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CONDOMINIUM DECLARATION
FOR
PRIVATE RESIDENCES CONDOMINIUM

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**PRIVATE RESIDENCES
CONDOMINIUM**

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CONDOMINIUM DECLARATION

FOR

PRIVATE RESIDENCES CONDOMINIUM

This Declaration is made and established on February 26, 2004 by Declarant.

RECITALS:

1. Declarant is the fee simple owner of the Property.
2. Declarant desires to create a Condominium pursuant to the provisions of the Act.
3. Declarant intends hereby to establish a plan for the individual ownership of estates in real property consisting of Units and the appurtenant undivided ownership percentage interests in the Common Elements.

NOW, THEREFORE, Declarant does hereby submit the Property to the provisions of the Act and the Condominium established hereby, and does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations, and obligations are hereby established and shall be deemed to be covenants running with the Land and shall be a burden and benefit to Declarant, the Association, the Owners and their respective heirs, legal representatives, successors and assigns.

ARTICLE I

DEFINED TERMS

Section 1.1 Defined Terms. Each capitalized term not otherwise defined in this Declaration or in the Map shall have the meanings specified or used in the Act. As used in this Declaration, the following terms shall have the meanings set forth below:

"Access Easement" means a perpetual, irrevocable and non-exclusive easement and right of access and entry to each Unit and the Limited Common Elements, from time to time as may be reasonably necessary for (i) maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom, (ii) making of emergency repairs therein necessary to prevent harm or damage to the Common Elements, any Unit or any occupant, (iii) taking such measures as the Association deems necessary for the conservation of utilities, and (iv) such other reasonable purposes as are deemed by the Association to be necessary for the performance of the obligations

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of the Association as described herein, in the Act or the Bylaws or to be necessary for the performance of the obligations of the Manager under the Management Agreement.

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

"Amenities Easement" means a perpetual, irrevocable and non-exclusive easement benefiting the Owners of the Residential Units, their guests and invitees, for access to and the use of the swimming pool and health club facility currently located within or about the Commercial Unit at any time while such amenities are open to the general use of the guests of the Hotel, together with any replacement or substitute swimming pool or health club facility hereafter located within or about the Commercial Unit, subject to such rules and regulations as may be imposed by the Owner of the Commercial Unit or its agent in accordance with Section 3.7.2.

"Articles" means the articles of incorporation of the Association filed with the Texas Secretary of State, as amended from time to time.

"Assessments" means Monthly Assessments and Special Assessments established under this Declaration, together with dues, fees, charges, interest, late fees, fines, collection costs, attorney's fees, and any other amount due to the Association by the Owner of a Unit or levied against a Unit by the Association.

"Association" means Private Residences Condominium Association, Inc., a Texas non-profit corporation.

"Board of Directors" means the Board of Directors of the Association named in the Articles, and their successors duly elected or appointed and qualified from time to time.

"Building" means the building located on the Land in which the Units are located.

"Bylaws" means the bylaws of the Association initially adopted by the Board of Directors, as amended from time to time.

"Capital Reserve Contribution" means an amount equal to the Monthly Assessment multiplied by three (3) to be contributed to the Association by each Owner other than Declarant and other than the Residential Unit Developer as provided in Section 8.3 of this Declaration.

"Commercial Unit" means the Unit identified as Unit C-1 on Exhibit C attached hereto and made a part hereof for all purposes and which may be used for any uses permitted under this Declaration.

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"Common Elements" means all portions of the Condominium other than the Units, including both the General Common Elements and the Limited Common Elements.

"Common Elements Easement" means a perpetual, irrevocable and non-exclusive easement over the General Common Elements for ingress to and egress from each Unit, together with the non-exclusive right to use and enjoy the General Common Elements, and the exclusive right to use and enjoy the Limited Common Elements appurtenant to each Owner's Unit (subject to the rights of other Owners to use and enjoy such Limited Common Elements if appurtenant to more than one Unit).

"Common Expenses" means all costs, expenses and financial obligations of the Association, together with any allocations to improvement and replacement reserves made pursuant to the provisions of this Declaration, the Bylaws or a resolution duly adopted by the Board of Directors.

"Condominium" means the form of real property established by this Declaration with respect to the Property, in which portions of the Property are designated for separate ownership or occupancy and the remainder of the Property is designated for common ownership or occupancy solely by the Owners of such remainder, and containing a maximum of 56 Residential Units and 1 Commercial Unit, subject to the provisions of Section 2.8.

"Contract Expenses" means the costs and expenses to be incurred by the Association under contractual arrangements with the Hotel pursuant to which the Hotel will provide certain administrative, security, cleaning, concierge, engineering and other services benefiting solely the Residential Units and the Owners of the Residential Units, which expenses shall be payable from the Monthly Assessment assessed against the Residential Unit Owners only, as provided in Section 6.3.3 of this Declaration.

"Declarant" means HEF Houston LP, a Texas limited partnership, whose address for notice is c/o Maritz, Wolff & Co., 7701 Forsyth, Suite 1025, St. Louis, Missouri 63105, and any successor party to whom Declarant shall expressly assign, in a writing filed for record in the Real Property Records of Harris County, Texas, the rights, powers, privileges, duties, obligations and/or prerogatives of Declarant. Any such successor party will be required to assume in writing all obligations and duties of Declarant under this Declaration. The conveyance of a Unit to an Owner will not constitute a conveyance of any rights, privileges, powers, prerogatives, duties or obligations of Declarant under this Declaration.

"Declarant Control Period" means the period commencing on the date of this Declaration and continuing until the date which is one hundred twenty (120) days after the date that deeds to seventy-five percent (75%) of the Units (in number) have been recorded in the Real Property Records of Harris County, Texas.

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"Declaration" means this Condominium Declaration for Private Residences Condominium and all recorded amendments thereto.

"Development Rights" means a right or combination of rights to: (i) add real property to the Condominium; (ii) create Residential Units, Commercial Units, Common Elements, or Limited Common Elements within the Condominium; (iii) subdivide Units, combine Units or convert Units into Common Elements; (iv) withdraw any real property from the Condominium; and (v) exercise any other development rights permitted to be exercised by Declarant in this Declaration and under the Act. The Development Rights so reserved may be exercised by Declarant to the extent and only if permitted by this Declaration and by the Act and at all times while Declarant owns any Unit or other real property interest in the Condominium, or for such lesser time as may be permitted by the Act.

"Easements" means the Access Easement, the Common Elements Easement, the Support Easement, the Utility Easement, and the Vertical Access Easement.

"First Lien Loan" means any indebtedness secured by a first and prior lien or encumbrance upon a Unit.

"First Mortgagee" means any Person which is the holder, insurer or guarantor of a First Lien Loan and which has provided the Association with written notice of its name, address and description of the Owner's Unit upon which it holds the First Lien Loan.

"General Common Elements" means all portions of the Common Elements that are not Limited Common Elements.

"Hotel" means the hotel operated in the Commercial Unit. As of the date of this Declaration, the Hotel is the Four Seasons Houston Center Hotel.

"Improvements" means the Building and all pavement, fencing, landscaping, recreational facilities, plumbing, electrical, telephone and telecommunication lines, computer cables and any other fixtures affixed to the Building and/or the Land.

"Insurance Proceeds" means any and all proceeds received by an Owner from an insurance company as a result of a casualty loss in connection with a Unit.

"Land" means that certain lot, tract or parcel of real property located in Harris County, Texas, and more particularly described on Exhibit A attached to this Declaration, together with any and all rights and appurtenances pertaining thereto.

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"Limited Common Elements" means those portions of the Common Elements that are allocated by the Act, this Declaration, the Map or by deed executed by Declarant for the exclusive use of one or more, but less than all, of the Units.

"Management Agreement" means the written contract between the Declarant or the Association and the Manager for the management of the Property and/or the administration of the Association and the Condominium, which may include provisions relating to services to be offered to some or all of the Owners by the Manager relating to the Hotel if the Manager at such time operates the Hotel. The initial Management Agreement means that certain Condominium Management and Services Agreement dated on or about the date of conveyance of the Residential Units to the Residential Unit Developer, executed by the Association and Four Seasons Hotels Limited.

"Manager" means any Person with whom Declarant or the Association contracts for the management of the Property and/or the administration of the Association and the Condominium. The initial Manager shall be Four Seasons Hotels Limited.

"Map" means the plats and plans attached hereto as Exhibit B and hereby made a part hereof for all purposes.

"Monthly Assessment" means the Assessment established by the Board of Directors pursuant to Section 6.1 of this Declaration.

"Owner" means any Person (including Declarant) who owns fee title to a Unit, but does not include any Person having an interest in a Unit solely as security for an obligation.

"Parking Easement" means a perpetual, irrevocable and non-exclusive easement benefiting the Owners of the Residential Units to use parking spaces in the parking garage comprising a portion of the Commercial Unit, on a non-designated valet basis, as more particularly provided for in Section 3.7.1. The total number of parking spaces available under the Parking Easement for the Owners of the Residential Units shall be equal to the aggregate parking spaces required to provide (a) one parking space for each one-bedroom Residential Unit, (b) two parking spaces for each two or three-bedroom Residential Unit and (c) three parking spaces for each Residential Unit created from a combination of two or more Residential Units under Section 2.8 of this Declaration.

"Past Due Rate" means the maximum lawful rate of interest under Texas law. If there is no maximum lawful rate of interest under Texas law, the Past Due Rate means eighteen percent (18%) per annum.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Property" means the Land and the Improvements.

"Regulations" means the rules and regulations of the Association, and all amendments thereto, as from time to time adopted by the Board of Directors.

"Rents" means any and all rental or other income received by an Owner of a Residential Unit in connection with the leasing of an Owner's Unit.

"Residential Unit" means a Residential Unit identified as such on Exhibit C attached hereto and made a part hereof and which shall be used or occupied exclusively for single family residential purposes.

"Residential Unit Access Easement" means a perpetual, irrevocable and non-exclusive easement and right of access and entry through the Commercial Unit and any elevators providing access to the floors on which any of the Residential Units are located as may be necessary for access to and from the Residential Units, for the benefit of the Owners of the Residential Units and their guests and invitees. As part of the Residential Unit Access Easement, the Owners of a Residential Unit shall have the same rights of access and entry to floors one through four of the Commercial Unit as any individual transient guest of the Hotel, subject to compliance with the reasonable rules and regulations of the operator of the Hotel, so as to allow each Owner of a Residential Unit the full benefit of the Parking Easement, Amenities Easement and Residential Unit Access Easement and reasonable rights of access between the Hotel public areas (including, without limitation, the health club, swimming pool and other areas open to individual transient guests of the Hotel) and the Residential Units.

"Residential Units Easements" means collectively the Amenities Easement, the Parking Easement and the Residential Unit Access Easement.

"Residential Unit Developer" means ORC/1111 Caroline, L.P., a Delaware limited partnership, and any successor party to whom Residential Unit Developer expressly assigns, in a writing filed for record in the Real Property Records of Harris County, Texas, the rights, powers, privileges, duties, obligations and/or prerogatives of the Residential Unit Developer. The conveyance of a Unit by the Residential Unit Developer to an Owner will not constitute a conveyance of any rights, privileges, powers, prerogatives, duties or obligations of the Residential Unit Developer under this Declaration..

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"Roof Easement" means a perpetual, non-exclusive easement over and above the entire surface of the roof of the Building for electric, telecommunications, transmitting and similar equipment as specified in Section 3.5.2.

"Special Assessments" means Assessments established by the Board of Directors under the provisions of Section 6.2 of this Declaration.

"Special Declarant Rights" means rights reserved for the benefit of Declarant to: (i) complete Improvements, if any, shown on the Map; (ii) exercise any Development Right; (iii) maintain the sales, management and leasing offices and models described in Section 3.1.5 of this Declaration; (iv) use Easements through any Common Elements for the purpose of making improvements within the Condominium or the Property; (v) appoint or remove any officer or member of the Board of Directors of the Association during the Declarant Control Period; or (vi) exercise the rights and powers enumerated in Section 3.4 of this Declaration or any other similar rights permitted to be reserved to Declarant under the Act.

"Support Easement" means a perpetual and irrevocable easement for maintenance, repair, replacement and improvement of all foundations, footings, columns, girders, support beams and any and all other structural members that support, uphold or are a part of the Building.

"Systems" includes, but is not limited to, all fixtures, equipment, pipes, lines, wires, computer cables, conduits, and other systems used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, wastewater, sewage, and audio, video and other electronic medium signals.

"Tenant" means any Person having the right to occupy a Unit pursuant to a lease for minimum periods of 12 consecutive months (except as provided in Section 3.1.4) granted by an Owner in accordance with this Declaration and the Regulations.

"Unit" means a physical portion of the Condominium that is designated for separate ownership or occupancy (the boundaries of which are depicted on the Map) and includes (i) all Systems which exclusively serve such Unit, whether within such Unit or not, and (ii) the finish materials, fixtures and appliances contained within the Unit, but excludes (x) any of the structural components of the Building located in such Unit and (y) Systems which serve more than one Unit, all as subject to and further described in Section 82.052 of the Act. "Unit" also means either a Residential Unit or Commercial Unit, as the case may be, together with an undivided ownership percentage interest, appurtenant to such Residential Unit or Commercial Unit, as the case may be, in and to the Common Elements.

"Utility Easement" means all existing recorded easements for utilities and any additional utility easements which Declarant may grant.

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"Vertical Access Easement" means a perpetual and irrevocable easement for access through the stairways, the elevators, the elevator shafts, fire rooms, fire systems and lobbies located within the Building.

ARTICLE II

GENERAL PROVISIONS

Section 2.1 Creation of Units; Map.

2.1.1 The Property is hereby divided into fee simple estates comprised of fifty-six (56) separately designated Residential Units and one (1) separately designated Commercial Unit, and each Unit's undivided interest in and to the Common Elements. Each Unit, together with each such Unit's undivided interest in the Common Elements, is for all purposes a separate parcel of and estate in real property. Accordingly, each such separate parcel of and estate in real property shall be deemed to include the Common Elements Easement that is hereby granted and conveyed to each Owner by Declarant. The separate parcels of and estates in real property designated hereby shall be created on the date of filing of this Declaration in the Real Property Records of Harris County, Texas, and shall continue until this Declaration is revoked or terminated in the manner herein provided.

2.1.2 The Map sets forth, inter alia, the following: (1) a general description and diagrammatic plan of the Condominium; (2) the location and dimension of all real property subject to Declarant's Development Rights; (3) all Improvements, including each Unit showing its Building location, floor and number and, by identifying Unit number as applicable, the Limited Common Elements appurtenant thereto; and (4) such other information as is desirable or required pursuant to Section 82.054 of the Act, including a certification as to compliance with Section 82.059 of the Act. It is expressly agreed, and each and every purchaser of a Unit, his heirs, executors, administrators, assigns, successors and grantees hereby agree, that the square footage, size and dimensions of each Unit and any Limited Common Elements appurtenant thereto, as set out and shown in this Declaration or on the Map, are approximate and are shown for descriptive purposes only, and that the Declarant does not warrant, represent or guarantee that any Unit or any Limited Common Element actually contains or will contain the area, square footage or dimensions shown on the Map. Each purchaser and owner of a Unit or interest therein has had full opportunity (or will have had prior to closing on the purchase thereof) and is under a duty to inspect and examine the Unit and any appurtenant Limited Common Element purchased by him prior to his purchase thereof and agrees that the Unit, together with any Limited Common Element, is purchased as actually and physically existing. Each purchaser of a Unit, including any purchasers of a Unit from the Residential Unit Developer, hereby expressly waives any claim or demand which he may have against the Declarant, the Residential Unit Developer or any other

person whomsoever, on account of any difference, shortage or discrepancy between the Unit and any appurtenant Limited Common Element as actually and physically constructed or existing and as they are shown on the Map. It is specifically agreed that in interpreting deeds, mortgages, deeds of trust and other instruments for any purpose whatsoever or in connection with any matter, the existing physical boundaries of the Unit or of any Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be boundaries, regardless of settling, rising or lateral movement of the Building and regardless of variances between the boundaries shown on the Map and those of the Building. Further, the Declarant reserves the right to amend this Declaration and the Map to correct any such discrepancies, and such right may be exercised by (a) Declarant or the Residential Unit Developer at any time before the date one hundred twenty (120) days after the sale and conveyance of the last Residential Unit by the Residential Unit Developer to a third party purchaser and (b) the Association at any time thereafter.

Section 2.2 Allocation of Undivided Ownership Percentage Interests in Common Elements; Creation of Limited Common Elements; Parking Rights.

2.2.1 The Common Elements shall remain undivided. The undivided ownership percentage interest of each Owner in and to the Common Elements is set forth opposite the Unit numbers in Exhibit C attached hereto and made a part hereof under the heading "Percentage Building Ownership". If at any time the undivided ownership percentage interest in and to the Common Elements is required to be reallocated by the Act or this Declaration, the formula to be used in establishing the allocations shall be that set forth on Exhibit C.

2.2.2 As part of the Declarant's Development Rights, the Declarant reserves the right to designate and assign portions of the General Common Elements as Limited Common Elements for the exclusive use of an Owner of a Unit to which the portions so designated and assigned shall become appurtenant; provided, that no General Common Elements in the Commercial Unit may be designated for the exclusive use of any person (including any Residential Unit Owner) other than the Commercial Unit Owner. For example, the Declarant may assign additional storage areas, in addition to that described in Section 2.2.3, to a Unit or Units as a Limited Common Element appurtenant to such Unit or Units. The Declarant may make such designation and assignment in any one or more of the following ways: (i) in a recorded instrument signed by the Declarant, (ii) in a deed to the Unit or Units to which such Limited Common Elements shall be appurtenant, or (iii) in an amendment to this Declaration signed by the Declarant.

2.2.3 The Maps reflect storage areas located on Levels 26 through Level 30 of the Building that are assigned as Limited Common Elements to the Residential Units. After its acquisition of the Residential Units, the Residential Unit Developer may further assign rights in such storage areas so that some, but not all, of the Owners of the Residential Units may have

rights to such storage areas and may further limit the use of any storage area as a Limited Common Element by making such storage area a Limited Common Element for only one Residential Unit. The Residential Unit Developer may make such assignment and/or limitation in any one or more of the following ways: (i) in a recorded instrument signed by the Residential Unit Developer, or (ii) in a deed to the Unit or Units to which such storage area shall be appurtenant as a Limited Common Element.

Section 2.3 Inseparability of Units: No Partition. Each Unit shall be inseparable, and shall be acquired, owned, conveyed, transferred, leased and encumbered only in its entirety. In no event shall a Unit held by more than one Owner be subject to physical partition and no Owner or Owners shall bring or be entitled to maintain an action for the partition or division of a Unit or the Common Elements; provided, that the Units are subject to combination and subdivision subject to compliance with the terms of this Declaration. Any purported conveyance, judicial sale, or other voluntary or involuntary transfer of an undivided ownership percentage interest in the Common Elements or the Residential Units Easements without the Unit to which such Common Elements or Residential Units Easements are allocated or appurtenant, as the case may be, is void.

Section 2.4 Permissible Relationships: Description.

2.4.1 A Unit may be acquired and held by more than one Person in any form of ownership recognized by the laws of the State of Texas.

