned to all Unit Owners its entire interest in and to the Facility and the leasehold estate existing pursuant to the Lease Agreement; and

NOW, THEREFORE, for ten dollars (\$10) and other good and valuable consideration, the undersigned warrants and agrees as follows:

1. That undersigned Unit Owner has read and is familiar with all the terms and provisions of the Lease Agreement, and all Exhibits thereto, by and between the Lessor and Lessee; which Lease Agreement is attached hereto and made a part hereof for all purposes as if fully set out herein; and
2. That undersigned Unit Owner has or will become owner of the Unit identified as follows:

Printed Name

Address

3. That undersigned Unit Owner has or will purchase the above identified Unit from the person or entity whose name and address is listed below:

Printed Name

Address

The undersigned Unit Owner hereby covenants and agrees, jointly and severally with Developer and each and all Unit Owners, to be subject to, and burdened with, all covenants, agreements, conditions and restrictions of the attached Lease Agreement, and respectively and collectively, to perform, keep, and observe all covenants, agreements, conditions and restrictions of the Lease Agreement.

Notwithstanding anything to the contrary contained herein, Unit Owners shall have no monetary liability for nor be obligated to guarantee the payment of the costs for the construction of the Facility, which obligations shall be the sole and exclusive responsibility of Developer under the Lease Agreement.

This Assumption Agreement may not be revoked by undersigned Unit Owner; and the same shall be and continue so long as the Lease Agreement shall be in effect and so long as any term, obligation, condition or undertaking imposed on Lessee thereunder remains unsatisfied. Provided, however, the undersigned Unit Owner may be released and discharged of liability under this Assumption Agreement, only by conveying full title to all Units owned by Unit Owner to a third party, by instrument in the form and format of this Assumption Agreement, and such third party must assume jointly and severally with Developer and all Unit Owners all agreements, undertakings and covenants on the part of Lessee, and/or all Unit Owners to be performed under this Lease Agreement.

IN WITNESS WHEREOF, the undersigned Unit Owner has executed this Assumption Agreement this ____ day of _____, 20__.

UNIT OWNER:

Signature

Printed Name

Address

State of Texas
County of _____

This instrument was acknowledged before me the ____ day of _____, 20__, by _____

(Personalized Seal)

Notary Public

Accepted by Aviation Director on behalf of the City of San Antonio this __ day of _____, 20__.

Signature

Printed Name

Approved as to Form:

By: _____
City Attorney

EXHIBIT 4

BYLAWS

STINSON 99 OWNERS' ASSOCIATION
BYLAWS

BYLAWS
OF
STINSON 99 OWNERS' ASSOCIATION

ARTICLE 1

GENERAL PROVISIONS

1.1. Principal Office. The principal office of this corporation shall be located at the place as is designated in the Articles of Incorporation or such other place as the Association may designate from time to time in accordance with the Texas Business Organizations Code as provided for in the Texas Statutes, but meetings of Members and directors may be held at such other place within the State of Texas as may be designated by the Board of Directors.

1.2. Defined Terms. Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Declaration Establishing the Stinson 99 Owners' Association and Declaration of Covenants, Conditions and Restrictions ("Declaration") recorded in the official records of the County Clerk of Bexar County, Texas, as such the Declaration may be amended from time to time. As used in these Bylaws, the term "Eligible Votes" means the total number of votes entitled to be cast by Members as of the Record Date for determining the Members entitled to vote at a meeting or in respect of any other lawful action including, but not limited to, an action by written ballot or written consent. As used in these Bylaws, the term "Project Documents" means the Condominium Documents and the Ground Lease.

1.3. Conflicting Provisions. In the case of any conflict between the Articles and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the event of any conflict between the Ground Lease and the Bylaws, the Ground Lease shall control.

1.4. Corporate Seal. The Association may have a seal in a form approved by the Board.

1.5. Designation of Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end of the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

1.6. Books and Records. The books, records and papers of the Association shall be available for inspection by any Member during reasonable business hours. The Project Documents shall be available for inspection by any Member during reasonable business hours at the principal office of the Association, where copies may be purchased at reasonable cost.

