

**This instrument was prepared by:**

**Name:**

**Address:**

(Space reserved for Clerk)

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**COVENANT  
IN LIEU OF UNITY OF TITLE**

*WHEREAS*, the undersigned are the respective owners of fee simple title to certain lands in Miami Beach, Florida (the "City"), described in Exhibits "A" (the "\_\_\_\_\_ Property") and "B" (the "Parking Property") attached to this Covenant in Lieu of Unity of Title, and hereinafter collectively called the "Properties"; and

*WHEREAS*, \_\_\_\_\_, a \_\_\_\_\_ ("Owner"), is fee simple owner of the \_\_\_\_\_ Property on which a project known as the "\_\_\_\_\_" has been or will be constructed ; and

*WHEREAS*, it has been determined that the \_\_\_\_\_ Property requires \_\_\_\_\_ (\_\_) additional parking spaces to comply with the existing parking requirements of the City as set forth in Section \_\_\_\_\_ of the City's Land Development Regulations ("LDRs"); and

*WHEREAS*, \_\_\_\_\_ ("\_\_\_\_\_") is the owner of the Parking Lot Property, and has agreed to make available to Owner, for the benefit of the \_\_\_\_\_ Property, \_\_\_\_\_ (\_\_) individual parking spaces at the Parking Lot Property so that the \_\_\_\_\_ Property will be in compliance with the LDRs; and

*WHEREAS*, Owner and/or \_\_\_\_\_ may wish to convey the Properties and or portions thereof from time to time, or may wish to develop same in phases or stages, or may wish to offer units as condominiums and are therefore executing this instrument to assure the City that

such development will be in compliance with the LDRs when so developed and at all times thereafter.

*NOW THEREFORE*, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and \_\_\_\_\_ hereby freely, voluntarily and without duress covenant and agree as follows:

1. The agreement hereunder on the part of Owner and \_\_\_\_\_ (together, the “Owners”), shall constitute a covenant running with the land and will be recorded, at Owners’ expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the successors and assigns of the respective parties hereto, until such time as the same is released in writing as hereinafter provided.
2. \_\_\_\_\_ shall make available to Owner, for the benefit of the \_\_\_\_\_ Property, \_\_\_\_\_ (\_\_\_) individual parking spaces at the Parking Lot Property so that the \_\_\_\_\_ Property will have sufficient parking available to be in compliance with the LDRs.
3. Any party entitled to utilize said parking spaces referred to in paragraph 2 above, by virtue of tenancy or ownership in the \_\_\_\_\_ Property, shall also be entitled to reasonable vehicular and pedestrian ingress and egress to and from such parking and the public street abutting the Parking Lot Property.
4. During all times that this Covenant remains in force, \_\_\_\_\_ (\_\_\_) parking spaces contained and/or located upon the Parking Lot Property shall be dedicated to and shall be utilized solely by and for the benefit of the \_\_\_\_\_ Property to satisfy the requirements of the LDRs. Such parking spaces shall at all times be specifically designated by designation as “Reserved for \_\_\_\_\_ [name of project]” (in the requisite amounts under applicable law), either on the wheel stop or on such other signage acceptable to the Owners and the Planning Director, or his designee. Such designated parking spaces may be relocated within the Parking Lot Property without City approval, provided the required number of parking spaces and the specified signage is provided. In addition, in the event that \_\_\_\_\_ or its successor undertakes to develop the Parking Lot Property, said designated parking spaces may be temporarily relocated to the parking facilities located at (i) \_\_\_\_\_, or (ii) \_\_\_\_\_, or (iii) \_\_\_\_\_ with approval by the Planning Director, or his designee, and provided the required number of parking spaces and the specified signage is provided.
5. As a further part of this agreement, it is hereby understood and agreed that any official inspector of the City of Miami Beach, or its agents duly authorized, may have the privilege at any reasonable time of entering and investigating the use of the Parking Lot Property to determine whether or not the requirements of the building and zoning

regulations and the conditions herein agreed to are being complied with.

6. The provisions of this instrument shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in accordance with the provisions of paragraph 7 below.
7. The provisions of this instrument may be released, amended, or modified from time to time by recorded instrument executed by the then owner or owners of both of the Properties, with joinders by any mortgagees, provided that the same is also approved by the Planning Director of the City of Miami Beach, or his or her successor, or a City board if such has jurisdiction of the matter at the time of the request, which approval shall be granted only under the following circumstances:
  - A. Due to a change of law applicable to the \_\_\_\_\_ Property, the full number of spaces as specified in this Covenant are no longer required for compliance with the City's LDRs; or,
  - B. The required parking specified herein is provided elsewhere in compliance with the City's LDRs and the provisions hereof; or
  - C. The required parking is satisfied by participation in the City's Parking Impact Fee program, to the extent same is available.