2.4.2 Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of a Unit shall be in writing and shall legally describe such Unit by its identifying Unit number, followed by the words "Private Residences Condominium", with further reference to the recording data for this Declaration. Every such description shall be good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Unit. Any such description shall be construed to include all incidents of ownership relating to a Unit.

Section 2.5 Mortgage of Unit. An Owner shall be entitled from time to time to mortgage or encumber such Owner's Unit, to the extent allowed by applicable law, but any lien created thereby shall be subject to the terms and provisions of this Declaration, including without limitation the Easements and the Residential Units Easements hereunder. Any mortgagee or other lien holder who acquires a Unit through judicial or non-judicial foreclosure, public sale or other means shall be subject to the terms and provisions of this Declaration, including without limitation the Easements and the Residential Units Easements hereunder. An Owner who mortgages a Unit shall notify the Association, giving the name and address of said Owner's mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Units," and shall notify an Owner's First Mortgagee, in writing, of any default by such Owner in the performance of such Owner's obligations as set forth in this Declaration if such Owner's First Mortgagee has

requested from the Association such notice in writing. The Board of Directors may authorize the Association to enter into such agreements with any First Mortgagee as the Board of Directors shall approve, subject to the provisions of the Act and other applicable law.

Section 2.6 Alteration of Boundaries of Units. If an Owner (including the Declarant) owns or if two (2) or more Owners own Units which adjoin horizontally (on the same floor), such Owner or Owners shall have the right to relocate the boundaries between such adjoining Units by removing and relocating all or any part of any intervening partition, notwithstanding the fact that such partition may in whole or in part be a Common Element, so long as those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Unit or the Building; provided, however, that the Owner or Owners shall have the right to relocate certain Common Elements which are located within the said partition (such as pipes, flues, conduits, shafts, vents, ducts, wiring and the like) so long as such relocation is performed in a good and workmanlike manner by capable and experienced workmen and such Common Elements are fully operational upon completion of such relocation. Notwithstanding the above, prior to the commencement of any such alterations, such Owner or Owners shall submit to the Board of Directors of the Association for its approval the plans and specifications relating to such alterations. The Board of Directors may approve, with or without conditions, or disapprove such plans and specifications in its discretion. The Board of Directors shall be deemed to have disapproved such plans and specifications if it fails to approve such plans and specifications in writing within thirty (30) days after its receipt thereof. In the event of approval, the Association shall cause an appropriate instrument of amendment to this Declaration to be prepared, executed and recorded in accordance with the provisions of Section 9.3 hereof. The instrument of amendment shall (i) contain such plans and specifications as are necessary to show the relocation of the boundaries between the Units involved, which shall be certified as to their accuracy by a registered architect or engineer, (ii) recite the occurrence of any conveyancing between the Owners of the Units affected, (iii) specify any reasonable reallocation of the aggregate percentage ownership interest in the Common Elements and percentage liability for expenses of the Association pertaining to the Units affected (provided, that the aggregate of the percentage ownership interests and percentage liabilities for expenses of the Units after such relocation shall be the same as the aggregate of such interests and liabilities prior to such relocation), and (iv) specify any reallocation of parking rights and Limited Common Elements designated to either of the Units affected. The Association will cooperate reasonably with such Owner or Owners in effectuating such amendment to this Declaration, provided that all costs and expenses incurred by the Association in connection therewith, including attorney's, architect's, engineer's and management fees, shall be paid exclusively by such Owner or Owners. In the event any damage is caused to any load-bearing wall, Common Element, or another Owner's Unit as a result of an Owner's exercise of the rights granted hereunder, all such damage shall be repaired at the sole cost and expense of the Owner exercising such rights and the Association shall be entitled to assess the applicable Owner for such amount, and such assessed amount shall thereafter be considered an assessment for purposes of this Declaration.

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Section 2.7 Changes in the Plans Initially Assigned to Each Unit. The Map includes a horizontal description of the floor plan of each Unit as it is currently constructed within the Building. So long as Declarant or the Residential Unit Developer, or any assignee of their respective rights, is the Owner of the Unit, Declarant, on its own behalf and on behalf of the Residential Unit Developer and any other assignee of their respective rights, reserves the right to change, modify or amend a floor plan assigned to a Unit, which change, modification or amendment may affect the size, appearance, Systems and/or other components of the Unit to which such horizontal description relates. In the event Declarant, the Residential Unit Developer or such other assignee elects to change the floor plan assigned to a Unit as aforesaid, Declarant, the Residential Unit Developer or such other assignee, as the case may be, shall comply with Sections 82.059(f) and 82.060 of the Act by preparing, executing and recording in the Real Property Records of Harris County, Texas an appropriate instrument of amendment to this Declaration. The instrument of amendment shall contain such plats and plans as are necessary to show the new boundaries of the affected Unit, which shall be certified as to their accuracy by a registered architect or engineer.

Section 2.8 Subdivision or Combination of Units. Subject to the provisions of Sections 2.6 and/or 2.7 above, a Unit may be subdivided into two or more Units, or two or more Units may be combined to form a single Unit, only upon the written approval of any such subdivision or combination by the Board of Directors of the Association, subject to any conditions which the Board of Directors may impose with respect thereto. Notwithstanding the foregoing, each of Declarant and the Residential Unit Developer and their respective assignees may, at any time and from time to time during the Declarant Control Period, cause any Unit owned by any of them to be subdivided into two or more Units, or cause two or more Units owned by any of them to be combined to form a single Unit, as Declarant or the Residential Unit Developer or the assignee, as the case may be, in its sole and absolute discretion, may determine without the necessity of obtaining the approval of the Board of Directors. If, in accordance with the preceding sentence, Declarant, the Residential Unit Developer or an assignee shall cause a subdivision or combination of any Unit(s) to occur, Declarant, the Residential Unit Developer or the assignee, as the case may be, shall cause an appropriate amendment to this Declaration to be prepared and filed of record in the Real Property Records of Harris County, Texas, in order to accurately describe and define the subdivided or combined Unit(s) and to specify any reasonable reallocation of the aggregate percentage ownership interest in the Common Elements and percentage liability for expenses of the Association pertaining to the affected Unit(s) (provided, that the aggregate of the percentage ownership interests and percentage liabilities for expenses of the Unit(s) after such subdivision or combination shall be the same as the aggregate of such interests and liabilities for the Unit(s) prior to such subdivision or combination).

ARTICLE III

USES, RESERVATIONS AND RESTRICTIONS

Section 3.1 Permitted Uses.

3.1.1 Uses within the Commercial Unit shall be subject to all applicable zoning laws and the following uses shall be prohibited within the Commercial Unit unless approved in writing by Owners holding not less than eighty percent (80%) of the votes allocated by this Declaration: agricultural sales/service, automotive parts/repair, commercial blood plasma center, funeral services, arcade entertainment/pool hall (except as incidental to an otherwise permitted use), adult oriented business, pawn shop services, pet store, mortuary, funeral home, school, church, movie theater and drive-in restaurant. The Commercial Unit may be used as a hotel facility, with parking facilities in the portions of the Commercial Unit currently used for parking, and nothing contained herein shall be construed to limit uses of the Commercial Unit as a hotel facility and other normal and customary incidental uses related thereto.

3.1.2 Except as hereinafter provided with respect to the Residential Units owned by the Declarant, no Residential Unit shall be used or occupied for other than single family residential purposes; provided, however, that this prohibition shall not be construed to prohibit an Owner from having a home-office within his Unit as part of the overall residential use of such Unit. Each Unit shall also be subject to limitations on use, occupancy, architectural standards and such other matters as are set forth in the Regulations, but the application of such Regulations shall not prohibit or materially impair within the Commercial Unit a use as a hotel facility or a use otherwise permitted in the Commercial Unit under this Declaration.

3.1.3 For further clarity, any reference in this Declaration, the Bylaws or the Regulations to the ability of Owners to rent their Residential Units shall refer solely to rentals to the public for single family residential purposes conducted by the Owner, directly or through rental agencies or real estate brokers, strictly in accordance with the Declaration, the Bylaws and the Regulations, and shall exclude the use or occupancy of Residential Units under timeshare, fractional ownership, interval exchange (whether the exchange is based on direct exchange of occupancy rights, cash payments, reward programs or other point or accrual systems) or other membership plans or arrangements (collectively, "Occupancy Plans") through which a participant in an Occupancy Plan acquires an ownership interest in the Residential Unit with attendant rights of periodic use and occupancy or acquires contract rights to such periodic use and occupancy of the Residential Unit or a portfolio of accommodations including the Residential Unit. Use of any Residential Unit for or under an Occupancy Plan is strictly prohibited.

3.1.4 Residential Units may be leased; however, no Residential Unit shall be leased for transient or hotel purposes or for any term of less than twelve (12) consecutive months

(except by the Owner of the Commercial Unit if it owns 100% of the Residential Units). No Owner of a Residential Unit shall lease less than an entire Unit. There shall be no restrictions on the term of leases of the Commercial Unit and the Owner of the Commercial Unit may lease less than all of the Commercial Unit (stated otherwise, a tenant may lease only a portion of the Commercial Unit, such as a gift shop located in the lobby of the Commercial Unit or apartments located on the top floors of the Commercial Unit). The renting of rooms as part of the operation of a hotel facility or its related residential apartments within the Commercial Unit shall not be construed as the lease and the Owner of the Commercial Unit shall not be required to comply with the provisions of this subsection in connection with its operation of a hotel facility within the Commercial Unit. Any lease of a Residential Unit shall be in writing, shall state that it is subject in all respects to the provisions of this Declaration, the Bylaws and the Regulations, and shall provide that any failure by the Tenant thereunder to comply with the terms and provisions of this Declaration, the Bylaws or the Regulations shall be and constitute a default under such lease. A copy of each lease of a Residential Unit shall be delivered to the Association by the Owner promptly following execution. Each Owner shall be responsible for such Owner's Tenant complying with this Declaration, the Bylaws and the Regulations and shall indemnify and hold the Association harmless from any loss, cost, expense, damage, or liability incurred by the Association as a result of such Tenant's actions or omissions. In addition, the Board of Directors may (i) bring any action to evict a Tenant for the Tenant's violation of this Declaration, the Bylaws or the Regulations; (ii) bring an action to evict a Tenant who fails to pay the Association for the cost of repairs to Common Elements damaged by the Tenant; or (iii) collect rents from a Tenant who is at least sixty (60) days delinquent in the payment of any amount due to the Association. Notwithstanding the Association's attempt to collect the cost of repairs to Common Elements damaged by the Tenant from the Tenant, the Owner is liable and may be assessed for such costs if not paid by the Tenant within a reasonable period of time.

3.1.5 At all times while the Residential Unit Developer is the Owner of any Unit, the Residential Unit Developer may maintain a management office, a sales office, models and other sales facilities in the Residential Units. The Residential Unit Developer may, upon prior written notice to all Owners, change the location of any Units used as offices or models, but may not increase the size or number of such Units except as otherwise provided herein or by amendment of this Declaration.

Section 3.2 Further Requirements of Use. Each Owner shall maintain such Owner's Unit in a safe, clean and sanitary condition (including without limitation the repair of the sources of any unintended water intrusion into Owner's Unit and the repair of any water damage to the Owner's Unit, including any related mold growth), and shall not maintain at such Unit, nor permit such Unit or the Limited Common Elements appurtenant thereto to become, a public or private nuisance and, to the extent required under the Management Agreement, each Residential Unit and the Common Elements shall be maintained in accordance with the high standards and quality characteristic of the Hotel and, if applicable, the other hotels and resorts owned or managed and

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operated by Manager. Each Owner shall as soon as is practicable notify in writing the Association of any unintended water intrusion into the Owner's Unit and any water damage to the Owner's Unit (including related mold growth, if any). No odors shall be permitted by an Owner to arise from his Unit, the appurtenant Limited Common Elements or any portion thereof, that are reasonably offensive or detrimental to any other Unit Owner or occupant. Unless the Owner of the Commercial Unit owns 100% of the Residential Units, no commercial use of a Residential Unit by an Owner shall be permitted; provided, however, that this prohibition shall not be construed to prohibit an Owner from having a home-office within his Unit as part of the overall residential use of such Unit.

Section 3.3 Compliance with Declaration, Bylaws and Regulations. Each Owner and any occupant of any Unit automatically shall be deemed to have agreed to comply strictly with the provisions of this Declaration, the Bylaws and the Regulations and all other agreements entered into by the Association in accordance with this Declaration to the extent binding upon the Owners. A failure or refusal to so comply with the provisions of any such instrument after written notice shall be grounds for an action to recover damages or sums due, with interest thereon at the Past Due Rate, or for injunctive relief, or both, and for reimbursement of all attorneys' fees incurred in connection therewith, which action may be maintained by the Board of Directors or the Manager in the name of the Association on behalf of all of the Owners or, in a proper case, by an aggrieved Owner. In addition, an Owner's voting rights in the Association and Owner's or Owner's Tenant's right to use and enjoy the General Common Elements may by written notice be suspended by the Board of Directors during the period of such noncompliance.

Section 3.4 Reservations by the Declarant. To the extent and only if permitted by the Act, at all times while Declarant owns any Unit or any other real property interest in the Condominium or for such lesser time as may be permitted by the Act, Declarant reserves, as a part of the Special Declarant Rights, the following rights: (i) to establish, vacate, relocate and use the Easements as set forth in this Declaration; provided, however, that no modification of any Easement shall have the effect of altering or destroying a Unit or a Limited Common Element unless (A) the location of such Easement is shown on the Map, or (B) it is otherwise consented to by the Owner of such Unit or by the Owner to whose Unit such Limited Common Element is appurtenant, as well as by the First Mortgagee of any such Unit; (ii) to include, in any instrument initially conveying a Unit, such additional reservations, exceptions and exclusions as it may deem consistent with and in the best interests of the Owners and the Association; (iii) to have and use an easement over, under and across any and all of the Common Elements to the extent that same may be necessary or useful in constructing, repairing or completing the Units or as may be reasonably necessary for the exercise of any Special Declarant Rights or the performance of any obligations of the Declarant; and (iv) to exercise any Development Right.

Section 3.5 Easements.

3.5.1 The Declarant and the Association, and with respect to the Access Easement any Manager in connection with the performance of its obligations under the Management Agreement, shall have by virtue of the recordation of this Declaration and there is hereby granted and conveyed by the Owner of each Unit at the time each Owner accepts the deed to a Unit the Access Easement, the Support Easement, the Utility Easement and the Vertical Access Easement. The Owner of each Unit, by acceptance of the deed to a Unit, hereby grants the Declarant an irrevocable power of attorney, coupled with an interest with full power and authority to locate, grant, create and convey any additional utility easement. In addition, the Declarant shall have an easement through the Common Elements as may be reasonably necessary for discharging the Declarant's obligations or exercising the Special Declarant Rights under the Act or this Declaration.

3.5.2 The Declarant hereby reserves for the benefit of Declarant and its successors and assigns the Roof Easement as an unmanned site for electronic, telecommunications, transmitting and similar equipment. The Declarant shall have the unrestricted right to lease or license the Roof Easement area or any part thereof for the purposes specified above. If required by the Association, Declarant will move or remove fixtures and/or improvements, as necessary, to permit the Association to maintain, repair or replace the roof. The Declarant is responsible for the cost of repairing Common Elements if such repairs are necessitated by use or misuse of the Roof Easement. The Association does not insure fixtures or improvements installed pursuant to the Roof Easement and is not liable to Declarant or any other person for any loss or damage from any cause to the fixtures or improvements in the Roof Easement area. Declarant shall indemnify the Association, its officers, directors, employees, agents and members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from use or misuse of the Roof Easement. The Declarant also reserves for itself and its licensees and lessees an access easement over and through the Property for ingress to and egress from the Roof Easement area. The Roof Easement shall be assignable by the Declarant and shall bind and inure to the benefit of the Declarant and its successors and assigns. This subsection may not be amended without the written consent of the Declarant or its assignee.

Section 3.6 Encroachments. To the extent that a Unit or Common Element encroaches on another Unit or Common Element, a valid easement for the encroachment exists.

Section 3.7 Residential Units Easements.

3.7.1 The Declarant hereby reserves the Parking Easement for the benefit of some or all, as the case may be, of the Owners of the Residential Units. The right to parking spaces under the Parking Easement are hereby allocated to the Residential Units as follows: (a)

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one parking space for each one-bedroom Residential Unit, (b) two parking spaces for each two or three-bedroom Residential Unit and (c) three parking spaces for each Residential Unit derived from a combination of two or more Residential Units under Section 2.8 of this Declaration. No Person shall be entitled to designate or assign parking spaces out of the parking spaces reserved pursuant to this Parking Easement. Notwithstanding anything to the contrary contained in this Declaration, the total number of parking spaces available at any time under the Parking Easement for the Owners of the Residential Units shall include eighty (80) parking spaces. The right of an Owner of a Residential Unit to park in the parking garage pursuant to the Parking Easement shall not be construed as a Limited Common Element or convert any portion of the parking garage to a Common Element, but instead shall only constitute an easement in favor of the applicable Owner. The parking rights designated to a Residential Unit pursuant to this Parking Easement shall be inseparable, an Owner may not convey his rights to another Owner or any other Person, or sublet his parking rights, without also conveying ownership of the applicable Unit and any conveyance of a Unit shall be deemed to convey also such parking rights even though made without specifically referring to same. The Owner may assign his rights to a Tenant in which event the Owner will not be entitled to use the Parking Easement for so long as the Tenant has such rights. The parking rights of the Owners of the Residential Units shall be subject to the rules, regulations and requirements regarding the parking garage implemented from time to time by the Owner of the Commercial Unit in its sole discretion, including reasonable fees imposed on the Owners of the Residential Units to defray the costs of providing such service. The actual parking of automobiles in the parking garage shall be by a valet parking arrangement operated by or through the Owner of the Commercial Unit and the Owners of the Residential Units, and their Tenants, guests and invitees, shall not be permitted to self-park in the parking garage. In order to obtain the benefits of the parking rights assigned to it, an Owner of a Residential Unit must execute all such documents and agreements required by the Owner of the Commercial Unit in connection with such use, including without limitation a standard valet parking agreement containing disclaimers of liability in favor of the Owner of the Commercial Unit and its agent. Any additional parking made available by the Owner of the Commercial Unit within the Commercial Unit to individual Owners of the Residential Units shall be charged to the Residential Unit Owners at the then current rate, on an a-la-carte basis, and shall not be payable through the Association. Notwithstanding the foregoing sentence, the Owner of the Commercial Unit shall have no obligation to provide any off-site parking for use by the Residential Unit Owners. In addition to the foregoing, the Association may from time to time lease parking spaces in adjacent properties for the benefit of the Owners of the Residential Units and their guests on a first come, first serve basis, but no Owner shall have any vested rights in such additional parking spaces and the Association shall not be required to lease any such additional spaces. All rent and other amounts paid by the Association in connection with the lease of additional parking spaces shall be a Common Expense payable solely by the Owners of the Residential Units.