1.7. Amendment. The power to alter, amend or repeal the Bylaws is reserved to the Members except that (a) so long as the Declarant owns any portion of the Property, the Declarant may amend these Bylaws without the consent of any other member, and (b) so long as the Declarant owns any portion of the Property, the Declarant, and thereafter the Board, without a vote of the Members, may amend the Bylaws in order to conform the Bylaws to the requirements or guidelines of any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required by law or requested by the Declarant or the Association.

1.8. Indemnification. To the extent it has the power to do so under Title 2, Chapter 22, of the Texas Business Organizations Code, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that he is or was a Member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, and against judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Indemnification of any such person shall be made in accordance with the procedures set forth in the Texas Business Organizations Code.

ARTICLE 2

MEETINGS OF MEMBERS

2.1. Annual Meeting. An annual meeting of the Members of the Association shall be held at least once every twelve (12) months at such time and place as is determined by the Board.

2.2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board or upon written request signed by Members having at least one-half (1/2) of the Eligible Votes in the Association. The close of business on the thirtieth (30th) day before delivery of the demand or demands for a special meeting shall be the Record Date for the purpose of determining whether the demand for the Special Meeting has been signed by Members having at least one-half (1/2) of the Eligible Votes.

2.3. Notice of Meetings. Except as otherwise provided in the Articles, the Declaration or these Bylaws, written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, at least ten (10) but not more than fifty (50) days before such meeting to each Member entitled to vote thereat as of the Record Date addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special

meeting, the purpose of the meeting. When a meeting is adjourned to another time or place within thirty (30) days, notice need not be given of the adjourned meeting if the time and place of the meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Association may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each Member entitled to vote at the meeting. By attending a meeting, a Member waives any right he may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or the statutes of the State of Texas. In addition, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter at the time it is presented.

2.4. Quorum. Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by proxy of Members entitled to cast one-half (1/2) of the Eligible Votes in the Association shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

2.5. Proxies. At all meetings of the Members a vote may be cast in person or by proxy. A proxy may be granted by any Member in favor of only another Member, the Secretary of the Association, the Declarant, or the Member's mortgagee, or in the case of a nonresident Member, the lessee of such Member's Lot, his attorney or managing agent. A proxy shall be duly executed in writing and it shall be valid only for the particular meeting designated in the proxy. All proxies must be filed with the Secretary prior to the commencement of the meeting for which the proxy is given. The proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of a notice of revocation signed by the Member who granted the proxy. No proxy shall be valid after twenty-five months from the date of its execution. The death or incapacity of the Member who appoints a proxy shall not affect the right of the Association to accept the proxy's authority unless the Secretary or other officer or agent authorized to tabulate votes receives written notice of the death or incapacity before the proxy exercises authority under the appointment.

2.6. Record Date.

2.6.1. For any meeting of the Members, the Board shall fix a date as the Record Date ("Record Date") for determining the Members entitled to notice of the meeting. If the Board fails to fix a Record Date for any meeting of the Members, the Record Date for determining the Members entitled to notice of the meeting shall be the business day before the day on which the notice of the meeting is given. The Board shall also fix a date as the Record Date for determining the Members entitled to vote at a meeting of the Members, which shall be the date of the meeting.

2.6.2. A determination of Members entitled to vote at a meeting of the Members is effective for any adjournment of the meeting, unless the Board fixed a new date for determining the right to vote. The Board shall fix a new date for determining the right to vote if the meeting is

adjourned to a date that is more than seventy (70) days after the Record Date for determining Members entitled to notice at the original meeting.

2.6.3. The Board shall fix a date as the Record Date for the purpose of determining the Members entitled to exercise any rights in respect of any other lawful action of the Members. If a Record Date is not fixed by the Board, Members at the close of business on the day on which the Board adopts the resolution relating to that Record Date, or the sixtieth (60th) day before the date of other action, whichever is later, are entitled to exercise those rights.

2.6.4. The Record Date fixed by the Board under this Section shall not be more than seventy (70) days before the meeting or action requiring a determining of Members. If a court orders a meeting adjourned to another date, the original Record Date for notice of voting continues in effect.

