

Prepared by and return to:
Jerry B. Proctor, Esq.
Jerry B. Proctor, P.A.
9130 S. Dadeland Blvd, Suite 1700
Miami, FL 33156

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made and entered into as of _____, 2019 (the "**Effective Date**") by **TC MC Margate Apartments LLC, a Florida limited liability company ("TCMC"** and/or "**Parcel 1 Owner**") and **ALLIANCE XVI, LLC, a Florida limited liability company ("Alliance"** and/or "**Parcel 2 Owner**"). TCMC and Alliance are each an "**Owner**" and shall hereinafter collectively described as the "**Owners**").

WITNESSETH:

WHEREAS, the Parcel 1 Owner holds fee simple title to that certain parcel of land in Broward County, Florida (the "**Parcel 1 Property**") legally described on Exhibit "A" attached hereto and made a part hereof as if fully set forth herein;

WHEREAS, the Parcel 2 Owner holds fee simple title to that certain parcel of land in Broward County, Florida (the "**Parcel 2 Property**") legally described on Exhibit "B" attached hereto and made a part hereof as if fully set forth herein;

WHEREAS, the Parcel 1 Property and Parcel 2 Property will be cumulatively described as "**Property**";

WHEREAS, as the result of certain development issues affecting both "Parcel 1" and "Parcel 2", TC MC and Alliance will enter into certain permit agreements with Broward County, Florida as hereinafter described and,

WHEREAS, TC MC seeks subdivision approval of "Parcel 1", and the City has requested certain clarifications as to the maintenance of the drainage matters between the Parcels as provided for in this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Storm Water Drainage System Agreements. Alliance has entered into the following agreement:

That certain Surface Water License dated as of _____ and bearing Permit #2016-041-0 at Broward County, Florida whereby Broward County has approved a Surface Water License for "Parcel 1" and "Parcel 2" (the "**County Permit**").

3. Allocation of Costs. Alliance hereby declares that any and all costs and expenses incurred from time to time by it or its successors in interest as owner of Parcel 2 in the capacity of Licensee under the County Permit (collectively, the "**Permit Costs**") with respect to the storm drainage system and facilities described therein (collectively, the "**System**"), shall be borne by the Parcel 1 Owner and Parcel 2 Owner and, if appropriate, all future owners of any parcel within Parcel 1 Property and/or Parcel 2 Property, as the case may be (each a "**Future Owner**") in the following percentages: Parcel 1 Owner - 40%; and Parcel 2 Owner - 60%. The Permit Costs shall include, but not be limited to, costs and expenses of renewing required permits and licenses for operation of the System, maintenance of the System, repair and replacement of all or any part of the System, relocation or removal of all or a portion of the System, reimbursement of expenses incurred by the City or County, required insurance and restoration of property owned by the City or County, as applicable. Notwithstanding the foregoing, the costs and expenses of design and the initial construction/installation of the System shall be borne solely by Alliance. All obligations of Grantee and Licensee under the Agreements shall be the responsibility of Alliance or its successors in interest as the Future Owners of Parcel 2 or a portion thereof, as applicable.