3.7.2 The Declarant hereby reserves the Amenities Easement for the benefit of all of the Owners of the Residential Units. Notwithstanding anything to the contrary contained in

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this Declaration, the right of an Owner of a Residential Unit to use the Amenities Easement shall not be construed as a Limited Common Element or convert any portion of the pool or health club facility to a Common Element, but instead shall only constitute an easement in favor of the Owners. The Amenities Easement and the rights thereunder shall be inseparable, an Owner may not convey his rights to another Owner or any other Person without also conveying ownership of the applicable Unit and any conveyance of a Unit shall be deemed to convey also such rights under the Amenities Easement even though made without specifically referring to same. The Owner may assign his rights to a Tenant in which event the Owner will not be entitled to use the Amenities Easement for so long as the Tenant has such rights. The rights of the Owners of the Residential Units to use the amenities within the Commercial Unit under the Amenities Easement shall be subject to the reasonable rules and regulations regarding the amenities implemented from time to time by the Owner of the Commercial Unit or its agent in its sole discretion; provided, that such rules and regulations and the enforcement thereof shall not discriminate against the Residential Unit Owners in favor of individual transient guests of the Hotel and provided further that the Owners shall not be obligated to pay any fee or other cost in order to make use of the amenities under the Amenities Easement other than a monthly fee, not to exceed \$1,000 initially, payable by the Association to the Owner of the Commercial Unit, which amount shall be a Contract Expense payable solely by the Owners of the Residential Units, and therefore subject to annual increases but only in accordance with Section 6.9, and payment of any a-la-carte charges for the use of the amenities which are also payable on an a-la-carte basis by guests of the Hotel. The monthly fee payable in connection with the Amenities Easement (i.e., \$1,000 initially) is the total monthly amount payable by all of the Owners of the Residential Units and such \$1,000 amount, as it may increase, shall be allocated among the Owners of the Residential Units in accordance with the provisions of Section 6.3.3.1 of this Declaration. In order to obtain the benefits of the Amenities Easement, an Owner of a Residential Unit must execute all such documents and agreements reasonably required by the Owner of the Commercial Unit in connection with such use, including without limitation any industry standard release, indemnity and waiver of claims that may be reasonably required by the Owner of the Commercial Unit or its agent.

3.7.3 The Declarant hereby reserves the Residential Unit Access Easement for the benefit of all of the Owners of the Residential Units. Notwithstanding anything to the contrary contained in this Declaration, the right of an Owner of a Residential Unit to use the Residential Unit Access Easement shall not be construed as a Limited Common Element or convert any portion of the Commercial Unit to a Common Element, but instead shall only constitute an easement in favor of the Owners. The Residential Unit Access Easement and the rights thereunder shall be inseparable, an Owner may not convey his rights to another Owner or any other Person without also conveying ownership of the applicable Unit and any conveyance of a Unit shall be deemed to convey also such rights under the Residential Unit Access Easement even though such conveyance is made without specifically referring to such rights.

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Section 3.8 Mechanic's Liens: Indemnification. No labor performed or materials furnished and incorporated in a Unit with the consent or at the request of an Owner, his agents or representatives, shall be the basis for the filing of a lien against the Unit of any other Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners, the First Mortgagees of such other Owners, the Declarant, and the Association, and their respective agents, from and against all liabilities and obligations arising from the claim of any lien against the Unit of such other Owners, the Declarant or the Common Elements.

Section 3.9 Prohibitions. No amenities or facilities related to the Property shall be (a) subject to any restriction or reservation in favor of Declarant (or any affiliate of Declarant); or (b) leased to the Association or any Owner. The Condominium is not a "master" project and is not associated with any "master" project documents, owner's association (or cooperative corporation) or similar entity as such terms are used in Part VIII (Project Standards), Chapter 6 (Legal Guidelines) of the Federal National Mortgage Association ("FNMA") Selling Guide.

ARTICLE IV

MATTERS REGARDING THE ASSOCIATION

Section 4.1 General. The Association has been incorporated as a nonprofit corporation under the Texas Non-Profit Corporation Act. In addition to the powers conferred on the Association under the Bylaws and hereunder, the Association may take all actions authorized by Section 82.102 of the Act. Any and all actions taken by the Association pursuant to this Declaration, the Act, the Bylaws and/or the Regulations are binding on all Owners. This Declaration does not provide for any limitations or restrictions on the power of the Association or the Board of Directors.

Section 4.2 Allocation of Votes in the Association. Each Owner shall automatically be a member of the Association, and shall possess a vote with respect to each Unit owned by such Owner equal to such Owner's undivided ownership percentage interest in and to the Common Elements as set forth opposite the Unit's number on Exhibit "C" attached to this Declaration under the heading "Percentage Building Ownership". All voting rights of an Owner may be suspended during any period that such Owner is delinquent in the payment of any Assessment duly established pursuant to Article 6, or otherwise in default under the terms of this Declaration, the Bylaws or the Regulations. Any matter described herein as requiring approval by a stated percentage or a majority of the Owners shall mean a stated percentage or a majority of the allocated votes held by those Owners who are then eligible to vote. **EACH OWNER OF A RESIDENTIAL UNIT ACKNOWLEDGES AND AGREES, BY ITS ACCEPTANCE OF A DEED TO ITS UNIT, THAT THE OWNER OF THE COMMERCIAL UNIT POSSESSES A MAJORITY OF THE PERCENTAGE BUILDING OWNERS INTEREST AND WILL,**

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THEREFORE, BE ABLE TO CONTROL, THROUGH THE VOTING PROCESS, THE ELECTION OF THE BOARD OF DIRECTORS OF THE ASSOCIATION AND MANY OTHER MATTERS COMING BEFORE THE ASSOCIATION FOR A VOTE, SUBJECT TO THE REQUIREMENTS OF THIS DECLARATION.

Section 4.3 Right of Action by Owners. Owners, acting collectively or individually, shall have the right to maintain actions against the Association or any other Owner for its or their failure to comply with the provisions hereof or to perform its duties and responsibilities hereunder.

Section 4.4 Management Agreement. The Association and Four Seasons Hotels Limited have entered into or contemporaneously are entering into the initial Management Agreement. The Association shall thereafter be authorized to negotiate and enter into subsequent Management Agreements. It is understood and agreed by each Owner, by its acceptance of a deed to a Unit, that the rights, benefits and services provided or to be provided under the Management Agreement, if any, are not permanent or vested in any manner. All such rights, benefits and services will be subject to the terms of the Management Agreement and any rules and regulations imposed thereunder. Without the approval of the Owner of the Commercial Unit, the Association or the Board of Directors may not terminate the Management Agreement or enter into a Management Agreement with any Person as Manager, other than pursuant to the initial Management Agreement referenced in the definition of Management Agreement and with the initial Manager referenced in the definition of Manager. The Association shall not be entitled to enter into any subsequent Management Agreement after the termination or expiration of the initial Management Agreement described herein if (a) the fees payable thereunder are not commercially reasonable, (b) the services to be provided thereunder are not comparable to those provided under the initial Management Agreement, or (c) the Manager thereunder does not have a reputation in the hotel industry reasonably comparable to the initial Manager. Each Owner, by its acceptance of a deed to a Unit, acknowledges that the fees associated with the initial Management Agreement, which include an \$80,000 base fee per year, subject to an annual increase based on the Consumer Price Index, are commercially reasonable. As used herein, the term "Consumer Price Index" shall mean the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers, (CPI-U) Houston, Texas - All Items (1982-1984 = 100).

ARTICLE V

MAINTENANCE, ALTERATIONS, INSURANCE, TAXES AND UTILITIES

Section 5.1 Maintenance.

5.1.1 Each Owner, at the Owner's sole cost and expense, shall maintain the Owner's Unit (including, without limitation, all Systems that serve only or are a part of the Owner's Unit), in good condition and repair, in accordance with the requirements of Section 3.2, and shall repair and, where appropriate replace, the fixtures and appliances therein contained and all interior doors and interior windows within the Unit and doors and windows servicing only such Owner's Unit. No Owner shall be required to directly pay the cost and expense of structural repairs to such Owner's Unit or to the Common Elements unless caused by the willful or negligent misuse thereof by such Owner, the occupants or the invitees of such Owner, in which event such costs and expenses shall constitute the sole obligation of such Owner. Any maintenance and repair work done by or at the instance of an Owner shall be done in a good and workmanlike manner using materials of equal or better quality than the original quality of the materials removed and/or replaced, and shall be done in such a manner as not to impair the structural soundness or integrity or to alter the exterior appearance of any Common Element, the Building or any Unit. In the event an Owner fails to discharge the Owner's maintenance and repair obligations hereunder, the Association shall be entitled (but not obligated) to cause such work to be done, and the cost and expense thereof (together with interest thereon at the Past Due Rate from the date paid by the Association until the date such sum is repaid to the Association by such Owner) shall be assessed against such Owner and secured by a lien upon such Owner's Unit. Such lien may be enforced in the same method as is provided for the enforcement of assessment liens pursuant to the provisions of Section 6.4 of this Declaration. Damage to the interior of any Unit resulting from such maintenance, repair or replacement activities by the Association, whether by reason of an emergency or otherwise, shall constitute a Common Expense and be payable by the Association; provided, however, that if such maintenance, repairs or replacements are the result of the misuse or negligence of an Owner, or its guests or invitees, then such Owner shall be responsible and liable for all such damage and the Association shall be entitled to assess the applicable Owner for such amount, and such assessed amount shall thereafter be considered an assessment for purposes of this Declaration.

5.1.2 Except as provided in the first sentence of Section 5.1.1 with respect to Systems that serve only or are part of one Unit, all Common Elements shall be maintained by the Owner of the Commercial Unit for the benefit of the Association. The Association shall reimburse the Commercial Unit Owner on a monthly basis for the Residential Unit Owners' share of the cost and expense of such maintenance and shall allocate the Residential Unit Owners' share of such cost and expense among the Residential Units Owners in accordance with their Percentage Residential Condominium Ownership set forth on Exhibit C, which allocated portion

shall be payable by the Residential Unit Owners to the Association as part of their monthly assessments. The Commercial Unit Owner shall maintain the Common Elements, including capital improvements that constitute Common Elements, in accordance with the high standards and quality characteristic of the Hotel and, if applicable, the other hotels and resorts owned or managed and operated by Manager. The Commercial Unit Owner shall repair and, where applicable, replace the Common Elements (excepting only those portions of the Systems that serve only or are part of an individual Residential Unit), and the Association shall establish and maintain an adequate reserve fund to reimburse the Commercial Unit Owner for the Residential Unit Owners' share of such repair and replacement costs, to be funded by Monthly Assessments. Nothing herein shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Elements caused by the negligence or misconduct of such Owner or such Owner's Tenants, occupants or invitees.

5.1.3 The Commercial Unit Owner and its agents shall not be liable for injury or damage to any person or property caused by the elements or by the Owner of any Residential Unit or their permitted Tenants, family members, guests and invitees, or any other Person (other than the Owner of the Commercial Unit), or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Commercial Unit Owner is responsible to maintain hereunder. The Association and its agents shall not be liable for injury or damage to any person or property caused by the elements or by the Owner of any Unit or their permitted Tenants, family members, guests and invitees, or any other Person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Commercial Unit Owner is responsible to maintain hereunder. Neither the Commercial Unit Owner nor the Association, or their respective agents, shall be liable to any Owner or occupants of any Unit or such Owner's or occupant's tenant, guest or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. Neither the Commercial Unit Owner nor the Association, or their respective agents, shall be liable to any Owner or occupant of any Unit or such Owner's or occupant's tenant, guest or family for any damage or injury caused in whole or in part by the failure of the Commercial Unit Owner or Association, as the case may be, or their respective agents, to discharge their responsibilities hereunder where such damage or injury is not a foreseeable, natural result of the failure of such Person or its agents to discharge its responsibilities.

5.1.4 In the event a dispute shall arise among Owners or between an Owner and the Association as to the proper party to bear a maintenance, repair, or replacement cost or expense, the Board of Directors shall be entitled to resolve such dispute, provided, however, that nothing herein shall be deemed or construed as limiting an Owner's right to have the provisions of Section 5.1 interpreted by a court of competent jurisdiction; provided further, however, that any such cost or expense so disputed shall be paid in accordance with the determination of the Board of Directors pending final judgment in any such legal proceedings.

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Section 5.2 Alterations. No Residential Unit Owner or Tenant shall be entitled to alter, add to or improve his Unit, or the Limited Common Elements appurtenant thereto, in a manner which will or might reasonably be expected to affect the structural soundness, integrity, or the exterior appearance of any of the Improvements (including without limitation the appearance from the exterior of the interior window treatment of a Residential Unit or the exterior door of a Residential Unit), any System that services more than one Unit, or any warranty in favor of the Association, without the prior written consent of the Board of Directors and in compliance with all Regulations established by the Association. The Commercial Unit Owner shall not be entitled to alter, add to or improve the Commercial Unit, or the Limited Common Elements appurtenant thereto, in a manner which will or might reasonably be expected to affect the structural soundness or integrity of any of the Improvements, any System within a Residential Unit in any material respect, or any warranty in favor of the Association, without the prior written consent of the Board of Directors and in compliance with all Regulations established by the Association; however, the Owner of the Commercial Unit shall be entitled to alter, add to or improve the Commercial Unit, or the Limited Common Elements appurtenant thereto, in other ways, including in a manner which will or might reasonably be expected to affect the exterior appearance of the Commercial Unit (including without limitation the appearance from the exterior of the interior window treatment of the Commercial Unit or the exterior doors of the Commercial Unit), without the prior written consent of the Board of Directors. In addition, no Owner or Tenant shall be entitled to make any alteration, addition or improvement to a Limited Common Element appurtenant to more than his Unit unless the prior written approval of the Association and all Owners having an interest therein is obtained. Any alterations, additions and improvements made pursuant to this Section 5.2 shall be made at the individual cost and expense of the Owner desiring to alter, add to or improve the Unit or Limited Common Element.

Section 5.3 Insurance. The Association shall obtain and maintain insurance coverage required pursuant to Section 82.111 of the Act and such additional coverage as the Association deems necessary or appropriate. The premiums for all insurance coverage maintained by the Association shall constitute a Common Expense and be payable by the Association. An Owner shall be responsible for obtaining and maintaining, at his sole cost and expense, property insurance covering all alterations, additions, betterments and improvements made by an Owner or Tenant to his Unit and all personal property located therein and general liability insurance with respect to the use or occupancy of his Unit and the Limited Common Elements assigned to the Unit. Nothing herein shall be deemed or construed as prohibiting an Owner or Tenant, at his sole cost and expense, from obtaining and maintaining such further and supplementary insurance coverages as he may deem necessary or appropriate.

5.3.1 The Board of Directors shall have the express authority, on behalf of the Association, to designate an authorized representative, including any trustee (or successor thereto) with whom the Association has entered into any insurance trust agreement, for the

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purpose of purchasing and maintaining the insurance required or permitted hereunder as well as for submission of and adjustment of any claim for loss, the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purpose.

5.3.2 By acceptance of a deed to a Unit, each Owner shall be deemed to have irrevocably appointed the Association (which appointment shall be deemed a power coupled with an interest), together with any insurance trustee, successor trustee or authorized representative designated by the Association, as such Owner's attorney-in-fact for the purpose of purchasing and maintaining the insurance required or permitted to be maintained by the Association hereunder as well as for submission of and adjustment of any claim for loss, the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purpose. The provisions of this Section shall not apply to the insurance obtained by an Owner covering all alterations, additions, betterments and improvements made by an Owner to his Unit, and all personal property located therein, to any general liability insurance obtained by an Owner with respect to the use or occupancy of his Unit and the Limited Common Elements assigned to the Unit or to any other insurance obtained by an Owner.

5.3.3 The Association or such insurance trustee, successor trustee or authorized representative must receive and hold any proceeds of insurance in trust for the Owners and the First Mortgagees as their interests may appear. Any proceeds paid under such policy shall be disbursed in strict accordance with Sections 82.111(e), (f) and (i) of the Act.

5.3.4 The Association, and each Owner by his possession or acceptance of title to a Unit, hereby waives any and every claim which arises or may arise in its or his favor against any other Owner, the Association, the Manager or the Declarant for any and all loss of, or damage to, its or his property located within or upon, or constituting a part of, the Condominium, which loss or damage is covered by valid and collectible insurance policies, to the extent such loss or damage is recoverable thereunder. Inasmuch as the foregoing mutual waivers will preclude the assignment of any of such claim by way of subrogation (or otherwise) to an insurance company (or any other party), the Association and each Owner immediately shall give, to each insurance company which has issued policies of insurance to such Owner, written notice of the terms of this mutual waiver, and cause such policies to be endorsed, if necessary, to prevent the invalidation of such coverages by reason hereof. The Association may adopt reasonable rules and regulations relating to responsibility for payment of the deductible on any insurance obtained by the Association, which amounts shall be payable by Owners in accordance with their Percentage Building Ownership interest. Each Residential Unit Owner by his possession or acceptance of title to a Residential Unit, hereby waives any and every claim which arises or may arise in its or his favor against the Association, the Manager or the Declarant for any and all loss of, or damage to,

its or his property located within or upon, or constituting a part of, the Condominium, which loss or damage is caused by the Association's, the Manager's or the Declarant's exercise of its rights under the Access Easement, except to the extent such loss or damage is caused by gross negligence or willful misconduct of any such Person.

Section 5.4 Taxes. Each Owner shall be responsible for and shall pay when due all taxes, assessments and other governmental impositions lawfully levied or assessed with respect to such Owner's Unit. Any taxes, assessments or other governmental impositions lawfully levied or assessed with respect to the Property not separately billed to the Owners shall constitute a Common Expense and be payable by the Association.

Section 5.5 Utilities. Each Owner shall be responsible for and shall pay all gas, electricity, water and wastewater charges relating to such services used in or serving only the Owner's Unit, to the extent such charges are separately metered. Any utility charges not so separately metered, including without limitation chilled water, water and wastewater, and charges relating to such services used in connection with the use and maintenance of the Common Elements, shall constitute a Common Expense and be payable by the Association.

Section 5.6 Contemplated Capital Improvements. Pursuant to Schedule I of that certain Agreement of Purchase and Sale between Declarant and Residential Unit Developer relating to the acquisition by Residential Unit Developer of the Residential Units, a copy of which Schedule I is attached hereto as Exhibit D and incorporated herein for all purposes, Declarant has agreed to perform certain renovations and capital improvements to the Building and the parties have allocated liability among the Commercial Unit and the Residential Units for the costs and expenses associated with such renovations and capital improvements. Declarant is the "Seller" and Residential Unit Developer is the "Purchaser" referred to in Schedule I.

ARTICLE VI

ASSESSMENTS

Section 6.1 Monthly Assessments. Budget.