2.7. Organization and Conduct of Meeting. All Members attending a meeting of the Members shall register with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting, and all proxies must be filed with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting. After the meeting is called to order by the chair of the meeting, no further proxies or changes, substitutions or revocation of proxies shall be accepted. All meetings of the Members will be called to order and chaired by the President of the Association, or if there is no President or if the President is absent or so requests, then by the Vice President. If both the President or if the Vice President are not present at the meeting, any other officer of the Association or such member of the Association as is appointed by the Board may call the meeting to order and chair the meeting. The chair of the meeting may appoint the Manager to chair the meeting or portions thereof. The chair of the meeting may appoint any person (whether or not a Member of the Association) to act as Recording Secretary. The chair of the meeting shall have the authority to determine the order of business to be conducted at the meeting and to establish reasonable rules for expediting the business of the meeting, but the rulings of the chair with respect to such matters may be overruled by Members having more than fifty percent (50%) of the votes represented in person or by proxy at the meeting.

2.8. Action by Written Ballot. Any action that the Association may take at any annual, regular or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of directors; and (c) specify the time by which a ballot must be delivered to the Association in order to be counted, which time shall not be less than five (5) business days after the date that the Association delivers the ballot. Once a written ballot has been received by the Association, the ballot may not be revoked. Approval by written ballot pursuant to this Section is valid only if both the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the

number of votes which would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

2.9. Voting Requirements. Unless otherwise provided in the Project Documents, if a quorum is present at a meeting of the Members, the affirmative vote of a majority of the votes represented and voting is the act of the Members.

ARTICLE 3

BOARD OF DIRECTORS

3.1. Number. The affairs of this Association shall be managed by a Board of three (3) directors. Each director after the Initial Director(s) shall be an owner or the spouse of an owner (or if an owner is a corporation, partnership, limited liability company, association or trust, a director may be an officer, partner, manager, member or beneficiary of such owner). If a director shall cease to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board deemed vacant. The Board may increase the number of directors on the Board but the number of directors must always be an odd number and shall not exceed five (5) directors.

3.2. Term of Office. The initial Member(s) of the Board shall hold office until their successors are elected and qualified. All directors shall be elected for a term of one (1) year. Despite the expiration of a director's term, a director shall continue to hold office until the director's successor is elected, designated or appointed and qualified, until the director's resignation or removal or until there is a decrease in the number of directors.

3.3. Removal. Except for directors appointed by the Declarant, at any annual or special meeting of the Members duly called, any one or more of the Members of the Board of Directors may be removed from the Board with or without cause by Members having more than fifty percent (50%) of the Eligible Votes, and a successor may then and there be elected to fill the vacancy thereby created.

3.4. Appointment and Election. So long as the Declarant owns any part of the Property, the Declarant shall have the right to appoint and remove the members of the Board. Thereafter, the directors shall be elected by the Members at the annual meeting of the Members. For each election of directors, the Board shall either prescribe an opening and closing date of a reasonable filing period in which each eligible person may declare their candidacy for election to the Board by giving written notice thereof to the Secretary of the Association or appoint a Nominating Committee to nominate candidates for election to the Board. The Board may also establish such other rules and regulations as it deems appropriate with respect to the nomination and election of directors. In each election of directors, the number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be deemed elected. Cumulative voting will not be permitted in the election of directors.

3.5. Resignation of Directors. A director may resign at any time by delivering written notice to the Board, its presiding officer or the Association. A resignation is effective when the notice is delivered unless the notice specifies a later effective date or event. If a resignation is made effective at a later date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date.

3.6. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties. A director may also receive compensation for services he provides to the Association, at competitive rates, if the Association would otherwise be required to purchase such services from a third party.

3.7. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any such written consent shall be filed with the minutes of the proceedings of the Board. Each director shall have one (1) vote.

3.8. Vacancies. So long as Declarant owns any portion of the Property, any vacancy on the Board shall be filled by the Declarant. Thereafter, and except for vacancies on the Board caused by the removal of a director in accordance with the provisions of Section 3.3 of these Bylaws, any vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum or by a sole remaining director, and any director so chosen shall hold office until the next election of the directors when a successor is elected and qualified. Any newly created directorship shall be deemed a vacancy. When one or more directors resigns from the Board, effective at a future time, a majority of the directors then in office, including those who have so resigned, may fill such vacancy, the vote on the vacancy to take effect when such resignation becomes effective. If by reason of death, resignation or otherwise, the Association has no directors in office, any officer or Member may call a special meeting of the Members for the purpose of electing the Board of Directors.