4. Responsibilities for Storm Drainage System Matters.

The respective Owners of Parcel 1 and 2 and, if appropriate, all Future Owners, shall cooperate in the maintenance of the Water Detention and Drainage Facilities including the System shared between the Parcels (the "**Shared Facilities**"). The Shared Facilities shared between Parcels 1 and 2 are those portions of the Water Detention and Drainage Facilities located on Parcel 1 and 2 necessary for the overall proper functioning of the Water Detention and Drainage Facilities as a whole including but not necessarily limited to all on site stormwater storage and conveyance facilities, drainage structures, exfiltration trenches and underground retention system but excluding catch basin grates or manhole covers and the like. The offsite System is a part of the Shared Facilities necessary for the proper functioning of the Water Detention and Drainage Facilities. In the event it is necessary, in connection with the repair of Shared Facilities located on a Parcel (as used in this paragraph, "**Repairing Parcel**") or the System, to correct, maintain or repair a portion of the Water Detention and Drainage Facilities on the other Parcel (as used in this paragraph, "**Non-Repairing Parcel**") or the System, the Owner of the Repairing Parcel shall be authorized to perform the work in an orderly and workmanlike manner, provided at least ten (10) days prior written notice is provided to the Owner of the Non-Repairing Parcel (i) outlining the nature and scope of the correction, repair or maintenance required to be performed and (ii) stating that such correction, repair or maintenance shall not negatively impact the drainage of a Parcel Owner and shall be performed in a manner as cause the least disruption to the ongoing operations of the business on the Non-Repairing Parcel. Prior to commencement of any work on the Non-Repairing Parcel or the System, the Owner of the Non-Repairing Parcel shall have received a copy of the plans for the correction, repairs or maintenance to be performed and approved said plans, such approval not be unreasonably withheld, conditioned or delayed. If the proposed plans are not rejected by the Owner of the Non-Repairing Parcel within ten (10) days of the date received, approval shall be deemed given. Notwithstanding the foregoing, in the event of an emergency the Owner of the Repairing Parcel may commence to correct, maintain or repair the Shared Facilities immediately after notice to the Owner of the Non-Repairing Parcel that an emergency exists and in such notice (i) outline the nature and scope of the correction, repair or maintenance required to be performed and (ii) stating that such correction, repair or maintenance shall not negatively impact the drainage of the Non-Repairing Parcel and shall be performed in a manner as cause the least disruption to the ongoing operations of the business on Non-Repairing Parcel.

Any costs and expenses of obtaining or renewing permits and licenses related to the Water Detention and Drainage Facilities or the System including, but not limited to, Surface Water

Management Licenses and the cost and expense of correcting, maintaining or repairing the Shared Facilities shall be shared in accordance with the allocation set forth in Paragraph 3 above.

Either Owner or any tenant of the Property or a portion thereof shall be authorized to renew any such permit or license and seek and recover the proportionate share of the costs advanced the other Parcel Owner. In the event both Parcel Owners must execute a permit or license (or application therefor) in order to renew the same, then each Owner shall do so within five (5) business days of receipt of a request to execute a renewal and upon a failure to do so the requesting Parcel Owner shall be authorized and granted a power of attorney coupled with an interest to execute the renewal license or permit (or application therefor) on behalf of and in the name of the Parcel Owner which failed to execute the required document.

All Agreements Costs owed by one Parcel Owner to another shall be paid within thirty (30) days of receipt of an invoice therefor, failing which, in the absence of a legitimate, good faith objection thereto, interest shall accrue thereon at the rate of fifteen percent (15%) per annum until paid.

5. **Mechanic Liens.** If any of Parcel 1 Owner or Parcel 2 Owner or, if appropriate, any Future Owner, causes or permits to be created a mechanic or materialman's lien (the "**Infringing Owner**") by work that such Infringing Owner is performing or causing or permitting to be performed, to be filed or placed against any portion of the Property owned by any other Party to this Agreement (the "**Affected Owner**"), then, the Infringing Owner shall and hereby covenants and agrees to cause such lien to be removed by bonding off or other method acceptable to the Affected Owner, in its reasonable discretion, at no cost or expense to the Affected Owner, within thirty (30) days after the Infringing Owner receives written notice from the Affected Owner of the existence of such lien. If the Infringing Owner does not remove such lien by bonding off or other method reasonably acceptable to the Affected Owner within such 30-day period, then, the Affected Owner may remove such mechanics or materialman's lien and the Infringing Owner shall promptly reimburse the Affected Owner for the cost and expense of such removal within thirty (30) days after written notice to the Infringing Owner of such delinquent payment. The Affected Owner shall have the right to charge the Infringing Owner interest at the then highest rate of interest allowed by law from the due date until paid.

6. **Prohibition of Interference.** Notwithstanding anything to the contrary herein, the granting of the non-exclusive perpetual easements shall not impede or materially interfere with the full and complete use, access, or operation of any owner over its parcel(s), or its designated licensees, invitees, guests, and patrons.

7. **Right of Designees.** The rights and obligations set forth in this Agreement shall benefit and burden the Owners, Future Owner and their successors, and their designated licensees, invitees, guests and patrons provided, however, that nothing contained herein shall be deemed to be a dedication, conveyance or grant to the public in general nor to any persons or entities except as expressly set forth herein.

8. **Severability.** If any provision of this Agreement. shall be invalid or shall be determined to be void by any court of competent jurisdiction, then such provision or determination shall not affect any other provisions of this Agreement., all of which other provisions shall remain in full force and effect. It is the intention of the parties that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other which would render the provision valid, then the provisions shall have the meaning which renders it valid.