6.1.1 The Association shall possess the right, power, authority and obligation to establish a regular Monthly Assessment sufficient in the judgment of the Board of Directors to pay all Common Expenses when due. Such Monthly Assessments so established shall be assessed to the Owners in accordance with Section 6.3 and shall be payable by the Owners on the first day of each calendar month, and shall be applied to the payment of charges for which the Association is responsible, including, without limitation, (i) charges relating to maintenance and repair of the Property not the responsibility of one or more, but less than all, of the Owners, (ii) reimbursement

to the Commercial Unit Owner of the Residential Unit Owners' share of the costs and expenses incurred by the Commercial Unit Owner in maintaining the Common Elements under Section 5.1.2, (iii) casualty, general liability and other insurance coverages required or permitted to be maintained by the Association, (iv) governmental impositions not separately levied and assessed, (v) utilities relating to the Common Elements or not separately metered, (vi) professional services, such as management, accounting and legal, and (vii) such other costs and expenses as may reasonably relate to the proper maintenance, care, operation and management of the Property, including without limitation amounts payable to the Manager under the Management Agreement, and the administration of the Association and the Condominium, including an adequate reserve fund for the periodic maintenance, repair, replacement and improvement of the Common Elements, which reserve fund shall be in addition to the Capital Reserve Contribution. No consent or approval of the Owners shall be required for the establishment of the Monthly Assessments. Collection of Monthly Assessments, as to each Owner, shall commence upon the acquisition by such Owner of title to his Unit. Such Monthly Assessments are in addition to any funds collected as Capital Reserve Contributions pursuant to Section 8.3. Notwithstanding the foregoing, (a) as provided in Section 5.6, the Owner of the Commercial Unit will be performing certain renovations and capital improvements to the Building, (b) the costs and expenses so incurred by the Owner will be credited against its liability for monthly payments into the reserve fund or, if applicable, for payments of Capital Reserve Contributions, and (c) until such time as the credit is exhausted, the Owner of the Commercial Unit shall not be obligated to pay amounts into the reserve fund or to pay Capital Reserve Contributions.

6.1.2 Prior to the commencement of each fiscal year of the Association, the Board of Directors shall prepare and deliver to each of the Owners a budget setting forth the anticipated Common Expenses for the ensuing year. Such budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred, and shall be accompanied by a statement setting forth each Owner's monthly share thereof, the date as of which such Monthly Assessment commences and an allocation of the Common Expenses between the Owner of the Commercial Unit and the Owners of the Residential Units, if such expenses are not shared on the basis of Percentage Building Ownership interests as provided in Section 6.3.3. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Monthly Assessment payable hereunder, and the failure of the Board of Directors to timely deliver the budget provided for herein shall in no event excuse or relieve an Owner from the payment of the Monthly Assessments contemplated hereby. Any budget prepared and delivered to the Owners as hereby contemplated may be amended as and to the extent reasonably necessary, and the amount of an Owner's Monthly Assessment changed to correspond therewith, subject to the provisions of Section 6.9.

Section 6.2 Special Assessments In addition to the Monthly Assessments contemplated by Section 6.1 above, the Association shall possess the right, power, authority and obligation to establish Special Assessments from time to time as may be necessary or appropriate in the

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judgment of the Board of Directors to pay nonrecurring Common Expenses relating to the proper maintenance, care, alteration, improvement, operation and management of the Property, and the administration of the Association and the Condominium. No consent or approval of the Owners shall be required for the establishment of a Special Assessment, except for any Special Assessment relating to the alteration or improvement of any element of the Property, which must be approved by the affirmative vote of those Owners holding not less than sixty-seven percent (67%) of the votes at a meeting of the Association duly called for purposes of considering same at which a quorum is present in person or proxy. Nothing contained in this Section shall be construed to limit the right of an Owner to alter, add to or improve its Unit at such Owner's costs and expense in accordance with Section 5.2.

Section 6.3 Obligation to Pay Assessments.

6.3.1 Except as provided in Section 6.3.3, each Owner shall be personally obligated to pay when due his share (i.e., in accordance with his percentage of liability of the expenses of the Association as set forth opposite such Owner's Unit in Exhibit C under the heading "Percentage Building Ownership") of all Assessments duly established. Unpaid Assessments due as of the date of the conveyance or transfer of a Unit shall not constitute a personal obligation of the new Owner (other than such new Owner's pro rata share thereof which is allocable to any periods of time after such new Owner acquired title to the Unit); however, the old Owner shall continue to be personally liable for such unpaid Assessment. No Owner shall be entitled to exempt himself from liability for his obligation to pay such Assessments by waiver of the use or enjoyment of the Common Elements, by an abandonment of his Unit, or by any action whatsoever. Any Assessment not paid within fifteen (15) days after the date due shall bear interest at the Past Due Rate from the date due until paid, and shall be recoverable by the Association, together with interest as aforesaid, reasonable late fees as determined and set by the Board of Directors from time to time, and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of competent jurisdiction sitting in the county where the Land is located.

6.3.2 Except as provided in Section 6.3.3, each Owner's share of the expenses of the Association and liability for Assessments is set forth on Exhibit C attached hereto under the heading "Percentage Building Ownership". If at any time the "Percentage Building Ownership" is required to be reallocated by the Act or this Declaration, the formula to be used in establishing the allocations shall be that set forth on Exhibit C.

6.3.3 Notwithstanding that the Owners' liability for Assessments shall, in general, be payable in proportion with their respective undivided ownership interests, certain of the Common Expenses will benefit less than all of the Owners. Therefore, the Owners' liability with respect to certain Common Expenses that benefit less than all of the Owners shall be apportioned as follows:

6.3.3.1 To the extent any charges payable from Assessments relate to maintenance, repair or use of property benefiting only the Residential Unit Owners, and not the Commercial Unit Owner, the Residential Owners share of such charges shall be percentages set forth on Exhibit C attached hereto under the heading "Percentage Residential Condominium Ownership". At any time while the Manager is also managing the Hotel, the Owner of the Commercial Unit will pay its share of the management fee payable to the Manager and its share of the expenses payable by the Association as Contract Expenses as part of its agreement with the Manager relating to the operations of the Hotel, and therefore the base fee payable to the Manager under the Management Agreement and 100% of the expenses payable by the Association as Contract Expenses shall be paid solely by the Owners of the Residential Units.

6.3.3.2 To the extent any charges payable from Assessments relate to maintenance, repair or use of items of property benefiting only the Residential Owners and the occupants of the apartments located on levels 21 through 25 of the Commercial Unit, and not any other portion of the Commercial Unit, the Owner of the Commercial Unit shall be liable for 50% of such charges and the Residential Owners shall be liable for the remaining 50% of such charges proportionately on the basis of the "Percentage Residential Condominium Ownership" set forth on Exhibit C attached hereto.

6.3.3.3 If at any time the "Percentage Residential Condominium Ownership" is required to be reallocated by the Act or this Declaration, the formula to be used in establishing the allocations shall be that set forth on Exhibit C.

Section 6.4 Lien to Secure Payment of Assessments. The Declarant hereby reserves and assigns to the Association a lien, pursuant to the provisions of Section 82.113 of the Act, against each Unit, the Rents, if any, payable to the Owner of any Unit and Insurance Proceeds received by the Owner of any Unit to secure the payment of all Assessments and other amounts payable by an Owner to the Association hereunder, which lien shall be and constitute a lien and encumbrance, in favor of the Association, upon such Owner's Unit, the Rents, and any Insurance Proceeds. The liens established herein shall be prior and superior to all other liens and encumbrances subsequently created upon such Unit, Rents and Insurance Proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of a First Lien Loan (provided such lien securing the payment of the First Lien Loan was recorded prior to the date on which the assessment became delinquent) and the liens for unpaid taxes, assessments and other governmental impositions. Without in any way limiting the foregoing, the liens established herein shall be prior and superior to any lien for construction of improvements to the Unit or an assignment of the right to Insurance Proceeds on the Unit, even if the lien or assignment is recorded or duly perfected before the date on which the Assessment sought to be enforced becomes delinquent under this Declaration, the Bylaws or the Regulations. The liens and

encumbrances created herein may be enforced by any means available at law or in equity, including, without limitation, a non-judicial foreclosure sale of the Unit of a defaulting Owner; such sale to be conducted in the manner set forth in Section 51.002 of the Texas Property Code (as now written or as hereafter amended). The Owner of each Unit, by acquisition of such Unit, grants to the Association a power of sale in connection with the Association's liens. By written resolution, the Board of Directors may appoint, from time to time, an officer, agent, trustee or attorney of the Association to exercise the power of sale on behalf of the Association. The Association may bid for and purchase the Unit, as a Common Expense, at any such foreclosure sale. The foreclosure by a First Mortgagee of a Unit in order to satisfy the First Lien Loan will extinguish the lien for any Assessments which became payable prior to the date of such foreclosure sale, but otherwise the conveyance of a Unit by an Owner will not extinguish the Association's lien for past due or future assessments. In the event of a foreclosure by a First Mortgagee of a Unit in order to satisfy a First Lien Loan, and the extinguishment of the lien for any Assessments payable prior to the date of such foreclosure, the Owner who owned the Unit immediately prior to such foreclosure shall be and remain personally liable for such outstanding Assessments but the Person acquiring the Unit at such foreclosure, including without limitation the First Mortgagee if applicable, shall not be liable for the Assessments payable prior to the date of such foreclosure. As used in the preceding two sentences, "foreclosure" means a judicial foreclosure of the lien securing a First Lien Loan, a non-judicial foreclosure pursuant to a private right of sale granted in the documents creating the lien securing a First Lien Loan or a conveyance in lieu of foreclosure of the lien securing a First Lien Loan.

Section 6.5 Commencement of Obligation to Pay Assessments. The obligation to pay Assessments shall begin on the first day of the calendar month following the date that the first Unit is conveyed by the Declarant to a third party purchaser. Each Owner, including the Declarant, shall be obligated to commence payment of all Assessments against his Unit on such date. Prior to the date the obligation to pay Assessments commences, the Declarant shall pay all Common Expenses (excluding portions thereof allocable to reserves); provided, however, that nothing contained herein shall prevent Declarant from collecting from the purchaser of a Unit at closing any expenses, such as taxes and insurance, to the extent that Declarant prepaid on behalf of the Unit being purchased.

Section 6.6 Redemption by Owner. The Owner of a Unit purchased by the Association, at a foreclosure sale of the Association's lien for Assessments, may redeem the Unit no later than the ninetieth (90th) day after the date of foreclosure. To redeem the Unit, the Owner must pay to the Association all amounts due to the Association at the time of foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the Past Due Rate, reasonable attorney's fees, and costs incurred by the Association in foreclosing the lien, any Assessment levied against the Unit by the Association after the foreclosure sale, and any reasonable costs incurred by the Association, as Owner of the Unit, including costs of maintenance and leasing. Upon redemption, the Association shall execute a special warranty deed

to the redeeming Owner of the Unit. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption period expires unless the redeeming Owner of the Unit records prior to such date the deed from the Association or an affidavit stating that the Owner has exercised the right of redemption. A Unit that has been redeemed remains subject to all liens and encumbrances of the Unit before foreclosure. All Rents collected from the Unit by the Association from the date of foreclosure sale to the date of redemption belong to the Association, but the Rents shall be credited against the redemption amount. If the Association purchases a Unit at a sale foreclosing the Association's lien, the Association may not transfer ownership of the Unit during the redemption period to a person other than a redeeming Owner.

Section 6.7 Notice of Default. If the Owner of a Unit defaults in the Owner's monetary obligations to the Association, the Association may, but shall not be required to, notify other lien holders of the default and the Association's intent to foreclose its lien. However, the Association shall notify any First Mortgagee who has given the Association a written request for notification of a particular Owner's monetary default of the Association's intent to foreclose its lien as a result of such default.

Section 6.8 Alternative Actions. Nothing contained in this Declaration shall prohibit the Association from taking any other legal actions including, without limitation, accepting a deed in lieu of foreclosure, filing a suit for judicial foreclosure, or filing a suit to recover a money judgment for sums that may be secured by the lien.

Section 6.9 Limitation on Increases of Contract Expenses. If the Contract Expenses in any proposed budget for a fiscal year submitted under Section 6.1.2 would result in Contract Expenses, or any line item thereof, increasing at a cumulative basis of more than five percent (5%) annually from the initial annual budget for the 2004 fiscal year, such budget must be approved by the affirmative vote of the Owners of the Residential Units.

ARTICLE VII

CASUALTY AND CONDEMNATION

Section 7.1 Loss or Damage. In the event the Property, or any part thereof, is damaged or destroyed by fire or other casualty, the Association shall rebuild or repair the Property and collect and dispose of any proceeds of any casualty insurance policy in strict accordance with Section 82.111(e), (f) and (i) of the Act.

Section 7.2 Condemnation. If all or any part of the Property is taken or threatened to be taken by eminent domain or by action in the nature of eminent domain (whether permanent or

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temporary) the Association and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give such notice as it receives of the existence of such proceeding to all Owners and to all First Mortgagees who have registered with the Association. The expense of participation in such proceedings by the Association shall be a Common Expense. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be collected, maintained and disbursed in accordance with Section 82.007 of the Act. Any restoration or repair of the Property following a partial condemnation, shall be performed in accordance with the provisions of the Act.

ARTICLE VIII

DEVELOPMENT PERIOD

Section 8.1 Initial Directors. The Board of Directors shall be initially established by the Declarant as set forth in the Bylaws.

Section 8.2 Declarant Control Period.

8.2.1 Except as is provided in the Act, the Declarant shall have the right to appoint and remove members of the Board of Directors during the Declarant Control Period. If the Declarant voluntarily surrenders control prior to the end of the Declarant Control Period, the Declarant may require that specified actions of the Board of Directors be subject to the Declarant's approval until the end of the Declarant Control Period.

8.2.2 Not later than one hundred twenty (120) days after Declarant has conveyed to Owners other than Declarant title to fifty percent (50%) of the Units in the Property, by number, an election shall be held by the Association, pursuant to the Bylaws, for the election by Owners other than Declarant of one member of the Board of Directors (or such other number as represents not less than one-third (1/3) of the total membership of the Board of Directors).

8.2.3 Not later than the expiration of the Declarant Control Period, the Unit Owners shall elect a Board of Directors of at least three members who do not need to be Unit Owners.

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Section 8. Capital Reserve Contributions.

8.3.1 Each Owner (other than (i) the Residential Unit Developer, (ii) the First Mortgagee of the Owner of the Commercial Unit or any purchaser who acquires the Commercial Unit through foreclosure or deed-in-lieu of foreclosure of a First Mortgagee's lien against the Commercial Unit, and (iii) a First Mortgagee of a Residential Unit or a purchaser succeeding to the rights of Residential Developer who acquires a Residential Unit through foreclosure or deed-in-lieu of foreclosure of a First Mortgagee's lien against such Residential Unit, but expressly excluding consumer purchasers of individual Residential Units pursuant to any such foreclosure or deed-in-lieu of foreclosure) purchasing a Unit shall, at the closing of the purchase of the Unit, contribute an amount to the Association equal to the Capital Reserve Contribution. Such amount shall be a contribution to the Association's reserve for capital improvements, shall not be considered as an advance payment of Monthly Assessments and shall not be used as working capital or to pay operating expenses.

8.3.2 The Capital Reserve Contribution, while it may be a part of the replacement reserves of the Association, is in addition to any reasonable reserves which may be assessed from time to time in accordance with Section 6.1.1.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Reconstruction. When it has been determined by the vote of Owners holding not less than eighty-five percent (85%) of the allocated votes that all or substantially all of the Common Elements can and should be renewed, reconstructed, renovated or replaced (other than as may be called for under Section 7.1), the expenses thereof shall be borne as a Common Expense and a Special Assessment may be assessed therefor, provided, however, that any Owner not agreeing to such renewal, reconstruction, renovation or replacement may give written notice to the Board of Directors within ten (10) days following such decision to renew, reconstruct, renovate or replace that such Owner shall sell his Unit(s) to the Association, for a cash price equal to the fair market value thereof. If such Owner and the Board of Directors, acting as agent of and on behalf of the Association, can agree on the fair market value therefor, then such sale shall be consummated within thirty (30) days after such Owner and the Board of Directors agree upon such value. If such Owner and the Board of Directors are unable to agree upon the price thereof, the date when either party notifies the other that they are unable to agree with the other as to such price or terms shall be the 'Commencement Date', from which all periods of time mentioned in this Section shall be measured. Within ten days from the Commencement Date, the Owner and the Board of Directors shall designate in writing (and give notice of such designation to the other party) the appraiser selected by each such party who shall be a member of the Houston Board of Realtors (or successor entity) and shall have been active in the sale of residential condominium

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units in the Houston, Harris County, Texas, area for a period of at least five years prior thereto. If either party fails to make such designation within the aforesaid ten-day period, then the appraiser already designated by one of the parties shall, within five days after the expiration of such ten-day period, appoint another appraiser, who shall likewise be a member of the Houston Board of Realtors (or successor entity) and shall have been active in the sale of residential condominiums units for a period of not less than five years prior thereto. If the two appraisers designated by the Owner and the Board of Directors (or selected pursuant to the provisions of the preceding sentence) are unable to agree upon the price of such Unit(s) within ten days from the date of their designation or selection, then they shall appoint a third appraiser, being subject to the same qualifications as herein set forth for the first two appraisers. If the two appraisers are unable to agree upon a third appraiser within fifteen days from the date that such first two appraisers are appointed (or elected pursuant to the preceding provisions hereof, if one party fails to designate an appraiser), then either the Owner or the Board of Directors, on behalf of both, may request such appointment of the third appraiser by the Senior Judge of the United States District Court for the Southern District of Texas, Houston Division, acting in his individual capacity. In the event of the failure, refusal or inability of any appraiser so appointed to act, a new appraiser shall be appointed in his stead, which appointment shall be made in the same manner as hereinbefore provided for the appointment of such appraiser so failing, refusing or so unable to act. Each party shall pay the fees and expenses of the original appraiser (and any successor) appointed by (or on behalf of, if such party fails to designate an appraiser) such party. The fees and expense of the third appraiser, and all other expenses, if any, shall be borne equally by the Owner and the Board of Directors (which expenses borne by the Board of Directors, as aforesaid, shall be paid as a Common Expense). A decision joined in by two of the three appraisers shall be the decision of the appraisers. If two of the three appraisers do not agree, then the average of the two closest in mathematical determinations shall constitute the decision of the appraisers. After reaching a decision, the appraisers shall give written notice thereof to the Owner and the Board of Directors, whereupon the sale of such Unit(s) shall be consummated at such price within fifteen days thereafter.

Section 9.2 Revocation or Termination of Declaration. This Declaration may be revoked or the Condominium may be terminated, only by an instrument in writing, duly approved, executed and acknowledged by those Owners holding not less than ninety percent (90%) of the votes allocated by this Declaration and not less than one hundred percent (100%) vote of First Mortgagees. Without in any way limiting the foregoing, until the first Unit is sold to a third party by the Declarant, the Declarant, acting alone and in its sole discretion, may revoke this Declaration or terminate the Condominium by an instrument in writing duly executed and acknowledged by the Declarant. Any instrument of revocation or termination shall be duly filed of record in the appropriate records of Harris County, Texas. If the Property is to be sold upon termination, the agreement effecting such termination shall also set forth the terms of such sale and comply with the provisions of Section 82.068(c) of the Act.

