

This instrument prepared by, and after recording return to:

Ricardo J. Dopico  
City Attorney  
City of Miami Beach, Florida  
1700 Convention Center Drive  
Miami Beach, Florida 33139

(Space reserved for Clerk of Court)

### **DECLARATION OF RESTRICTIVE COVENANTS**

**THIS DECLARATION OF RESTRICTIVE COVENANTS** ("Declaration"), is made by **OCEAN TERRACE TRUSTEE LLC**, a Delaware limited liability company, together with its successors and assigns (collectively, "Owner"), in favor of the **CITY OF MIAMI BEACH, FLORIDA**, a municipality of the State of Florida ("City"). This Declaration has been accepted by the City as part of the City's issuance of development orders and development permits for Owner's proposed development of the Ocean Terrace project (as more particularly defined in the Development Agreement, as amended, the "Project") at 7409 Collins Avenue (02-3202-003-0120), 7421 Collins Avenue (02-3202-003-0110), 7433 Collins Avenue (02-3202-003-0100), 7435, 7437, and 7439 Collins Avenue (02-3202-003-0090), 7441, 7443, and 7445 Collins Avenue (02-3202-003-0080), 7449 and 7451 Collins Avenue (02-3202-003-0070), 7400 Ocean Terrace (02-3202-003-0060), 7410 Ocean Terrace (02-3202-003-0050), 7420 Ocean Terrace (02-3202-003-0040), 7430 Ocean Terrace (02-3202-003-0030), 7436 Ocean Terrace (02-3202-003-0020), 7450 Ocean Terrace (02-3202-003-0010), and the vacated rights-of-way of Ocean Terrace, 74th Street, and 75th Street (02-3202-003-0135).

### **WITNESSETH:**

**WHEREAS**, the City, Owner, Ocean Terrace Residential LLC, Ocean Terrace Shared Facilities LLC, Ocean Terrace Retail LLC, 7450 Ocean Terrace LLC, and OTH Streetscape, LLC (collectively, the "Developer") are the current parties to that certain Development Agreement, dated as of July 31, 2019, originally entered into by and among the City and 7450 Ocean Terrace

LLC, 7436 Ocean Terrace LLC, 7420 Ocean Terrace Investment, LLC, 7410 Ocean Terrace LLC, 7400 Ocean Terrace, LLC, 7409 Collins Ave Investment, LLC, 7421 Collins Ave Investment, LLC, 7433 Collins Ave Investment, LLC, 7439 Collins Ave Investment LLC, and 7441 Collins Ave Investment, LLC (collectively, the "Initial Developer Parties"), recorded at Book 31563, Page 1201, of the Official Records of Miami Dade County, Florida, as affected by that certain Letter Agreement dated December 10, 2019, by and between the City and the Initial Developer Parties; that certain Closing Certificate dated as of December 10, 2019, by and among the Initial Developer Parties, the City, and First American Title Insurance Company, recorded at Book 31720, Page 4947, of the Official Records of Miami Dade County, Florida; that certain Settlement Agreement dated May 3, 2021, by and among the Initial Developer Parties and Ocean Terrace Holdings, LLC, the City, and Thomas R. Mooney, in his official capacity as Planning Director for the City; that certain Partial Assignment and Assumption of Development Agreement dated November 6, 2024, by and among the Initial Developer Parties and Park Developer, notice of which was delivered to the City on November 8, 2024; that certain Estoppel Certificate issued by the City on November 14, 2024; and that certain Partial Assignment and Assumption of Development Agreement dated March 10, 2025, by and among the Initial Developer Parties and Project Developer, notice of which was delivered to the City on March 11, 2025 (collectively, the "Development Agreement"); and

**WHEREAS**, capitalized terms used but not defined in this Amendment shall have the definitions set forth in the Development Agreement; and

**WHEREAS**, the Development Agreement specifies that the Project must include at least seventy-five (75) hotel units; and

**WHEREAS**, the Developer anticipates that the Project will contain seventy-six (76) residential units, including fifty-two (52) residential units within that certain tower building legally described in **Exhibit "A"** attached hereto and made a part hereof (the "Tower Building"), and twenty-four (24) condo hotel units in a mid-rise building, in addition to other uses; and

**WHEREAS**, the City and Developer have entered into that certain First Amendment to Development Agreement, dated \_\_\_\_\_, 2025, recorded at Book \_\_\_\_\_, Page \_\_\_\_\_, of the Official Records of Miami Dade County, Florida (the "First Amendment"), which amends the Development Agreement by eliminating the requirement that the Project include a minimum number of hotel units; and

**WHEREAS**, the rental of residential units within the Project on a short-term basis (i.e. for a period of less than six (6) months and one (1) day) is permitted under the City's Land Development Regulations; and

**WHEREAS**, in consideration of the City's approval of the First Amendment, Owner, as the holder of fee-simple title to the Tower Building, hereby desires to make a binding covenant to the City that none of the residential units within the Tower Building shall be leased or rented for a period of less than six (6) months and one (1) day, said covenant to run with the land and be binding on all persons claiming ownership of all, or any portion of the Tower Building, including, without limitation, all owners of individual condominium units within the Tower Building and their successors;

**NOW, THEREFORE**, Owner voluntarily covenants and agrees that the Tower Building shall be subject to the following restrictions that are intended and shall be deemed to be covenants running with the land, binding upon Owner and all successors in interest to the Tower Building, including purchasers of individual condominium units within the Tower Building and their successors, as follows:

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.