3.9. Meetings.

3.9.1. Meetings of the Board, regular or special, shall be held at least annually and may be held by means of conference telephone or other similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation at such meeting shall constitute presence in person at the meeting.

3.9.2. Regular meetings of the Board may be held with or without notice at such time and place as is determined from time to time by the Board.

3.9.3. Special meetings of the Board may be called by the President on three (3) business days' notice to each director, given in writing, by hand delivery, mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be

called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

3.9.4. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.10. Quorum.

3.10.1 A majority of the directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board.

3.10.2 A director who is present at a meeting of the Board when corporate action is taken is deemed to have assented to the action taken unless either: (a) the director objects at the beginning of the meeting or promptly on the director's arrival to holding it or transacting business at the meeting; (b) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or (c) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the Association before 5:00 p.m. on the next business day after the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

3.10.3 A director may vote in person or by proxy. A director may appoint a proxy to vote or otherwise act for the director by signing an appointment form, either personally or by the director's attorney-in-fact. The appointment does not relieve the director of liability for acts or omissions imposed by law on directors. An appointment of a proxy is effective when received by the Secretary. An appointment is valid for one (1) month unless a different period is expressly provided in the appointment form. An appointment of a proxy is revocable by the director. The death or incapacity of a director appointing a proxy is a basis for a director stating that the proxy is revocable. The death or incapacity of a director appointing a proxy shall not affect the right of the Association to accept the proxy's authority unless written notice of death or incapacity is received by the Secretary before the proxy exercises its authority under the appointment. Subject to any express limitation on the proxy's authority appearing on the face of the appointment form, the Association is entitled to accept the proxy's vote or other action as the vote of the director making the appointment.

3.11. Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Project Documents required to be exercised or done by the Members. In addition to the duties imposed by these Bylaws or by any resolution of the Members that may hereafter be adopted, the Board shall have the following powers and duties:

3.11.1. Open bank accounts on behalf of the Association and designate the signatories thereon;

3.11.2. Make, or contract for the making, of repairs, additions to, improvements to or alterations of the Common Elements, in accordance with the Project Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

3.11.3. In the exercise of its discretion, enforce by legal means the provisions of the Project Documents; provided, however, that the Association shall not be obligated to take action to enforce any provision of the Project Documents if the Board determines, in its sole discretion, that because of the strength of the Association's position, possible defenses, the time and expenses of litigation or other enforcement action, the likelihood of a result favorable to the Association or other factors deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association;

3.11.4. Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Common Elements and provide services for the Members, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

3.11.5. Provide for the operation, care, upkeep and maintenance of all of the Common Elements and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance for the Common Elements; provided, however, the consent of Members having at least eighty-five percent (85%) of the total votes in the Association shall be obtained either in writing or at a meeting called and held for such purpose in accordance with the provisions of these Bylaws in order for the Association to borrow in excess of \$5,000;

3.11.6. Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year;

3.11.7. Adopt and publish rules and regulations governing the use of the Common Elements and facilities and the personal conduct of the Members and their family members, guests, lessees and invitees thereon and establish penalties for the infraction thereof;

3.11.8. Suspend the voting rights and the right to use of the Common Elements of a Member during any period in which such Member shall be in default in the payment of any Assessment or other amounts due under the terms of the Project Documents for a period of fifteen (15) days and for a period not to exceed sixty (60) days for any infraction of the Project Documents;

3.11.9. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of the Project Documents;

3.11.10. Declare the office of a Member of the Board to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board;

3.11.11. Employ, hire and dismiss such employees as they deem necessary and to prescribe their duties and their compensation;

3.11.12. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote;

