

Declaration of Restrictive Covenants
In Lieu of Unity of Title

This instrument prepared by:

**DECLARATION OF RESTRICTIVE COVENANTS
IN LIEU OF UNITY OF TITLE**

KNOW ALL BY THESE PRESENTS that the undersigned Owners hereby make, declare and impose on the land herein described, the easement and covenants running with the title to the land, which shall be binding on the Owners, their heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them;

WHEREAS, Owners hold the fee simple title to the land in the City of Miami Beach, Florida, described as follows, and hereinafter called the "Property," for the project entitled " _____ " located at _____, Miami Beach, Florida:

WHEREAS, the Owners intend to improve the Property for _____ use; and

WHEREAS, the Owners may develop the buildings on the Property in a condominium format of ownership and/or in two or more phases; and

WHEREAS, the Owners may develop the buildings on the Property for sale to multiple owners or in a condominium or association format of ownership and/or in two or more phases; and

WHEREAS, the Owners may wish to convey portions of the Property from time to time, and may wish to offer units as condominiums, this instrument is executed in order

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to assure that the phased development, or development of the property with future multiple ownership, will not violate the Land Development Regulations of the City of Miami Beach.

NOW THEREFORE, in consideration of the premises, Owner hereby agrees as follows:

1. The subject site will be developed as a unified development site in substantial accordance with the approved site plan, after one has been submitted and approved under the City's land development regulations. No modification shall be effectuated in such site plan without the written consent of the then owner(s) of the phase or portion of the property for which modification is sought, all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, and the Director of the City's Planning Department; provided the Director finds that the modification is in compliance with the land development regulations. Should the Director withhold such approval, the then owner(s) of the phase or portion of the property for which modification is sought shall be permitted to seek such modification by application to modify the plan at public hearing before the appropriate City board or the City Commission of Miami Beach, Florida, (whichever by law has jurisdiction over such matters). Such application shall be in addition to all other required approvals necessary for the modification sought. Proposed modifications to the property's use, operation, physical condition or site plan shall also be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.

2. If the subject property will be developed in phases, each phase will be developed in substantial accordance with the approved site plan.

3. In the event of multiple ownerships subsequent to site plan approval, each of the subsequent owners shall be bound by the terms, provisions and conditions of the declaration of restrictive covenants. Owners further agree that they will not convey portions of the subject property to such other parties unless and until the Owners and such other party or parties shall have executed and mutually delivered, in recordable form, an instrument to be known as an easement and operating agreement which shall contain, among other things:

- (i) Easements in the common area of each parcel for ingress to and egress from the other parcels;

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- (ii) Easements in the common area of each parcel for the passage and parking of vehicles;
- (iii) Easements in the common area of each parcel for the passage and accommodation of pedestrians;
- (iv) Easements for access roads across the common area of each parcel to public and private roadways;
- (v) Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;
- (vi) Easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;
- (vii) Easements upon each such parcel in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
- (viii) Easements on each parcel for attachment of buildings;
- (ix) Easements on each parcel for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
- (x) Appropriate reservation of rights to grant easements to utility companies;
- (xi) Appropriate reservation of rights to road right-of-ways and curb cuts;
- (xii) Easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
- (xiii) Appropriate agreements between the owners of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.

The easement provisions or portions thereof may be waived by the Director if they are not applicable to the subject property (such as for conveyances to purchasers of individual condominium units). These provisions of the easement and operating agreement shall not be amended without prior written approval of the City Attorney. In addition, such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, or the Director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan.

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4. The provisions of this instrument shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then owners of the Property and the Director of the Department of Planning, acting for and on behalf of the City of Miami Beach, Florida upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the Property for the purposes herein intended.

5. The provisions of this instrument may be amended, modified or released by a written instrument executed by the then Owner or Owners of the Property, with joinders by all mortgagees, if any. Should this Declaration of Restrictive Covenants be so modified, amended or released, and the Director of the Department of Planning or his successor, approves, then such Director or successor shall forthwith execute a written instrument effectuating and acknowledging such amendment, modification or release. No modification, amendment or release shall be effective without the Director's, or his successor's, approval.

6. Enforcement shall be by action against any parties or persons violating or attempting to violate any covenants. The prevailing party to any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements, allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

7. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect.

8. This Declaration shall be recorded in the public records of Miami-Dade County at the Owners' expense.

9. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

10. In the event of a violation of this Declaration, in addition to any other remedies available, the City of Miami Beach is hereby authorized to withhold any future

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permits, and refuse to make any inspections or grant any approval, until such time as this Declaration is complied with.

Signed, witnessed, executed and acknowledged on this _____ day of _____, _____.

IN WITNESS WHEREOF, the Owners have caused these presents to be signed in their name by their proper officials.

Witnesses:

Signature

(Name of Corporation)

Address:

Print Name

Signature

By _____

Title _____

(President, Vice-President, or CEO)

Print Name

Witnesses:

Signature

(Name of Corporation)

Address:

Print Name

Signature

By _____

Title _____

(President, Vice-President, or CEO)

Print Name

STATE OF _____)

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COUNTY OF _____)
_____)

The foregoing instrument was acknowledged before me by _____, the _____ of _____ corporation, on behalf of the corporation. He or she is personally known to me or has produced _____, as identification.

Witness my signature and official seal this _____ day of _____, _____, in the County and State aforesaid.

Notary Public-State of _____

Print Name

My Commission Expires:

STATE OF _____)
_____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by _____, the _____ of _____ corporation, on behalf of the corporation. He or she is personally known to me or has produced _____, as identification.

Witness my signature and official seal this _____ day of _____, _____, in the County and State aforesaid.

Notary Public-State of _____

Print Name

My Commission Expires:

APPROVED AS TO

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FORM & LANGUAGE
& FOR EXECUTION

City Attorney Date

City Planning Director Date

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