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Section 9.3 Amendment to Declaration. Unless otherwise prohibited by the Act, this Declaration may be amended at a meeting of the Owners at which the amendment is approved by the Owners of the Commercial Unit plus not less than fifty-one percent (51%) of the votes allocated to the Residential Units; provided, however, no such amendment shall be effective until subsequently ratified in writing by (a) all of the First Mortgagees of the Commercial Unit, and (b) fifty-one percent (51%) of First Mortgagees of the Residential Units (provided, that a First Mortgagee of a Residential Unit shall only be counted towards the satisfaction of this 51% requirement if the Owner of the Residential Unit subject to the First Mortgage of such First Mortgagee has also approved the amendment). Such amendment shall be evidenced by a written instrument executed and acknowledged by an officer of the Association on behalf of the consenting Owners and filed of record in the county in which the Property is located. Any such amendment so effected shall be binding upon all of the Owners, provided however that except as permitted or required by the Act, no such amendment shall (i) cause the alteration or destruction of a Unit or of a Limited Common Element unless such amendment has been consented to by the Owner and the First Mortgagee of the Unit which is to be altered or destroyed or by the Owner and First Mortgagee of a Unit to which the Limited Common Element that is to be altered or destroyed is appurtenant, (ii) create or increase Special Declarant Rights, (iii) increase the number of Units, (iv) change the boundaries of a Unit (except as permitted by Section 2.6, 2.7 and 2.8 of this Declaration), (v) change the use restrictions on a Unit or (vi) change the formula or method for calculation of the "undivided ownership interest" or "percentage interest in liabilities", unless such amendment has been consented to by one hundred percent (100%) of the votes of the Association. The Association shall give each First Mortgagee written notice of any proposed action or amendment requiring the approval of a First Mortgagee. Notwithstanding the foregoing, no such amendment shall become effective unless approved by the Declarant if the Declarant still owns one or more Units and the amendment would, in the Declarant's reasonable determination; (a) increase or otherwise modify the Declarant's obligations; (b) reduce or modify any Special Declarant Rights; or (c) materially inhibit or delay the Declarant's ability to complete the Improvements or to convey any portion of the Property owned by the Declarant. The Board of Directors or the Declarant, if the Declarant owns a Unit that has never been occupied, may without a vote of the Owners or approval of the Association amend this Declaration in any manner necessary to meet the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration. In addition, the Declarant shall have the continuing right until the end of the Declarant Control Period, without the consent of other Owners or the representatives of any mortgagee, to amend this Declaration for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any misstatements, errors or omissions herein, provided that no such amendment shall change the stated number of Units or the undivided ownership percentage interest in the Common Elements attributable thereto (except as set forth in Section 2.1.2). In addition, the Declaration may also be amended in other ways as provided in Section 82.067(b) of the Act.

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Section 9.4 Enforcement. The Board of Directors (either on its own behalf or through the Manager) or any Owner shall have the right to enforce, by any proceedings at law or in equity, all terms and provisions of this Declaration, the Articles, Bylaws or Rules and Regulations. Failure by the Board of Directors (or the Manager on behalf of the Board of Directors) or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

Section 9.5 Partial Invalidity. In the event any provision of this Declaration, the Bylaws or the Regulations shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall in no way impair or affect the validity or enforceability of the remainder of such instruments.

Section 9.6 Conflicts. In the event any of the provisions of this Declaration, the Bylaws or the Regulations shall be in conflict with the provisions of the Act or the Texas Non-Profit Corporation Act, the provisions of such statutes shall control. In the event that a conflict exists between the provisions of this Declaration, the Bylaws or the Regulations, the provisions of this Declaration shall control over the Bylaws and the Regulations and the provisions of the Bylaws shall control over the provisions of the Regulations.

Section 9.7 Captions and Exhibits. Captions used in the various articles and sections of this Declaration are for convenience only, and they are not intended to modify or affect the meaning of any of the substantive provisions hereof. All exhibits are incorporated in and made a part of this Declaration.

Section 9.8 Usury. It is expressly stipulated that the terms of this Declaration, the Bylaws and the Regulations shall at all times comply with the usury laws of the State of Texas. If such laws are ever revised, repealed, or judicially interpreted so as to render usurious any amount called for hereunder or under the Bylaws or the Regulations or contracted for, charged or received in connection with any amounts due hereunder or under the Bylaws or the Regulations, or if the Association's exercise of any provisions hereof or of the Bylaws or the Regulations results in any party having paid any interest in excess of that permitted by applicable law, then it is the Association's and/or the Declarant's express intent that all excess amounts theretofore collected by the Association be credited on the principal balance of any indebtedness (or, if the indebtedness has been paid in full, refunded to the payor), and the provisions of this Declaration, the Bylaws and the Regulations immediately be deemed reformed and the amounts thereafter collected be reduced, without the necessity of execution of any now document, so as to comply with then applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder.

Condominium Declaration for Private Residences Condominium

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Page 35

OF
AUFMAN
3 COUNTY, TEXAS

OF COUNTY CLERK

Section 9.9 Use of Number and Gender. Whenever used herein, and unless the context shall otherwise provide, the singular number shall include the plural, the plural number shall include the singular, and the use of any gender shall include all genders.

Section 9.10 Non-Liability of Association, Manager, Declarant and Residential Unit Developer for Security. Without limitation of any other provision of this Declaration, each Owner and their Tenants, family, guests and invitees, covenant and agree with respect to any and all security services, systems and facilities provided directly or indirectly by the Association or the Manager as follows:

9.10.1 Security is the sole responsibility of local law enforcement agencies and individual Owners, their Tenants, and their respective guests and invitees. It is acknowledged that the Association has no obligation whatsoever to provide security. Security services, systems and facilities shall be provided at the sole discretion of the Board of Directors. The provision of any security services, systems and facilities at any time shall in no way prevent the Board of Directors thereafter electing to discontinue or temporarily or permanently remove such security services, systems and facilities or any part thereof.

9.10.2 Any third party providers of security services (including those providing maintenance and repair of security systems and facilities) shall be independent contractors, the acts or omissions of which shall not be imputed to the Association or its officers, directors, committee members, Manager, agents or employees.

9.10.3 Providing of any security services, systems and facilities shall never be construed as an undertaking by the Association to provide personal security or as a guarantee or warranty that the presence of any security service, systems or facilities will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause.

9.10.4 EACH OWNER, BY HIS ACCEPTANCE OF A DEED TO A UNIT, SHALL BE DEEMED TO HAVE WAIVED, ON BEHALF OF SUCH OWNER AND SUCH OWNER'S OCCUPANTS, AND THEIR RESPECTIVE FAMILY MEMBERS, GUESTS, TENANTS AND INVITEES, ANY AND ALL CLAIMS, NOW OR HEREAFTER ARISING AGAINST THE DECLARANT, THE RESIDENTIAL UNIT DEVELOPER AND THE ASSOCIATION AND THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, MANAGER, AGENTS AND EMPLOYEES ARISING OUT OF OR RELATING TO ANY INJURIES, LOSS OR DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION ANY INJURY OR DAMAGES CAUSED BY THEFT, BURGLARY, TRESPASS, ASSAULT, VANDALISM OR ANY OTHER CRIME, TO ANY PERSON OR PROPERTY ARISING, DIRECTLY OR INDIRECTLY, FROM THE PROVIDING OR FAILURE TO PROVIDE ANY SECURITY SERVICES, SYSTEMS AND FACILITIES, OR

Condominium Declaration for Private Residences Condominium

THE DISCONTINUATION, DISRUPTION, DEFECT, MALFUNCTION, OPERATION, REPAIR, REPLACEMENT OR USE OF ANY SECURITY SERVICES, SYSTEMS AND FACILITIES, WHETHER CAUSED OR ALLEGEDLY CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE DECLARANT, THE RESIDENTIAL UNIT DEVELOPER OR THE ASSOCIATION OR THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, MANAGER, AGENTS, CONTRACTORS OR EMPLOYEES.

9.10.5 To the extent the release in this Section 9.10 is not deemed effective as to any Owner, his Tenant or any family member, guest or invitee of an Owner or a Tenant of a Unit, the Owner of each Unit hereby indemnifies and agrees to defend and hold harmless the Declarant, the Residential Unit Developer and the Association, and their respective officers, directors, committee members, Manager, agents and employees from and against any and all claims, actions, suits, judgments, damages, costs and expenses (including attorney fees and court costs) arising from bodily injury (including, without limitation, mental anguish, emotional distress and death) and/or loss or damage to property suffered or incurred by any such Owner or Tenant of a Unit, or any family member, guest or invitee of the Owner or Tenant of a Unit, as a result of criminal activity within or in the vicinity of the Condominium, WHETHER CAUSED OR ALLEGEDLY CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE DECLARANT, THE RESIDENTIAL UNIT DEVELOPER, THE ASSOCIATION OR THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, MANAGER, AGENTS, CONTRACTORS OR EMPLOYEES.

9.10.6 Any obligation or liability of the Association which is borne by the Association because of an Owner not abiding by such waiver, release and indemnity obligations under this Section shall be assessed by the Association against the Unit of the Owner who failed to perform such obligation giving rise to such liability, as an assessment against such Unit and its Owner. Nothing herein shall make any Owner of a Unit liable to the Association or any other Unit Owner for bodily injury (defined above) and/or loss or damage to property of any other Owner or Tenant of a Unit, or their respective family members, guests or invitees.

Section 9.11 Governing Law. THIS DECLARATION AND THE ARTICLES, BYLAWS AND REGULATIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE CONDOMINIUM SHALL BE IN HARRIS COUNTY, TEXAS.

[SIGNATURES ON FOLLOWING PAGE(S)]

Condominium Declaration for Private Residences Condominium

7

Section 9.11 Governing Law. THIS DECLARATION AND THE ARTICLES, BYLAWS AND REGULATIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE CONDOMINIUM SHALL BE IN HARRIS COUNTY, TEXAS.

IN WITNESS WHEREOF, the Declarant has duly executed this Declaration on the day and year first set forth above.

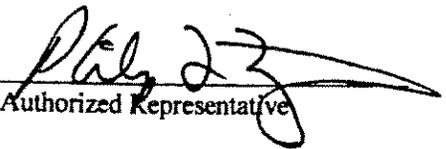
DECLARANT:

HEF HOUSTON L.P., a Texas limited partnership

By: HEF-FS Houston LLC, a Texas limited liability company, its General Partner

By: Hotel Equity Fund II, L.P., a Delaware limited partnership, its sole member

By: Hotel Capital Partners II, L.P., a Delaware limited partnership, its general partner

By: 
Authorized Representative

OFFICE OF
BEVERLY B. KAUFMAN
COUNTY CLERK, HARRIS COUNTY, TEXAS

CONDOMINIUM RECORDS OF COUNTY CLERK

188054

FILM CODE _____

PRIVATE RESIDENCES
CONDOMINIUM

THIS IS PAGE 18 OF 18 PAGES

REDUCTION 16X CAMERA DESIGNATION MRG1

ANY INSTRUMENT WHICH VIOLATES THE BILL OF RIGHTS OR ANY OF THE PROVISIONS OF THE
PROPERTY RIGHTS OF 2003 OR 2004 IS VOID AND UNENFORCEABLE UNDER FEDERAL LAW
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number
Sequence on the date and at the time stamped herein by me, and was
duly RECORDED in the Official Public Records of Real Property of
Harris County, Texas on

March 01, 2004



Beverly B. Kaufman
COUNTY CLERK
HARRIS COUNTY TEXAS

ANY PROV
THE SALE
DESCRIBE
COLOR
UNENFORC

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.



EXHIBIT D

SCHEDULE I - CONTEMPLATED CAPITAL IMPROVEMENTS
[attached]

SCHEDULE I

CONTEMPLATED CAPITAL IMPROVEMENTS FOR PROJECT

1. **Elevator Renovation:** Seller will pay for one hundred percent (100%) of the cost of the renovations of the mechanical elements of the elevators pursuant to the scope of renovations to be agreed upon between Seller and Purchaser as described herein. Upon Purchaser's receipt of the draft of the Property Condition Report, Purchaser shall promptly provide Seller with a reasonable request for the scope of elevator renovations. Upon receipt of such request, Purchaser and Seller shall use good faith efforts to agree on a reasonable scope of elevator renovations within a reasonable amount of time. If Purchaser and Seller cannot agree on a scope of elevator renovations, Seller will renovate the elevators to a standard in accordance with the Hotel Management Agreement. If Purchaser is dissatisfied with such standard, Purchaser may terminate this Agreement within ten (10) days of receipt of Seller's proposed scope of renovations. The scope of renovations shall be included in Purchaser's final Property Condition Report. Once the renovation is complete, the Residential Unit Owners shall be responsible for their share of all other capital repairs.

2. **Roof Replacement:** If the roof of the Hotel is replaced in the first fourteen (14) years following the Effective Date of this Agreement, the Residential Unit Owners shall be responsible for a percentage of the cost in accordance with the following chart:

Year *	1	2	3	4	5	6	7	8	9	10	11	12	13	14
% of Cost	0%	0%	0%	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%

*Measured from the Effective Date of this Agreement

If the roof of the Hotel is replaced in the fifteenth (15) year following the Effective Date of this Agreement, the Residential Unit Owners shall be responsible for their entire share of the cost of such replacement. The Property Condition Report will include a detailed analysis of the roof of the Hotel.

3. **Replacement of Chiller, Cooling Tower & Pumps:** Seller intends to replace the Hotel's chiller, cooling tower and pumps ("Cooling Equipment") within the next two (2) years. Seller shall pay for one hundred percent (100%) of the cost of such replacement. If Seller elects to forego replacement of the Cooling Equipment, and instead purchase chilled water from the Northwind Energy plant, the Residential Unit Owner's increase in chilled water cost will not exceed five percent (5%). The Property Condition Report will not include analysis of the Cooling Equipment.

2804	C	1/1	202	825	1,027	0.14242%	1.16756%
2805	D	2/2	415	1,700	2,115	0.29330%	2.40589%
2806	B	2/2	320	1,311	1,631	0.22618%	1.85536%
2807	E	2/2	319	1,304	1,623	0.22507%	1.84546%
2808	C	1/1	199	815	1,014	0.14062%	1.15341%
2809	G	1/1	196	802	998	0.13840%	1.13501%
2810	F	1/1	209	857	1,066	0.14783%	1.21285%
2811	A	1/1	237	970	1,207	0.16738%	1.37277%
2812	H	2/2	325	1,332	1,657	0.22979%	1.88508%
2814	A	1/1	237	972	1,209	0.16766%	1.37560%
2901	A	1/1	237	968	1,205	0.16710%	1.36994%
2902	A	1/1	237	971	1,208	0.16752%	1.37419%
2903	B	2/2	319	1,305	1,624	0.22521%	1.84687%
2904	C	1/1	202	825	1,027	0.14242%	1.16756%
2905	D	2/2	415	1,700	2,115	0.29330%	2.40589%
2906	B	2/2	320	1,311	1,631	0.22618%	1.85536%
2907	E	2/2	319	1,304	1,623	0.22507%	1.84546%
2908	C	1/1	199	815	1,014	0.14062%	1.15341%
2909	G	1/1	196	802	998	0.13840%	1.13501%
2910	F	1/1	209	857	1,066	0.14783%	1.21285%
2911	A	1/1	237	970	1,207	0.16738%	1.37277%
2912	H	2/2	325	1,332	1,657	0.22979%	1.88508%
2914	A	1/1	237	972	1,209	0.16766%	1.37560%
3002	"Model"	2/2.5	439	1,796	2,235	0.30994%	2.54175%
3003	A+B	2/2	555	2,273	2,828	0.39217%	3.21681%
3005	D	2/2	415	1,700	2,115	0.29330%	2.40589%
3006	B+C	2/2	519	2,126	2,645	0.36680%	3.00877%
3007	E	2/2	319	1,304	1,623	0.22507%	1.84546%
3009	G	1/1	196	802	998	0.13840%	1.13501%
3011	A	1/1	237	970	1,207	0.16738%	1.37277%
3012	A+H+F	2/1.5/Den /Study	772	3,161	3,933	0.54541%	4.47354%
Total Floors 26-30:			17,262	70,660	87,922	12.19262%	100.00000%

Commercial Unit C-1 (5)

Floor	Floor Use	Allocated Residence Common Area (2)	Gross Square Feet	Adjusted Gross Square Feet	Percentage Building Ownership
P1	Commercial Unit	(66.50)	60,274	60,208	8.34930%
P2	Commercial Unit	(66.50)	60,274	60,208	8.34930%
1	Commercial Unit	(1,407.50)	41,515	40,108	5.56192%
2	Commercial Unit	(68.00)	44,986	44,918	6.22902%
3	Commercial Unit	(208.50)	50,228	50,020	6.93647%
4	Commercial Unit	(137.50)	37,632	37,495	5.19956%
4B	Commercial Unit	0.00	4,129	4,129	0.57259%
5	Commercial Unit	(63.50)	16,825	16,762	2.32441%
6	Commercial Unit	(63.50)	16,825	16,762	2.32441%
7	Commercial Unit	(63.50)	16,825	16,762	2.32441%
8	Commercial Unit	(63.50)	16,825	16,762	2.32441%
9	Commercial Unit	(63.50)	16,825	16,762	2.32441%
10	Commercial Unit	(63.50)	16,825	16,762	2.32441%
11	Commercial Unit	(63.50)	16,825	16,762	2.32441%
12	Commercial Unit	(63.50)	16,825	16,762	2.32441%
14	Commercial Unit	(63.50)	16,825	16,762	2.32441%
15	Commercial	(63.50)	16,825	16,762	2.32441%

	Unit				
16	Commercial Unit	(63.50)	16,825	16,762	2.32441%
17	Commercial Unit	(63.50)	16,825	16,762	2.32441%
18	Commercial Unit	(63.50)	16,825	16,762	2.32441%
19	Commercial Unit	(63.50)	16,825	16,762	2.32441%
20	Commercial Unit	(63.50)	17,043	16,980	2.35464%
21	Commercial Unit	(63.50)	17,043	16,980	2.35464%
22	Commercial Unit	(63.50)	17,043	16,980	2.35464%
23	Commercial Unit	(63.50)	16,898	16,835	2.33453%
24	Commercial Unit	(63.50)	16,898	16,835	2.33453%
25	Commercial Unit	(63.50)	16,898	16,835	2.33453%
Total Commercial Unit:		(3,224.50)	636,411	633,187	87.80738%
Total All Units:				721,109	100.00000%

OFFICE OF
BEVERLY B. KAUFMAN
COUNTY CLERK, HARRIS COUNTY, TEXA
CONDOMINIUM RECORDS OF COUNTY C

188053
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PRIVATE RESIDENCES
CONDOMINIUM

052736:00004 : AUSTIN : 262964.11

THIS IS PAGE 17 OF 18 PAGE
REDUCTION 16X CAMERA DESIGNATION

Notes:

(1) Allocated Residence Common Area on condominium residence floors equals gross square footage per floor (16,940 SF - Per Jackson & Ryan) less residential use square footage located on non-residential floors ($3,224.5 \text{ SF}/5=644.9 \text{ SF Per Floor}$) allocated to individual units on a pro rata basis using net residential square footage (14,132 SF Per Floor - Per Jackson & Ryan Architects).

(2) Allocated Residence Common Area on non-residential condominium floors is comprised of 50% of residential space located on non residential floors such as the Caroline Street lobby, 3rd & 4th floor lobbies (residential access to hotel restaurant and health club) and elevator shafts serving the upper 10 floors. This allocation is reduced by 50% as the apartments on floors 21-25 will remain part of the commercial unit. Residential use square footages on non-residential floors are based on the CRS drawings used in the original construction of the building.

(3) Percentage Building Ownership is calculated by dividing the adjusted square feet of a unit by the adjusted square feet of the entire building.

(4) Percentage Residential Condominium Ownership is calculated by dividing the net square footage of each individual residential condominium unit by the total net square footage of all residential condominium units.

(5) Unit C-1, the Commercial Unit, is comprised of all of sub-levels B1 and B2 and levels 1-25 of the Building.