3.11.13. Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

3.11.14. Levy, collect and enforce the payment of assessments in accordance with the provisions of the Declaration;

3.11.15. Issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

3.11.16. Procure and maintain adequate property, liability and other insurance as required by the Declaration;

3.11.17. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

3.11.18. Cause the Common Elements to be maintained, as more fully set forth in the Declaration.

3.12. Manager. The Board may employ for the Association and the Project a "Manager" at a compensation established by the Board. A member of the Board may be the Manager if the Board so determines. The Manager shall perform such duties and services as the Board shall authorize, including, but not limited to, all of the duties listed in the Project Documents except for such duties and services that under the Project Documents may not be delegated to the Manager. The Board may delegate to the Manager all of the powers granted to the Board or the officers of the Association by the Project Documents other than the power (i) to adopt the annual budget, any amendment thereto or to levy Assessments; (ii) to adopt, repeal or amend Association Rules; (iii) to designate signatories on Association bank accounts; (iv) to borrow money on behalf of the Association; (v) to acquire real property. So long as the Declarant owns any part of the Property, any change in the Manager must be approved in writing by the Declarant.

3.13. Right of Declarant to Disapprove Actions.

3.13.1. So long as the Declarant owns any part of the Property, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of Declarant

under the Declaration or these Bylaws, or interfere with development or construction of any portion of the Property, or diminish the level of services being provided by the Association.

3.13.2. The Declarant shall be given written notice of all meetings and proposed actions of the Members by written ballot without a meeting and of all meetings and proposed actions of the Board or any committee at least fifteen (15) days prior to the meeting or proposed action. Such notice shall be given by United States mail, postage prepaid, or by personal delivery at the address the Declarant has registered with the Secretary of the Association, which notice shall, except in the case of the annual meeting of the Members, set forth with reasonable particularity the agenda to be followed at such meeting.

3.13.3. The Declarant shall be given the opportunity at any such meeting to participate in or to have its representatives or agents participate in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth in this Section. No action, policy or program subject to the right of disapproval set forth in this Section shall become effective or be implemented until and unless the requirements of this Section have been met.

3.13.4. The Declarant, through its representatives or agents, may make its concerns, thoughts and suggestions known to the Board and/or the members of a committee. The Declarant, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was taken or, in the case of any action taken by written ballot in lieu of a meeting, at any time within 10 days following receipt of written notice of the action taken. This right to disapprove may be used to block proposed actions. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

ARTICLE 4

OFFICERS AND THEIR DUTIES

4.1. Enumeration of Officers. The principal officers of the Association shall be the President, Vice President, Secretary, and Treasurer, all of whom shall be elected by the Board. The President must be a Member of the Board. Any other officer may, but need not, be Members of the Board.

4.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

4.3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

4.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

4.7. Multiple Offices. Any two or more offices may be held simultaneously by the same person except the offices of President and Secretary.

4.8. Powers and Duties. To the extent such powers and duties are not assigned or delegated to a manager pursuant to Section 3.12 of these Bylaws, the powers and duties of the officers shall be as follows:

4.8.1. President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Board or the Members; shall see that orders and resolutions of the Board are carried into effect; and have general and active management of the business of the Association;

4.8.2. Vice-President. The Vice-President shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board;

4.8.3. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association, together with their addresses, and shall perform such other duties as required by the Board;

4.8.4. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Project Documents; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members; and, in general, perform all the duties incident to the office of treasurer

ARTICLE 5

FINES

5.1. Power of Board to Impose Fines. Pursuant to the power granted to the Board by the Declaration, the Board shall have the right to impose reasonable fines against an Owner for a violation of any provision of the Project Documents by the Owner, tenants or guests.

5.2. Notice of Violation.

5.2.1. The Board, or any person designated by the Board, may serve a "Notice of Violation" against an Owner for a violation of any provision of the Project Documents by the Owner, his tenants or guests. A Notice of Violation shall contain (i) a description of the violation, (ii) the approximate time and place at which the violation was observed, (iii) the amount of the fine to be paid by the Owner for such violation, (iv) the name of the person issuing the Notice of Violation, and (v) a statement advising the Owner of the Owner's right to-request a hearing pursuant to Section 5.2.4 of the Bylaws.

5.2.2. A Notice of Violation shall be deemed to have been served if delivered personally to the Owner named in the Notice of Violation or sent to the Owner by registered or certified United States mail, return receipt requested, postage prepaid. A Notice of Violation served by mail shall be deemed to have been received by the Owner to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is deposited in the United States mail. A Notice of Violation given by mail shall be addressed to the Owner at the address of the Owner as shown on the records of the Association. If a more than one person or entity owns a particular Unit, a Notice of Violation to one of the joint Owners shall constitute notice to all of the joint Owners.