In addition, this instrument will automatically terminate in the event the Owner, within its sole discretion, elects to change the use of the Parking Property or in the event of a sale of the Parking Property. Owner shall file in the public records, with a copy sent to the Planning Director, a Notice of Termination, which shall be conclusive evidence of such termination. Owner agrees that from the date of filing the Notice of Termination, the Parking Property will not be used as a parking lot except in accordance with the LDRs.

8. Should this Covenant in Lieu of Unity of Title be so released, amended, terminated or modified in accordance with paragraph 7 hereof, the Planning Director, or his or her successor, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.
9. Enforcement shall be by action against any parties or persons violating or attempting to violate any of these covenants. The prevailing party in any action or suit arising out of or pertaining to this Covenant in Lieu of Unity of Title shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may determine to be reasonable for the services of its attorney. This enforcement provision is in addition to any other remedy at law, in equity or both.
10. Invalidation of any one of these covenants, by judgment of Court, in no wise shall affect any of the other provisions, which shall remain in full force and effect.

11. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
  
12. The parties hereto acknowledge and agree that the Owner intends to convert the \_\_\_\_\_ Property to the condominium form of ownership. Effective on the date that the Owner converts the \_\_\_\_\_ Property to the condominium form of ownership, any time that this covenant in Lieu of Unity of Title is to be amended, modified, consented to, terminated, or otherwise changed in such a way that requires the written agreement of the parties hereto, the instrument of amendment, modification, termination, consent or change shall be executed by the condominium association that is formed at the time the \_\_\_\_\_ Property is converted to the condominium form of ownership alone, and such instrument shall not require the signature or joinder of any individual condominium unit owners or their mortgagees.

Signed, witnessed, executed and acknowledged this \_\_\_\_ day of \_\_\_\_\_2010.

Witnesses:

By:

\_\_\_\_\_  
 Print  
 Name: \_\_\_\_\_

By: \_\_\_\_\_  
 Name:  
 Title: President

[CORPORATE SEAL]

\_\_\_\_\_  
 Print  
 Name: \_\_\_\_\_

Witnesses:

\_\_\_\_\_

By: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Name:  
Title: President

[CORPORATE SEAL]

Print  
Name: \_\_\_\_\_

STATE OF FLORIDA )  
 )  
COUNTY OF MIAMI-DADE )

SS:

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 2010, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, who executed the foregoing document on behalf of such \_\_\_\_\_. He personally appeared before me, is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida  
My commission expires: \_\_\_\_\_

STATE OF FLORIDA )  
 )  
COUNTY OF DADE )

SS:

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 2010 by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, who executed the foregoing document on behalf of \_\_\_\_\_. He personally appeared before me, is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida  
My commission expires: \_\_\_\_\_

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

APPROVED

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Planning Director

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**JOINDER BY MORTGAGEE**

The undersigned, being the owner and holder of that certain \_\_\_\_\_ (the "Mortgage") given by \_\_\_\_\_, in favor of \_\_\_\_\_, dated as of \_\_\_\_\_, and recorded \_\_\_\_\_ under Clerk's File Number \_\_\_\_\_, in the Public Records of Miami-Dade County, Florida, covering all or a portion of the property described in the foregoing Covenant in Lieu of Unity of Title, hereby acknowledges and agrees that the lien and effect of the Mortgage shall be subject and subordinate to the terms of said Covenant in Lieu of Unity of Title.

*IN WITNESS WHEREOF*, these presents have been executed this \_\_\_\_ day of \_\_\_\_\_, 2010.

Signed, sealed and delivered in the presence of these witnesses:

By: \_\_\_\_\_

Name:

Witness: \_\_\_\_\_

Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address:

STATE OF \_\_\_\_\_ )

) SS:

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010 by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of said \_\_\_\_\_. He/she personally appeared before me, is personally known to me or produced \_\_\_\_\_ as identification.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_

Print Name: \_\_\_\_\_

Notary Public, State of \_\_\_\_\_

My commission expires: \_\_\_\_\_