ARK

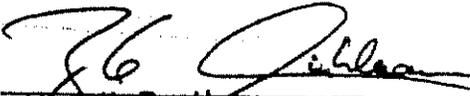
IRGI

CONSENT AND SUBORDINATION

The undersigned, beneficiary under a Deed of Trust, Security Agreement, Fixture Filing Statement, Assignment of Leases and Rents and Financing Statement ("Deed of Trust") dated as of July 24, 2003 and recorded under County Clerk's File No. W883817 of the Official Public Records in Harris County, Texas, approves the foregoing Condominium Declaration (the "Declaration"), and agrees that the Deed of Trust is, and shall at all times continue to be, subject, inferior and subordinate in all respects to the Declaration.

Dated: February 4, 2004.

AAREAL BANK AG

By: 
Name: HENRIK BARTL Christof Winkelmann
Title: Head of HR Vice President

Notarial File No. 72/2004

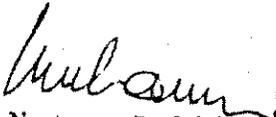
On the 4th day of February, 2004, before me, the undersigned, a Notary Public, personally appeared

Henrik Bartl, born on 09.06.1968

Christof Winkelmann, born on 09.05.1975

personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.




Notary Public

Condominium Declaration for Private Residences Condominium-Consent and Subordination Signature Page

Apostille
(Convention de La Haye du 5 octobre 1961)

1. Land: Bundesrepublik Deutschland
Diese öffentliche Urkunde

2. ist unterschrieben von ... Dirk Reisdauer

3. in seiner Eigenschaft als ... Notar

4. sie ist versehen mit dem Siegel/Stempel des (der) ...
Notars Dirk Reisdauer in
WIESBADEN

Bestätigt

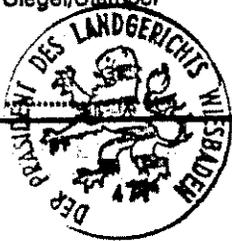
5. in Wiesbaden 6. am ... - 5. Feb. 2004

7. durch den Präsidenten des Landgerichts

8. unter Nr. 91 Ef 2311/04

9. Siegel/Stempel 10. Unterschrift

[Signature]



(Bombe)

OFFICE OF
BEVERLY B. KAUFMAN
COUNTY CLERK, HARRIS COUNTY, TEXAS
CONDOMINIUM RECORDS OF COUNTY CLERK

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PRIVATE RESIDENCES
CONDOMINIUM

THIS IS PAGE 11 OF 18 PAGES
REDUCTION 16X CAMERA DESIGNATION MRG1



Linguistic
Systems, Inc.

130 Bishop Allen Drive
P.O. Box 390031
Cambridge, MA 02139

Phone: 617.864.3900
Fax: 617.864.5186

Email: info@linguist.com
Internet: www.linguist.com

The language appearing on the foregoing acknowledgment and Seal reads

[seal on page 1]

DIRK REISCHAUER, NOTARY IN WIESBADEN

[seal on page 2]

PRESIDING JUDGE OF
WIESBADEN DISTRICT COURT

when translated into English.

Betty Castello

Translator

Hugh McAden Oechler

Hugh McAden Oechler

Notary Public

Commonwealth of Massachusetts

County of Middlesex

My Commission Expires March 28, 2008

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Item One (Fee Simple)

All of Block 252, S.S.B.B. City of Houston, Harris County, Texas being that property bounded by the center lines of Caroline and Austin Streets and Lamar and Dallas Avenues in the City of Houston, Harris County, Texas, together with all improvements thereon, including (a) the Four Seasons Hotel – Houston Center; (b) the skyway connecting Blocks 252 and 131 to the center line of Lamar Avenue; and (c) the skyway connecting Blocks 252 and 253 to the center line of Caroline Street.

Item Two (Fee Simple)

All those air rights, as hereinafter defined in the property described in Item One, being a portion of those rights conveyed by the City of Houston to Houston Center Corporation by the following two Quitclaim Deeds, the first dated August 26, 1971, recorded under Harris County Clerk's File No. D404337 and Film Code No. 133-27-0968; and the second dated December 18, 1973, recorded under Harris County Clerk's File No. E118604 and Film Code No. 101-12-1355; both such deeds being authorized by City of Houston Ordinance No. 70-1881 passed on October 28, 1970, the air rights conveyed by said Quitclaim Deeds being the City of Houston easement rights between a plane 20 feet above the crowns of the existing streets and a plane 500 feet above such street crowns, including those surrounding Item One, there, however, being excepted from this Item Two such air rights to the extent that the same relate to the Northerly half of Dallas Avenue from the center line of Caroline Street to the center line of Austin Street. Ownership of said rights defined in Cross Conveyance and Stipulation of Interest filed for record under County Clerk's File No. K620915 of the Official Public Records of Real Property of Harris County, Texas.

Item Three (Fee Simple)

A strip of land 4.98 feet wide by 50 feet in length being The City of Houston easement rights and interests described in and conveyed by that certain Quitclaim Deed dated August 27, 1956, from the City of Houston, Texas to M.J. Salley, recorded in Volume 3216, Page 2, of the Deed Records of Harris County, Texas.

Item Four (Fee Simple)

A strip of land 4.98 feet wide described in City of Houston Ordinance No. 2984, passed as of August 22, 1956, recorded in Volume 3216, Page 5, of the Deed Records of Harris County, Texas, establishing a Building line 4.98 feet east of the original building line along Austin Street.

Easement Item (i) (Non-Exclusive Easement)

The Block 252/Block 253 Span Agreement dated August 25, 1981, but effective as of March 2, 1981, by and between The Block 252 Venture and U.I.D.C. of Texas, Inc., relating to (a) the construction, operation, maintenance, repair and use of the pedestrian overhead walkway spanning Caroline Street between Blocks 252 and 253, and (b) certain other related matters contained therein for a term ending at midnight Houston, Texas time on December 31, 2020, and from year to year thereafter. (Span connecting Four Seasons Hotel-Houston Center with First City Tower Garage.) Same having been amended by Amendment to The Block 252/Block 253 Span Agreement, all of which are referred to in Memorandum filed for record in the office of the County Clerk of Harris County, Texas, on December 28, 1989, under County Clerk's File No. M455736.

Easement Item (ii) (Non-Exclusive Easement)

The Block 131/Block 252 Span and Reciprocal Easement Agreement dated effective as of December 31, 1982, by and between The Block 252 Venture and The HCV-V Venture, relating to (i) the construction, operation, maintenance, repair and use of the pedestrian overhead walkway spanning Lamar Avenue between Blocks 131 and 252, (ii) the granting of certain reciprocal easements, and (iii) certain other related matters contained therein for a term ending at midnight Houston, Texas time on December 31, 2050, and from year to year thereafter. Memorandum filed for record in the office of the County Clerk of Harris County, Texas, on December 28, 1989 under County Clerk's File No. M455741.

Easement Item (iii) (Exclusive Easement)

Correction Permit for Use and Occupancy of a Portion of the City's Right-of-Way dated December 28, 1989, recorded under Harris County Clerk's File No. M463292, from the City of Houston to JMB/Houston Center Partners Limited Partnership (Successor in Title to the Block 252 Venture), issued in correction and in lieu of that certain Permit For Use and Occupancy of a Portion of the City's Right-of-Way, dated October 1, 1979, from The City of Houston to CF Southwest, Inc., filed for record under Harris County Clerk's File No. GF286459, and assigned to The Block 252 Venture, recorded under Harris County Clerk's File No. K620914.

EXHIBIT B

MAP

**OFFICE OF
BEVERLY B. KAUFMAN
COUNTY CLERK, HARRIS COUNTY, TEXAS**

CONDOMINIUM RECORDS OF COUNTY CLERK

188048

FILM CODE _____

**PRIVATE RESIDENCES
CONDOMINIUM**

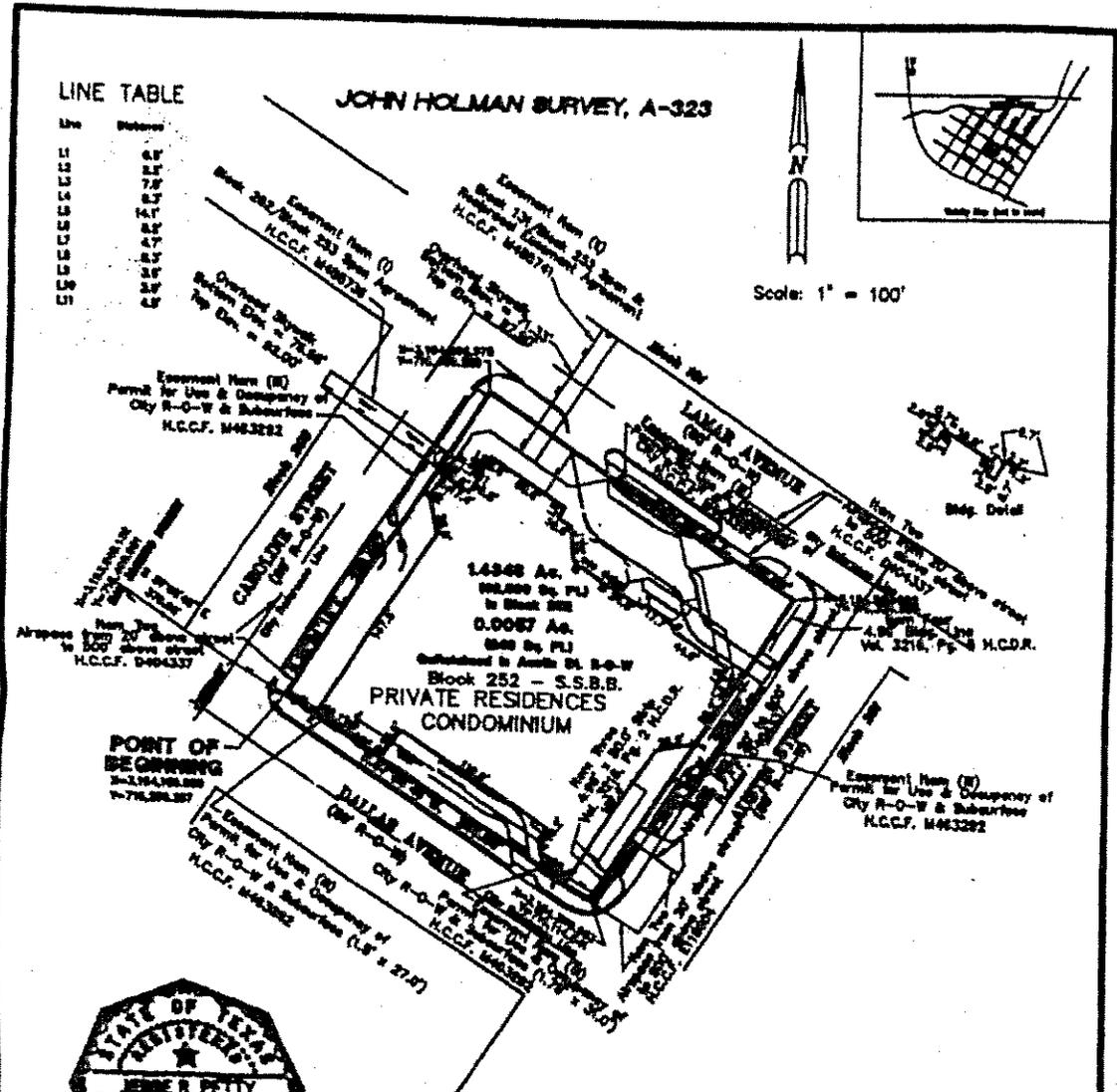
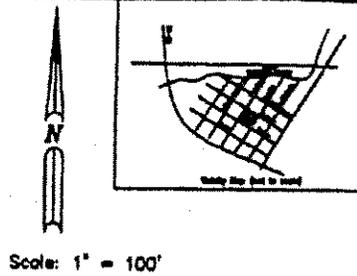
THIS IS PAGE 12 OF 18 PAGES

REDUCTION 16X CAMERA DESIGNATION MRGI

LINE TABLE

Line	Distance
L1	6.7'
L2	2.7'
L3	7.7'
L4	2.7'
L5	1.1'
L6	4.7'
L7	2.7'
L8	2.7'
L9	2.7'
L10	2.7'
L11	2.7'

JOHN HOLMAN SURVEY, A-323



THIS PLAT CONTAINS THE INFORMATION REQUIRED BY THE TEXAS UNIFORM CONDOMINIUM ACT SECTION 82.059 SUBSECTIONS B (1),(2),(3),(4),(5),(8),(9),(11) AND (12).

Jesse R. Petty 6/12/03
 JESSE R. PETTY R.P.L.S. 4955

PETTY & ASSOCIATES
 7066 LAKEVIEW HAVEN DR., STE. 119
 HOUSTON, TEXAS 77095
 PH. 281-345-4440

PLANS

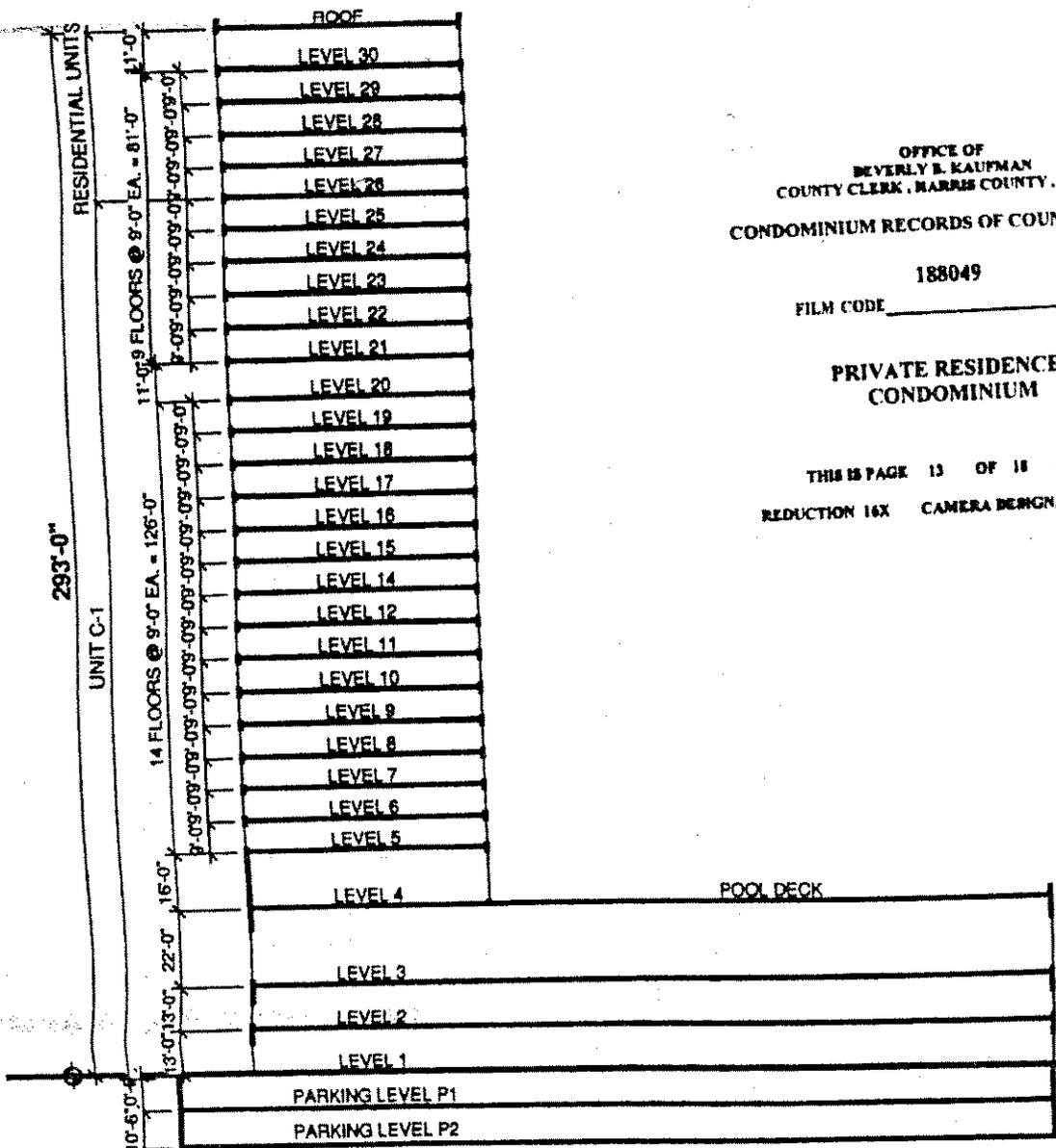
The attached Plans contain the information required by the Texas Uniform Condominium Act section 82.059, subsections (b)(6), (b)(7), (b)(10) and (d).