9. **Terms.** This Agreement shall become effective upon recordation and shall continue

for a term of 30 years from the effective date thereafter automatically renewed for 10-year periods unless released sooner with the written consent of the then owners of the Property.

10. **Covenant Running with the Land.** The rights and obligations set forth in this Agreement shall run with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors and assigns, including, any subsequent owners of all or any part of the premises described on Exhibit "A" and "Exhibit B" hereof, and all persons claiming under them. Any person or entity acquiring fee title to a portion of the Property shall be bound by this Agreement only as to the portion of the Property acquired by such person or entity.

11. **Remedies.** Enforcement of this Agreement shall be exclusively by action at law or in equity by the beneficiaries against any parties or persons violating or attempting to violate any provision of this Agreement. The prevailing party in any action or suit pertaining to or arising out of this Agreement shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of its attorney, at trial and appeal. This enforcement provision shall be in addition to any other remedies available at law or in equity or both. Notwithstanding anything to the contrary herein, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith for value now or hereafter encumbering the Property or any portion thereof.

12. **Governing Laws/Severability.** This Agreement shall be governed by and construed under the laws of the State of Florida. This Agreement will not be construed more strongly against either party regardless of which party is responsible for its preparation. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed in full force and effect.

13. **Further Assurances.** This Agreement shall not be more strictly construed against any one of the parties in any claim under any provisions hereto. In constructing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and reference to any particular gender shall be held to include every other and all genders.

14. **Estoppel Certificates.** Each of Parcel 1 Owner and Parcel 2 Owner and, if appropriate, any Future Owners (the "**Responding Party**") shall, from time to time, within twenty (20) days after receipt of written request from any other owner (the "**Requesting Party**"), execute, acknowledge and deliver to the Requesting Party or to any existing or prospective purchaser or mortgagee designated by the Requesting Party, a certificate (the "**Estoppel Certificate**") stating, to the extent applicable:

- a. that the terms and provisions of this Agreement are unmodified and are in full force and effect or, if modified, identifying any such modifications;
- b. whether there is any existing default hereunder (or grounds therefor after giving the requisite notice hereunder) by the Requesting Party and, if so, specifying the nature and extent thereof;
- c. whether there are any sums which the Responding Party is entitled to receive or demand from the Requesting Party, and if there is any such sum, specifying the nature and amount thereof;
- d. the current address or addresses to which notices given to the Responding Party are to

be mailed; and

- e. such other facts or conclusions as may be reasonably requested.

15. **Notices.** All notices, consents, approvals, demands and objections given under this Agreement (a “**Notice**”) shall be in writing and delivered by (i) personal delivery, (ii) overnight FedEx, UPS or other similar courier service or (iii) United States Postal Service as Express Mail or certified mail, postage prepaid, return receipt requested, addressed to the recipient owner at the addresses specified below, or at such other address as it may designate by providing Notice in accordance with this Section 13. Such Notices shall be deemed to have been received on (i) delivery to the recipient owner’s address, provided delivery is before 5:00 p.m. (local time for the recipient owner) on a business day, otherwise on the following business day, or (ii) the attempted delivery if the recipient owner refuses delivery, or is no longer at such address and failed to provide Notice of its current address to the sending owner in accordance with this Section 13. For the avoidance of doubt, email correspondence shall not constitute a Notice under this Agreement:

To Alliance:

ALLIANCE XVI, LLC
2601 South Bayshore Drive, Suite 100
Coconut Grove, Florida 33133
Attn: Robert Cambo
Email: rc@alliancecos.com

To TCMC:

TC MC Margate Apartments LLC
Attn: Nathan Vedrani
3850 Bird Road, 8th Floor
Coral Gables, FL 33146
Email: nvedrani@cfhgroup.com

16. **Miscellaneous:**

- a. No modification or amendment of this Agreement shall be effective unless by a written agreement executed by the Parties, with joinder by all mortgagees, if any in writing and recorded in the Public Records of Broward County, Florida.
- b. Time is of the essence. Any time periods provided for herein which ends on a Saturday, Sunday or a legal holiday will extend to 5:00 p.m. of the next business day.
- c. This Agreement contains all of the terms, promises, covenants, conditions and representations made by or entered into by and between the parties hereto and supersedes all prior discussions and agreements whether written or oral.
- d. The section headings that appear in this Agreement are for purposes of convenience of reference only and are not to be construed as modifying, explaining, restricting or

affecting the substance of the sections in which they appear. In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and reference to any particular gender shall be held to include every other and all genders.

