**This instrument was prepared by**

**and after recordation return to:**

**(Space reserved for Clerk)**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenants (the “Declaration”) made this \_\_\_\_ day of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019, by **\_\_\_\_\_\_\_\_\_** (hereinafter referred to as the “Owner”), is in favor of the **CITY OF MIAMI, FLORIDA**, a municipality located within the State of Florida (hereinafter referred to as the “City”).

**WHEREAS**, the undersigned Owner holds fee simple title to certain real property located at \_\_\_\_\_\_\_\_\_\_\_ in Miami, Florida, which are identified by Miami-Dade Tax Folio Nos. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and legally described as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

hereinafter referred to as the “Property.”

# WITNESSETH

**WHEREAS**, the City sought and obtained a rezoning pursuant to Ordinance No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the Property; and

**WHEREAS**, the Owner voluntarily proffers this Declaration to assure that the Property shall be developed in accordance with the provisions of the Declaration herein; and

**NOW THEREFORE**, the Owner, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be a covenant running with the land and binding upon the Owner of the Property, and its heirs, grantees, successors, and assigns as follows:

**Section 1.** The recitals and findings set forth in the preamble of this Declaration are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

**Section 2.** The Owner hereby makes the following voluntary declarations running with the land concerning the use of the Property:

* 1. Upon redevelopment of the Property utilizing land development entitlements above those prescribed for “T3-L”, Sub-Urban Transect Zone – Limited, within the Miami 21 Zoning Code, as amended, the Owner shall develop a publicly accessible Riverwalk within the waterfront setback prescribed within the zoning code and Section 3(mm)(ii) of the Charter of the City of Miami.
  2. The Riverwalk, once constructed and upon connectivity with neighboring, publicly accessible portions of Riverwalk or public Right-of-Way, shall be open to the public for waterfront access from 6:00 AM to 10:00 PM along the Riverwalk.
  3. The proffered Riverwalk will be designed in accordance to Article 3, Section 3.11 and Appendix B of the Miami 21 Code.

**Section 3. Effective Date.** This Declaration is effective at the date of execution hereof. This instrument shall constitute a covenant running with the title to the Property that shall be binding upon Owner, its heirs, grantees, successors, and assigns. These restrictions shall be a limitation upon all present and future Owners of the Property and shall be for the public welfare.

**Section 4. Term.** This voluntary Declaration on the part of the Owner shall remain in full force and effect and shall be binding upon the Owner of the Property, its heirs, grantees, successors in interest and assigns, for an initial period of thirty (30) years from the date this instrument is recorded in the public records and shall be automatically extended for successive periods of ten (10) years, unless modified, amended or released prior to the expiration thereof.

**Section 5. Applicable Law & Venue; Attorney’s Fees.** Florida law will apply to interpretation of this Declaration. Venue in any civil actions arising under this instrument shall be in Miami-Dade County, Florida. Each Party shall bear their own attorney’s fees and costs.

**Section 6. Amendment and Modification.** This instrument may be modified, amended, or released as to any portion of the Property by a written instrument executed by the then Owner(s) of the fee-simple title to the land to be affected by such modification, amendment or release, providing that same has been approved by the City Planning, Zoning and Appeals Board or City Commission after a public hearing which public hearing shall be applied for at the sole cost and expense of the Owner. Upon approval of such modification, amendment or release as specified herein, the Director of the City’s Planning Department, or his successor or designee, shall execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release. Such instruments shall be in a form acceptable to the City Attorney and recorded within the Public Records of Miami-Dade County, Florida.

**Section 7. Inspection and Enforcement.** It is understood and agreed that any official inspector of the City may have the right at any time during normal working hours of the City’s inspector to enter upon the Property for the purpose of investigating the use of the Property and to determine whether the conditions of this Declaration and the requirements of the City's building and zoning regulations are being complied with. An enforcement action may be brought by the City by action in law or in equity against any party or person violating or attempting to violate any covenants of this Declaration, or provisions of the building and zoning regulations, either to restrain violations or to recover damages. This enforcement provision shall be in addition to any other remedies available under the law. Each party shall bear their own attorney’s fees and costs. This enforcement provision shall be in addition to any other remedies available under the law.

**Section 8. Severability.** Invalidation of any one of these covenants herein by judgment of Court shall not affect any of the other provisions of the Declaration, which shall remain in full force and effect.

**Section 9. Recording.** This Declaration shall be filed of record among the Public Records of Miami-Dade County, Florida, by the Owner and at the cost of the Owner, within fifteen (15) days of execution and acceptance by the City. The Owner shall promptly furnish the City Planning Director and Zoning Director with a recorded copy of this Declaration within thirty (30) days of recordation of same.

**Section 10. No Vested Rights.** Nothing in this Declaration shall be construed to create any vested rights whatsoever to the Owner, its successors and assigns.

**[Signature Pages to Follow]**

## ACKNOWLEDGMENT

## CORPORATION

Signed, witnessed, executed and acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 2019.

**WITNESSES: OWNER:**

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

Signature By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

## STATE OF FLORIDA

## COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. He is ❑ personally known to me or ❑ has produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as identification.

Witness my signature and official seal this \_\_\_\_ day of 2019, in the County and State aforesaid.

Notary Public State of Florida

My Commission Expires:

Print Name

**Approved as to Planning:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Francisco Garcia, Director

Planning Department

**Approved as to Legal Form:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Victoria Méndez

City Attorney