Jeffrey D. Ryan
Jackson & Ryan Architects
2370 Rice Blvd. , Suite 210
Houston, Texas 77005

PRIVATE RESIDENCES CONDOMINIUM
HOUSTON, TEXAS

31 October 2003



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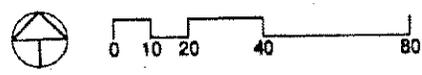
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 CONDOMINIUM

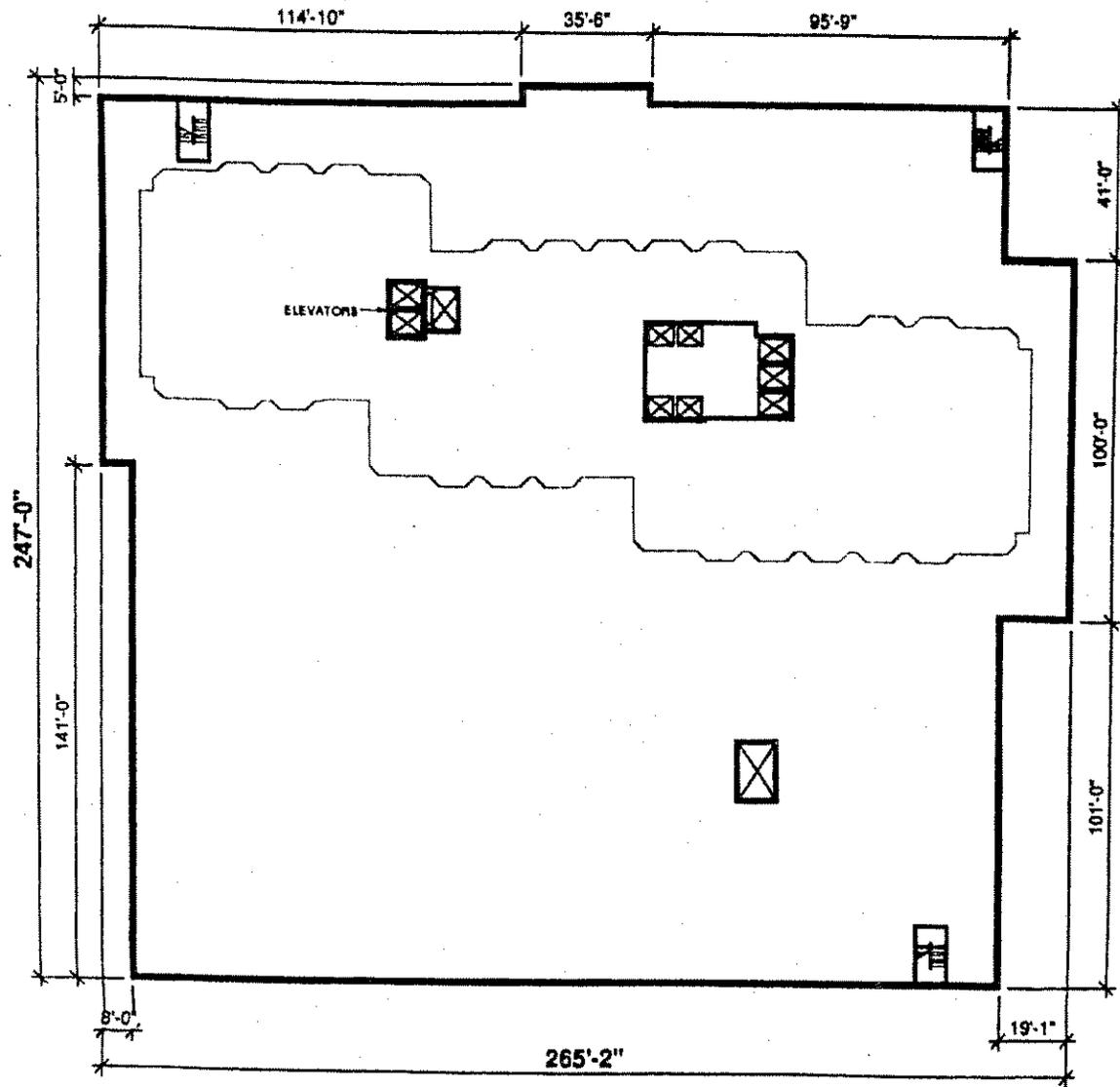
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 REDUCTION 16X CAMERA DESIGNATION 1

TYPICAL BUILDING SECTION

PRIVATE RESIDENCES CONDOMINIUM
 HOUSTON, TEXAS

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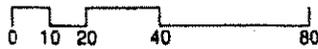


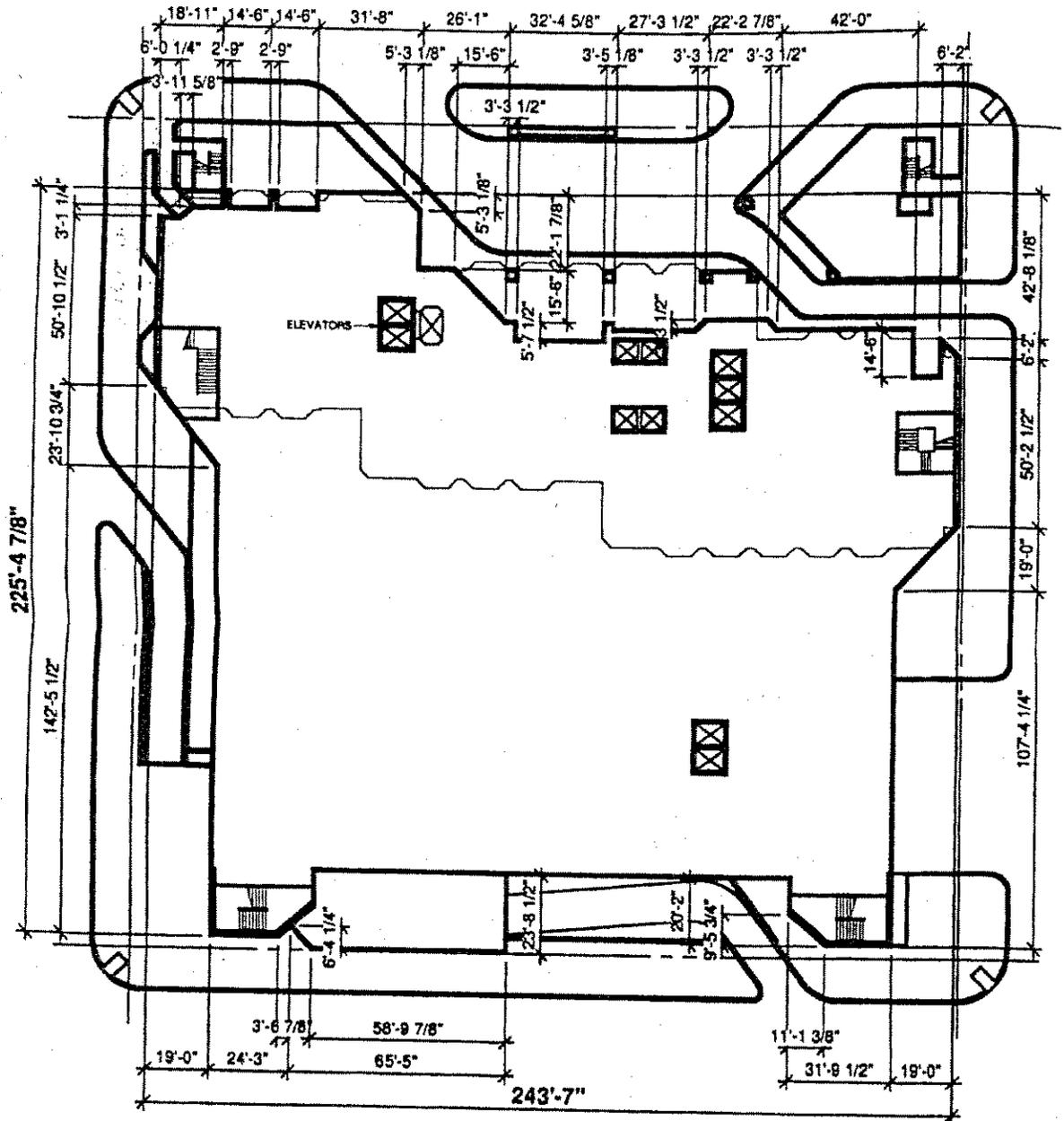


TYPICAL BUILDING PLAN
 COMMERCIAL UNIT C-1 & PARKING LEVELS P1-P2

PRIVATE RESIDENCES CONDOMINIUM
 HOUSTON, TEXAS

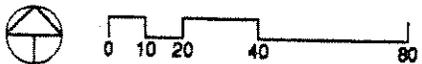
31 October 2003

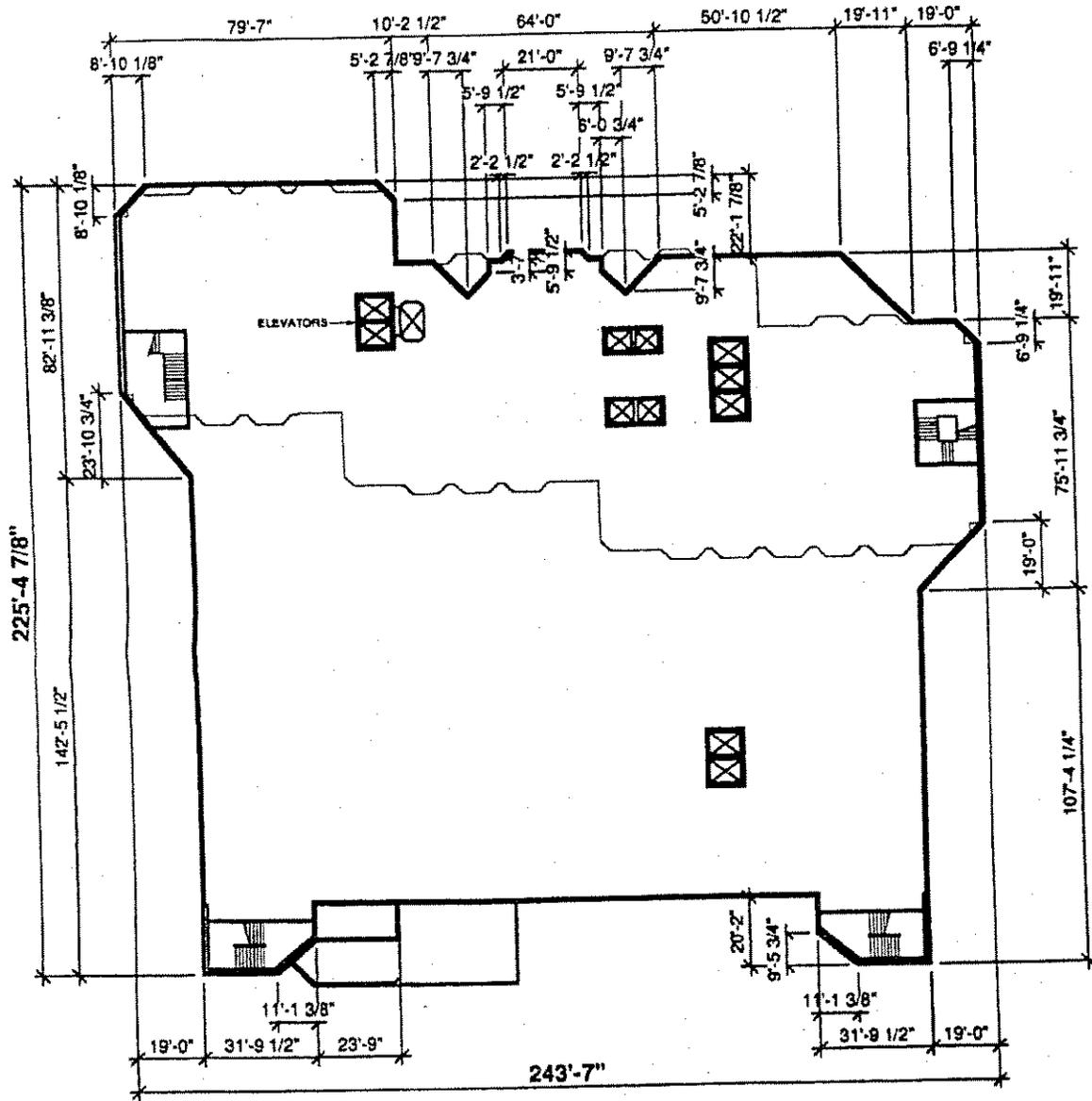




BUILDING PLAN
COMMERCIAL UNIT C-1, LEVEL 1
PRIVATE RESIDENCES CONDOMINIUM
HOUSTON, TEXAS

31 October 2003

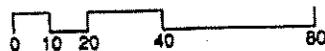


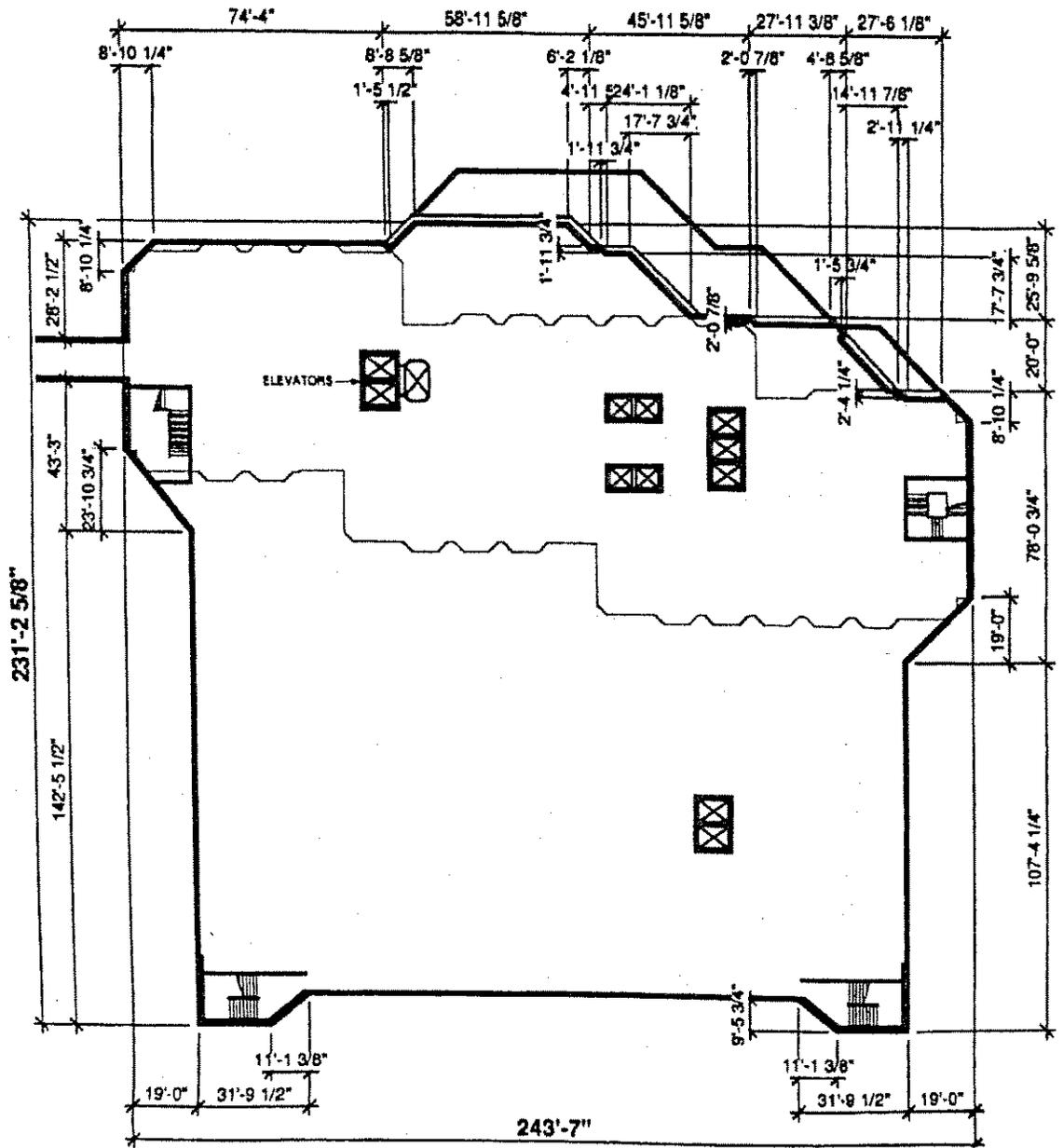


BUILDING PLAN
 COMMERCIAL UNIT C-1, LEVEL 2

PRIVATE RESIDENCES CONDOMINIUM
 HOUSTON, TEXAS

31 October 2003

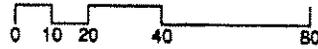




BUILDING PLAN
COMMERCIAL UNIT C-1, LEVEL 3

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HOUSTON, TEXAS

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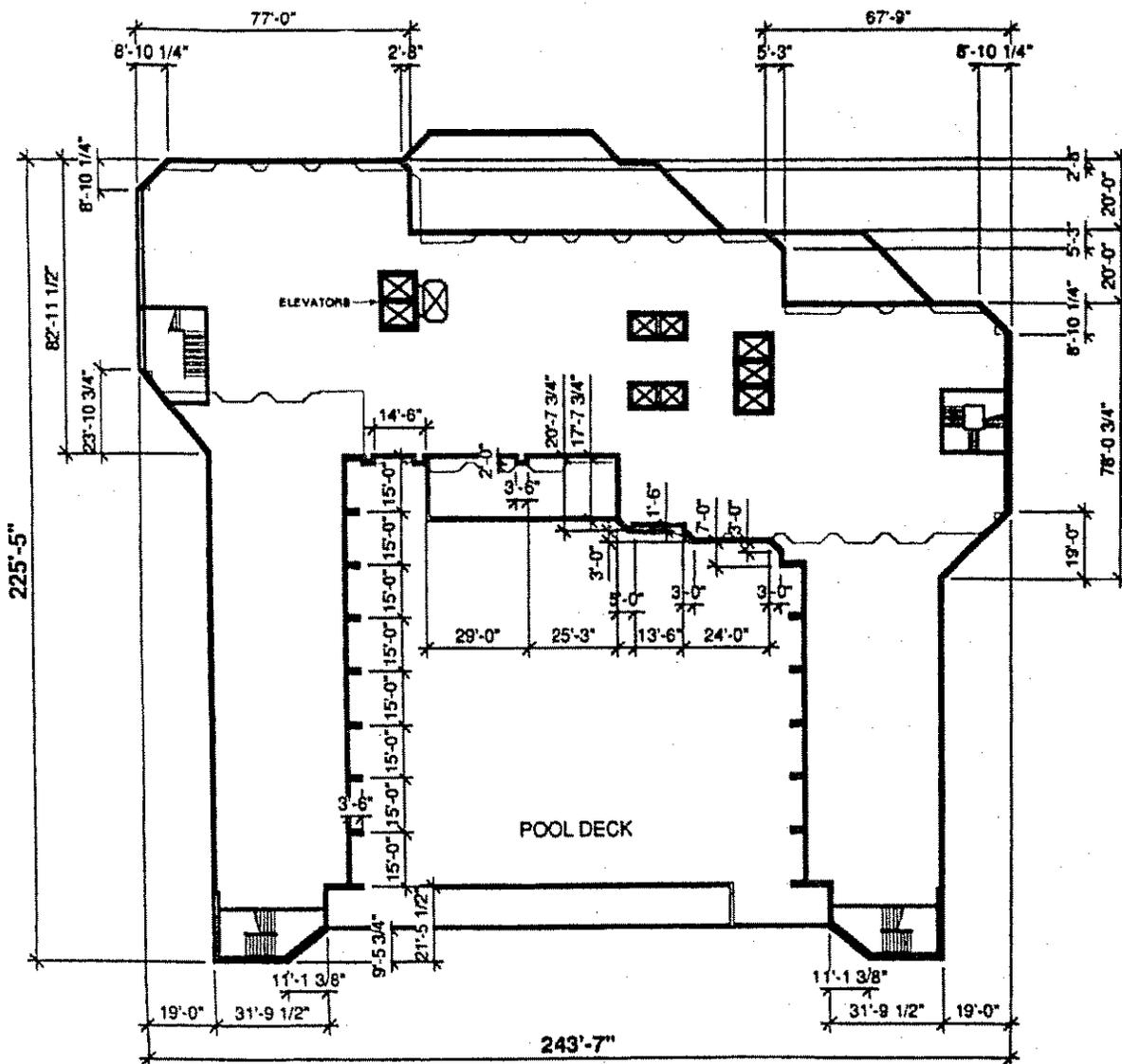


COUNTY C
CONDOMINIUM

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BUILDING PLAN
 COMMERCIAL UNIT C-1, LEVEL 4
PRIVATE RESIDENCES CONDOMINIUM
 HOUSTON, TEXAS