- e. This Agreement may be executed in any number of counterparts and by different parties to this Agreement on separate counterparts, each of which, when so executed, will be deemed an original but all such counterparts will constitute one and the same agreement.

END OF TEXT. SIGNATURES APPEAR ON NEXT PAGE

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the ____ day of _____, 2019.

TC MC Margate Apartments LLC, a Florida
limited liability company

By: _____
Name: Maurice Cayon
Title: Manager

STATE OF FLORIDA)

 SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Maurice Cayon, as Manager of TC MC Margate Apartments LLC, a Florida limited liability company, who (check one) [] is personally known to me or [] has produced _____ as identification.

NOTARY PUBLIC, State of Florida
My Commission Expires: _____
Print Name: _____

ALLIANCE XVI, LLC, a Florida limited liability company

By: _____
Name: Robert Cambo
Title: Manager

STATE OF FLORIDA)

SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Robert Cambo, as Manager of ALLIANCE XVI, LLC, a Florida limited liability company, who (check one) [☐] is personally known to me or [☐] has produced _____ as identification.

NOTARY PUBLIC, State of Florida
My Commission Expires: _____
Print Name: _____

Exhibit "A"
Legal Description
Parcel 1

The land referred to herein below is situated in the County of Broward, State of Florida, and is described as follows:

A portion of Parcel "A", Central Park of Commerce, according to the plat thereof as recorded in Plat Book 119, Page 27, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of said Parcel "A"; thence North $89^{\circ}34'36''$ East, along the North line of said Parcel "A", a distance of 604.01 feet to the point of beginning, thence continue North $89^{\circ}34'36''$ East, along said North Line, a distance of 548.98 feet (548.90' per plat) to the Northeast corner of said Parcel "A" and a point on the arc of a circular curve to the left at which a radial line bears South $75^{\circ}22'31''$ East, thence along the East and South lines of said Parcel "A" the following six (6) courses: Southerly along the arc of said curve, having a radius of 1503.00 feet and a central angle of $05^{\circ}25'00''$, a distance of 142.09 feet (central angle of $6^{\circ}50'08''$ and a distance of 179.31 feet per plat) to a point of tangency; thence South $09^{\circ}12'29''$ West, a distance of 240.11 feet (South $09^{\circ}20'17''$ West, a distance of 202.91 feet per plat), thence South $00^{\circ}22'24''$ East, a distance of 300.00 feet, thence South $44^{\circ}11'54''$ West, a distance of 49.13 feet, thence South $88^{\circ}46'12''$ West, a distance of 300.00 feet, thence South $87^{\circ}20'17''$ West, a distance of 144.45 feet, thence North $00^{\circ}22'24''$ West, a distance of 720.32 feet to the point of beginning.

Said lands situate in the City of Margate, Broward County, Florida.

Exhibit "B"
Legal Description
Parcel 2

The land referred to herein below is situated in the County of Broward, State of Florida, and described as follows:

A PORTION OF PARCEL "A", CENTRAL PARK OF COMMERCE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 119, PAGE 27, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "A"; THENCE NORTH 89°34'36" EAST, ALONG THE NORTH LINE OF SAID PARCEL "A", A DISTANCE OF 604.01 FEET; THENCE SOUTH 00°22'24" EAST, A DISTANCE OF 720.32 FEET; THENCE ALONG THE SOUTH LINE OF SAID PARCEL "A" THE FOLLOWING FOUR (4) COURSES: SOUTH 87°20'17" WEST, A DISTANCE OF 55.61 FEET; THENCE SOUTH 88°46'12" WEST, A DISTANCE OF 298.88 FEET (298.25 FEET PER PLAT); THENCE NORTH 84°21'05" WEST (NORTH 84°23'17" WEST PER PLAT), A DISTANCE OF 100.17 FEET; THENCE SOUTH 88°46'12" WEST, A DISTANCE OF 150.00 FEET; THENCE NORTH 00°22'24" WEST, ALONG THE WEST LINE OF SAID PARCEL "A", A DISTANCE OF 718.22 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE CITY OF MARGATE, BROWARD COUNTY, FLORIDA.