5.2.3. The Owner shall pay the fine set forth in the Notice of Violation to the Association within ten (10) days after the Notice of Violation is served on the Owner unless prior to that time the Owner requests a hearing on the violation pursuant to Section 5.2.4 of the Bylaws.

5.2.4. Any Owner served with a Notice of Violation may request a hearing on the violation. The request for a hearing must be addressed to the Secretary of the Association and must be actually received by the Association within ten (10) days after the service of the Notice of Violation. Upon receipt of a request for a hearing pursuant to this Section, the President or any other officer of the Association shall schedule a hearing on the violation before the Board or before a hearing officer or a committee approved by the Board and shall notify the Owner requesting the hearing of the date, time and place of the hearing. The notice of the hearing shall also advise the Owner of his right to produce statements, evidence and witnesses on his behalf and to be represented at the hearing by an attorney. If the hearing on the violation is before the Board, then the minutes of the meeting of the Board at which the hearing is held shall reflect the fact that the hearing on the violation was held and the action taken by the Board on the violation. If the hearing is held before a hearing officer or a committee appointed by the Board, then the hearing officer of the committee conducting the hearing shall, within ten (10) days after the conclusion of the hearing, make a written recommendation to the Board on what action the Board should take in the violation. Upon receipt of

the recommendation from the hearing officer or the committee, the Board shall act upon the recommendation. Any fine which is affirmed by the Board following a hearing pursuant to this Section shall be paid by the offending Owner within ten (10) days after a notice of the action of the Board is served upon the Owner. Service of the notice from the Board shall be made in the same manner as service of a Notice of Violation pursuant to Section 5.2.2 of the Bylaws.

5.2.5. Any fines imposed pursuant to this Article 5 shall be the joint and several liability of all of the joint Owners of a Unit.

ARTICLE 6

ARCHITECTURAL CONTROL COMMITTEE

6.1. Committee Composition. The Architectural Control Committee shall consist of at least three (3) members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a Member of the Board or an officer of the Association. The Board may increase the number of members on the Architectural Control Committee but the number of members must always be an odd number.

6.2. Terms of Office. The term of office for members of the Architectural Control Committee shall be a period of one year, or until the appointment of a successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired may be reappointed.

6.3. Appointment and Removal. So long as the Declarant owns any part of the Property, the Declarant shall have the right to appoint and remove the members of the Architectural Control Committee. When the Declarant no longer owns any part of the Property, or before that time at the sole option of the Declarant, the Board shall appoint and remove all members of the Architectural Control Committee, except that no member may be removed from the Architectural Control Committee by the Board unless the removal is approved by the vote or written consent of more than eighty-five percent (85%) of all of the Members of the Board.

6.4. Resignations. Any member of the Architectural Control Committee may at any time resign from the Committee by giving written notice thereof to the Board.

6.5. Vacancies. Vacancies on the Architectural Control Committee, however caused, shall be filled by the Board. A vacancy or vacancies on the Architectural Control Committee shall be deemed to exist in case of the death, resignation or removal of any member.

6.6. Duties. It shall be the duty of the Architectural Control Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms of the Declaration, to adopt Architectural Control Committee Rules, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by the Declaration.

6.7. Meetings and Compensation. The Architectural Control Committee shall meet from time to time as necessary to perform its duties. The vote or written consent of a majority of the members of the Committee, at a meeting or otherwise, shall constitute the act of the committee unless the unanimous decision of the Committee is required by any other provision of the Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meeting or otherwise. Members of the Architectural Control Committee shall not be entitled to compensation for their services.

6.8. Architectural Control Committee Rules. The Architectural Control Committee may adopt, amend and repeal, by unanimous vote or written consent, rules and regulations. Said rules shall interpret and implement the Declaration by setting forth the standards and procedures for Architectural Control Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are required to be used within the Property.

6.9. Waiver. The approval by the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Control Committee under the Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or other matter subsequently submitted for approval.

CERTIFICATION

I hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association on the ____ day of _____, 2015.