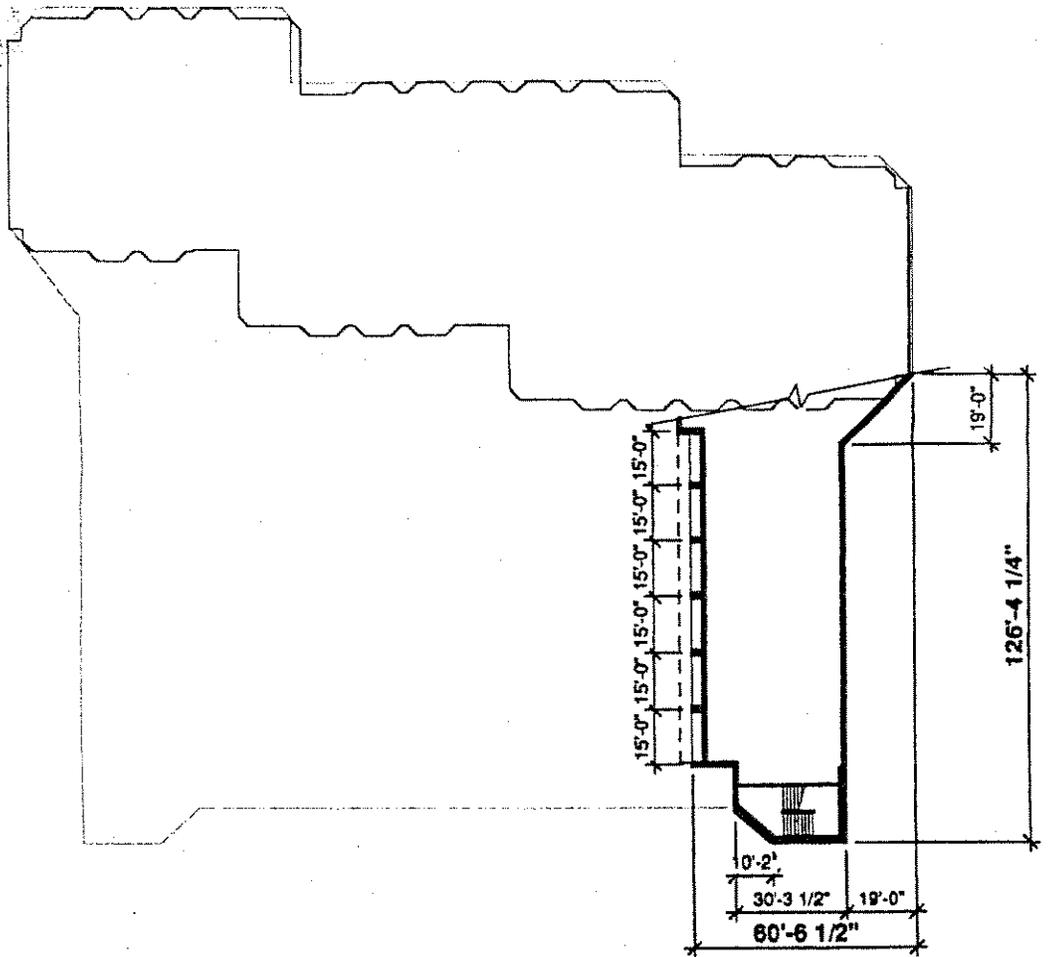
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 CONDOMINIUM

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CAMERA DESIGNATION MRC1



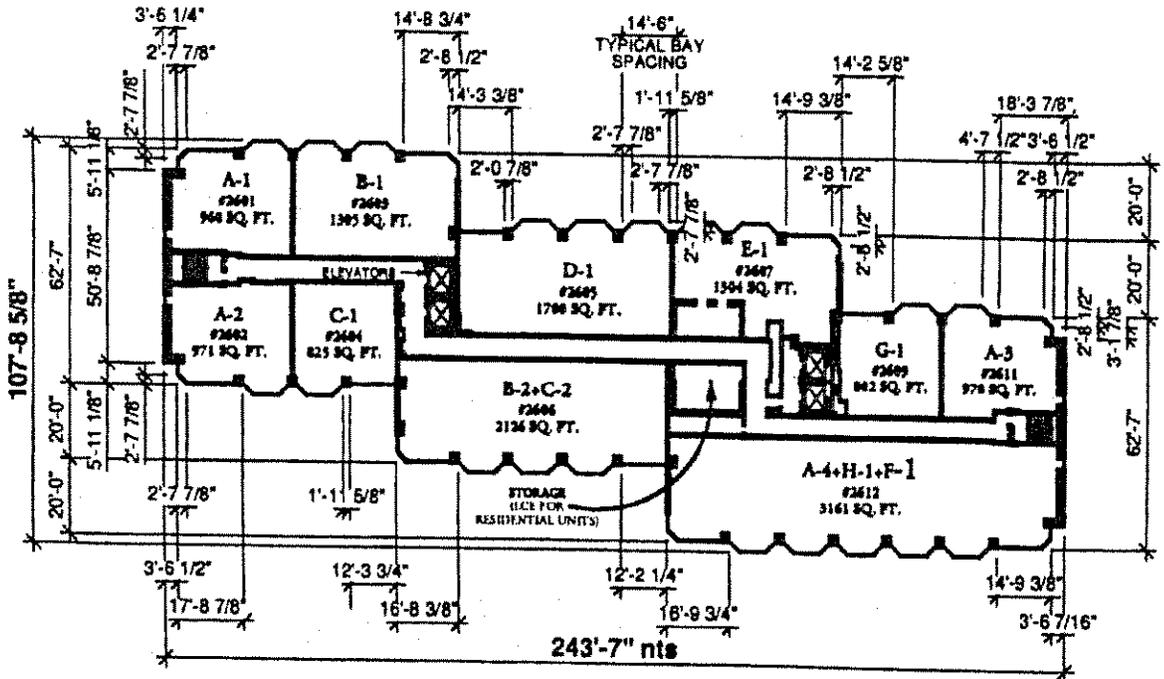


BUILDING PLAN
 COMMERCIAL UNIT C-1, LEVEL 4B

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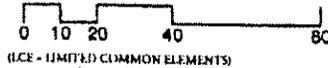
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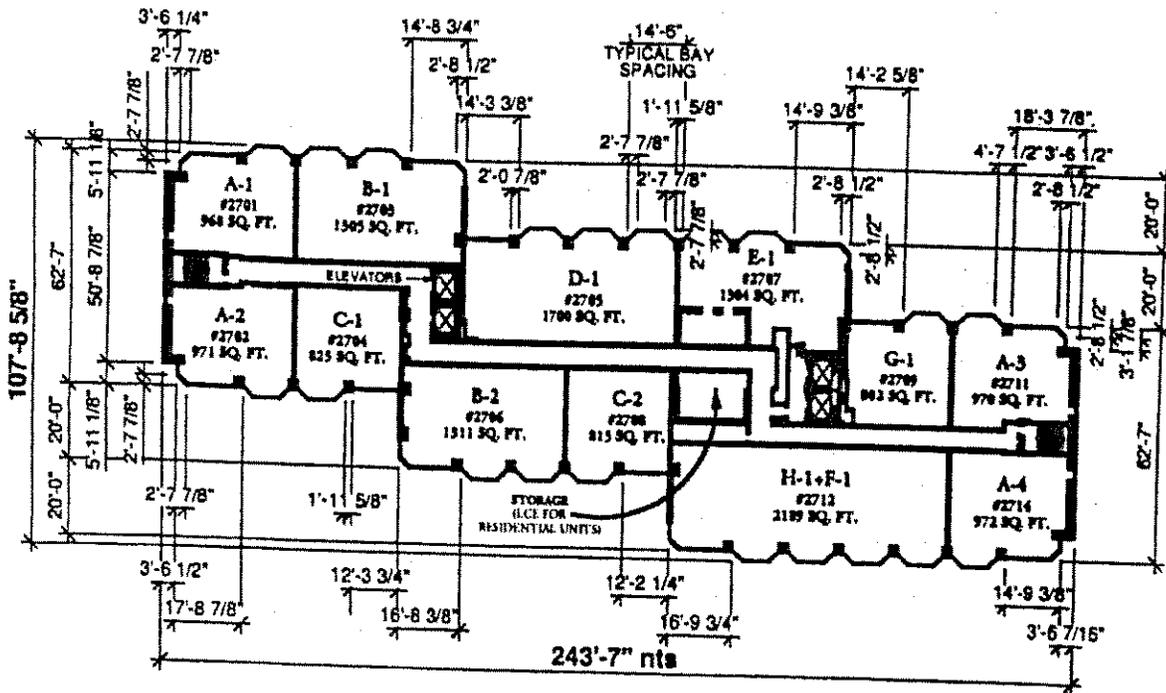
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TYPICAL BUILDING PLAN
 LEVEL 26
 RESIDENTIAL UNITS 2601, 2602, 2603,
 2604, 2605, 2606, 2607, 2609, 2611, 2612

PRIVATE RESIDENCES CONDOMINIUM
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PRIVATE RESIDENCES
 CONDOMINIUM

PAGE 15 OF 18 PAGES

(CAMERA DESIGNATION MRC)

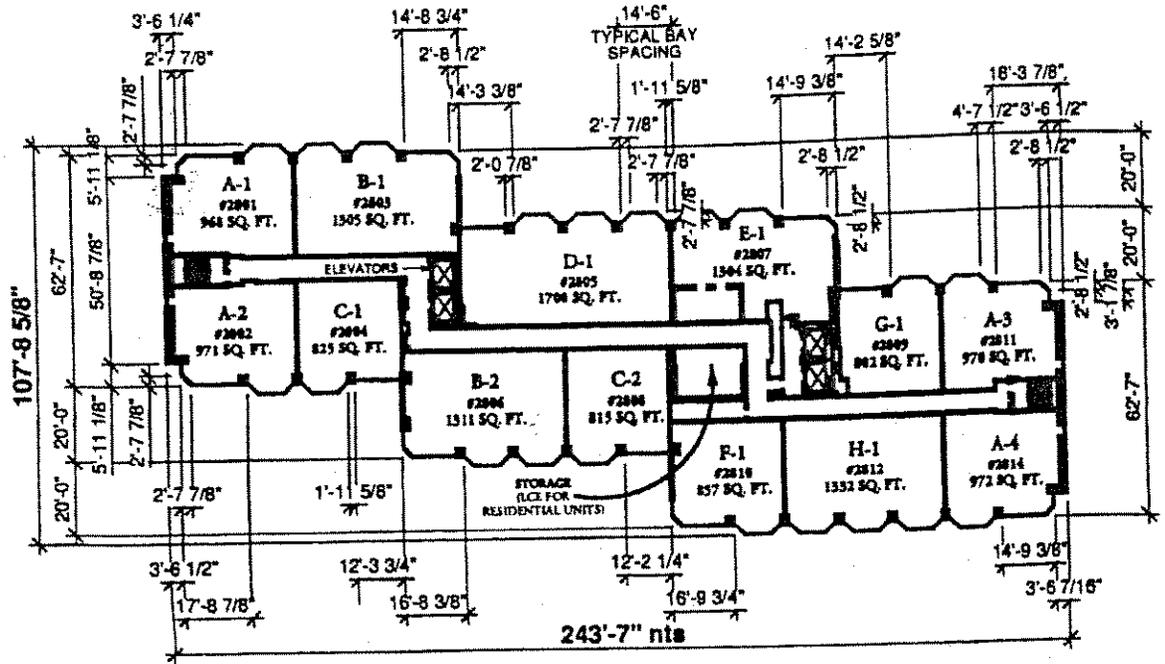
TYPICAL BUILDING PLAN
 LEVEL 27
 RESIDENTIAL UNITS 2701, 2702, 2703, 2704,
 2705, 2706, 2707, 2708, 2709, 2711, 2712, 2714

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 HOUSTON, TEXAS

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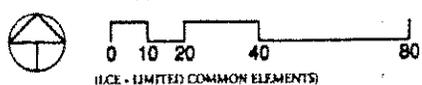
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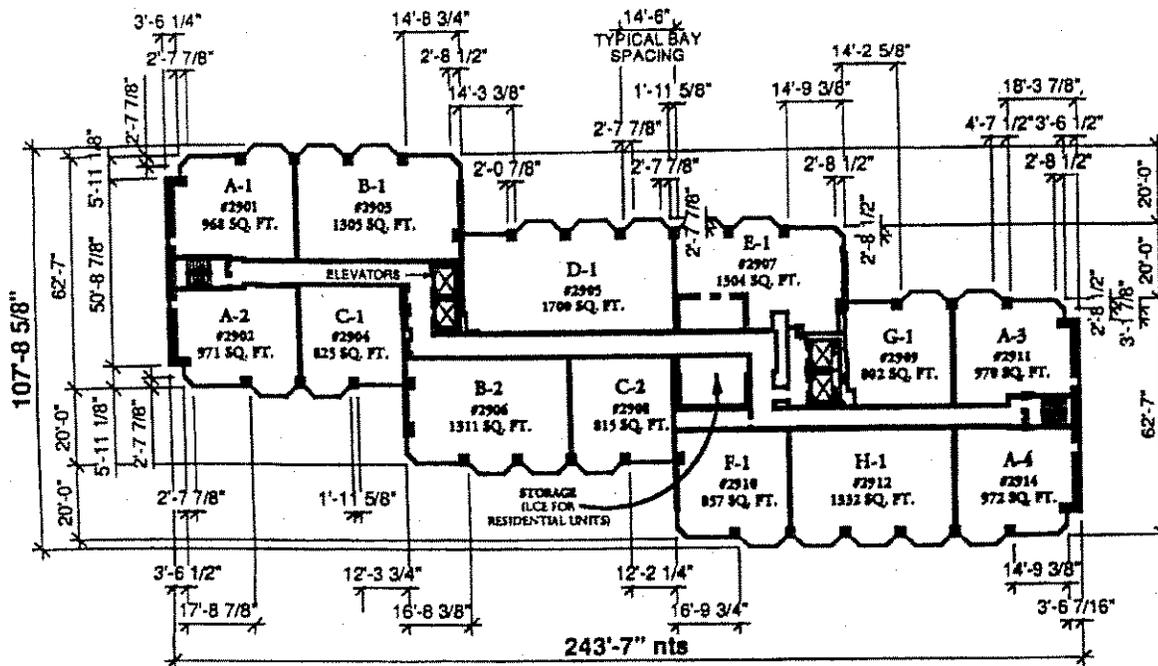


TYPICAL BUILDING PLAN
 LEVEL 28
 RESIDENTIAL UNITS 2801, 2802, 2803, 2804,
 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2814

PRIVATE RESIDENCES CONDOMINIUM
 HOUSTON, TEXAS

31 October 2003





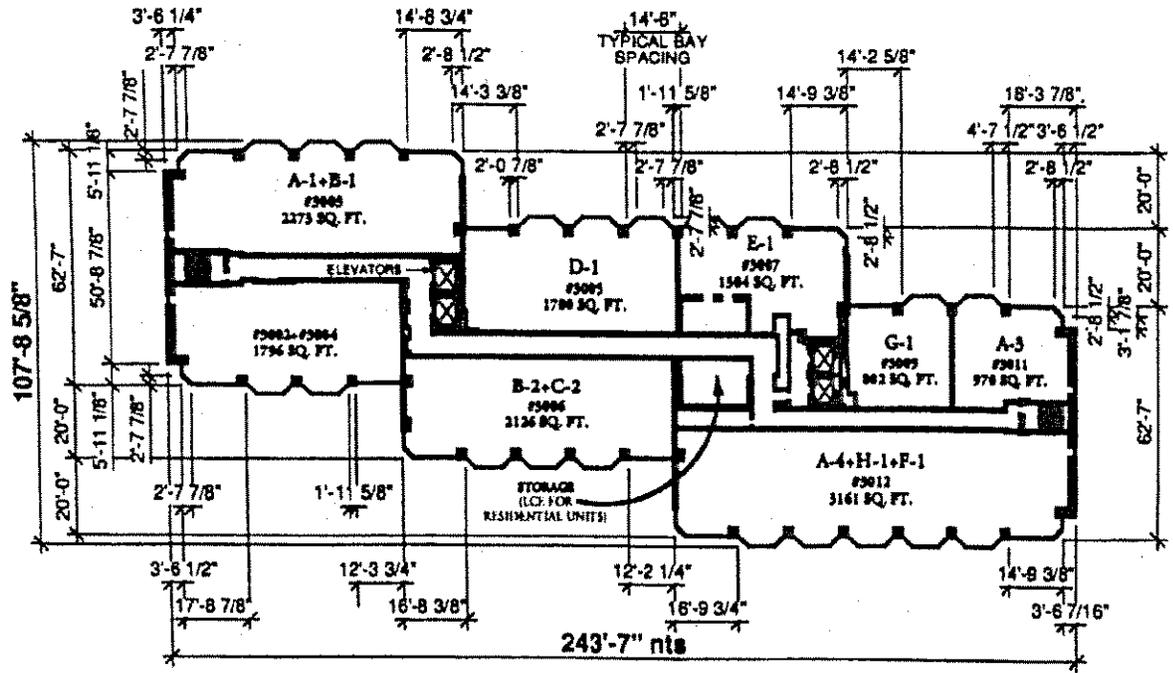
TYPICAL BUILDING PLAN
 LEVEL 29
 RESIDENTIAL UNITS 2901, 2902, 2903, 2904,
 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2914

PRIVATE RESIDENCES CONDOMINIUM
 HOUSTON, TEXAS

31 October 2003



(ILCE - LIMITED COMMON ELEMENTS)



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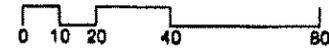
PRIVATE RESIDENCE
CONDOMINIUM

THIS IS PAGE 16 OF 18
REDUCTION 16X CAMERA DESIG

TYPICAL BUILDING PLAN
LEVEL 30
RESIDENTIAL UNITS 3002, 3003, 3004,
3005, 3006, 3007, 3009, 3011, 3012

PRIVATE RESIDENCES CONDOMINIUM
HOUSTON, TEXAS

31 October 2003



(I.C.E. - LIMITED COMMON ELEMENTS)

PRIVATE RESIDENCES CONDOMINIUM

EXHIBIT "C"

UNIT	FLOOR PLAN	Unit Configuration	Allocated	Residence	Adjusted	Percentage	Percentage
			Residence Common Area (1)	Net Square Feet	Gross Square Feet	Building Ownership (3)	Residential Condominium Ownership (4)
			A	B	A+B		
2601	A	1/1	237	968	1,205	0.16710%	1.36994%
2602	A	1/1	237	971	1,208	0.16752%	1.37419%
2603	B	2/2	319	1,305	1,624	0.22521%	1.84687%
2604	C	1/1	202	825	1,027	0.14242%	1.16756%
2605	D	2/2	415	1,700	2,115	0.29330%	2.40589%
2606	B+C	2/2	519	2,126	2,645	0.36680%	3.00877%
2607	E	2/2	319	1,304	1,623	0.22507%	1.84546%
2609	G	1/1	196	802	998	0.13840%	1.13501%
2611	A	1/1	237	970	1,207	0.16738%	1.37277%
2612	A+H+F	2/2/Den/ Study	772	3,161	3,933	0.54541%	4.47354%
2701	A	1/1	237	968	1,205	0.16710%	1.36994%
2702	A	1/1	237	971	1,208	0.16752%	1.37419%
2703	B	2/2	319	1,305	1,624	0.22521%	1.84687%
2704	C	1/1	202	825	1,027	0.14242%	1.16756%
2705	D	2/2	415	1,700	2,115	0.29330%	2.40589%
2706	B	2/2	320	1,311	1,631	0.22618%	1.85536%
2707	E	2/2	319	1,304	1,623	0.22507%	1.84546%
2708	C	1/1	199	815	1,014	0.14062%	1.15341%
2709	G	1/1	196	802	998	0.13840%	1.13501%
2711	A	1/1	237	970	1,207	0.16738%	1.37277%
2712	H+F	2/2	535	2,189	2,724	0.37775%	3.09793%
2714	A	1/1	237	972	1,209	0.16766%	1.37560%
2801	A	1/1	237	968	1,205	0.16710%	1.36994%
2802	A	1/1	237	971	1,208	0.16752%	1.37419%
2803	B	2/2	319	1,305	1,624	0.22521%	1.84687%

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