2. Commencing on the date this Declaration is recorded in the Official Records of Miami Dade County, Florida, and continuing for a period of thirty (30) years thereafter, after which time the Declaration shall be extended automatically for successive periods of ten (10) years each unless released, none of the residential units within the Tower Building shall be leased or rented

for a period of less than six (6) months and one (1) day. It is the intention of the Owner that the restrictions contained in this Declaration shall run with the land and with the title to all, or any portion of, the Tower Building, including, without limitation, all owners of individual condominium units within the Tower Building and their successors. This Declaration shall not be released without the prior written consent of the Mayor and City Commission of the City of Miami Beach, Florida.

3. Except for Owner's obligation to replace the legal description for the Tower Building with the as-built legal description, if necessary, as described in Section 9 below, this Declaration may be modified, amended, or released as to any portion of the Tower Building only with the approval of the then-Owner of the Tower Building and the Mayor and City Commission of the City of Miami Beach, or such other board with jurisdiction over the matter, at a public hearing, which public hearing shall be applied for by and at the expense of Owner. Should this instrument be so modified, amended, or released, the Planning Director, or other administrative officer with jurisdiction over the matter, shall execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release.

4. Invalidation of any provision of this Declaration by judgment of court shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect. If the First Amendment is stayed, enjoined, or invalidated by any court or other lawful authority, or the City adopts or imposes, following the date of recording of this Declaration, any requirement that the Development Site include a minimum number of hotel units (and the Owner or Developer, as applicable, complies with such requirement), then the restrictive covenant in Section 2 above shall automatically cease to be effective for the period of such stay, injunction, invalidation, or requirement.

5. This Declaration shall be recorded in the Public Records of Miami-Dade County, Florida, at the cost of Owner.

6. It is understood and agreed that any official of the City of Miami Beach has the right at any time during normal business hours, with reasonable prior written notice to Owner, of entering and investigating the use of the Tower Building, to determine whether the conditions of this Declaration and the requirements of the City's building, zoning, and land development regulations are being complied with.

7. An action to enforce the terms and conditions of this Declaration may be brought by the City and may be, at law or in equity, against any party or person violating or attempting to violate any provision of this Declaration or provisions of the building, zoning, or land development regulations, either to restrain violations or to recover damages. The prevailing party in the action shall be entitled to recover costs and reasonable attorneys' fees, at all levels of trial and appeal. This enforcement provision shall be in addition to any other remedies available under the law.

8. Upon Owner's conveyance or transfer of its interest in the Tower Building or any portion thereof, the transferor shall cease to be the Owner for purposes of this Declaration, and the transferee shall automatically become Owner as to the portion conveyed or transferred. Further, the City, by approving this Declaration, acknowledges and agrees that the Tower Building is intended to be submitted to a condominium form of ownership and, accordingly, any consent or approval to be given or withheld by the "Owner" with respect to this Declaration (including but not limited to any consent or approval needed to modify, amend, or release this Declaration) shall be granted or withheld by the Tower Building developer or the condominium association for the Tower Building, as applicable, pursuant to the terms and conditions of the applicable declaration of condominium for the Tower Building and applicable law, it being understood and agreed that individual unit owners within the Tower Building shall be bound by this Declaration but shall not have individual consent or approval rights with respect to this Declaration.

9. Notwithstanding anything to the contrary contained herein, the parties acknowledge and agree that Exhibit "A" is a preliminary legal description for the proposed Tower

Building and that following the substantial completion of the Tower Building, Owner shall record an amendment to this Declaration in a form to be approved by the City to replace Exhibit "A" with the correct legal description for Exhibit "A" based on the as-built construction if the legal description of the as-built construction differs from the legal description in Exhibit "A" attached hereto.

*[Signatures follow]*

DRAFT

**IN WITNESS WHEREOF**, Owner executes this Declaration this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Witnesses:

**OCEAN TERRACE TRUSTEE LLC**,  
a Delaware limited liability company

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

Address: \_\_\_\_\_  
\_\_\_\_\_

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

Name:

Title:

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

Address: \_\_\_\_\_  
\_\_\_\_\_

**STATE OF FLORIDA** )

) **SS:**

**COUNTY OF MIAMI-DADE** )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, in his capacity as \_\_\_\_\_ of OCEAN TERRACE TRUSTEE LLC, a Delaware limited liability company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC – State of Florida

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

APPROVED

APPROVED AS TO FORM &  
LANGUAGE & FOR EXECUTION

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

DRAFT



**EXHIBIT "A"**

Tower Building Legal Description

[Attached]

DRAFT

## TOWER BUILDING LEGAL DESCRIPTION

### BASEMENT LEVEL

A portion of Lots 3, 4, 5, 6, 11 and 12, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Block 1; thence S 02°58'50" E along the West line of said Block 1, also being the East right of way line of Collins Avenue for 152.52 feet; thence

N 87°01'10" E for 135.00 feet to the Point of Beginning; thence S 02°58'50" E for 78.17 feet; thence

N 87°01'10" E for 41.17 feet; thence S 02°58'50" E for 31.92 feet; thence N 87°01'10" E for 26.67 feet; thence N 02°58'50" W for 65.67 feet; thence S 87°01'10" W for 10.92 feet; thence

N 02°58'50" W for 11.67 feet; thence N 87°01'10" E for 2.08 feet; thence N 02°58'50" W for 45.08 feet; thence S 87°01'10" W for 20.58 feet; thence N 02°58'50" W for 8.83 feet; thence S 87°01'10" W for 16.42 feet; thence S 02°58'50" E for 21.17 feet; thence S 87°01'10" W for 22.00 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation -2.0 to +10.0 feet, relative to the National Geodetic Vertical Datum of 1929.

### GROUND LEVEL

A portion of Lot 7, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 13.08 feet; thence

S 87°01'10" W for 5.50 feet to the Point of Beginning; thence continue S 87°01'10" W for 13.00 feet; thence S 02°58'50" E for 8.17 feet; thence N 87°01'10" E for 13.00 feet; thence N 02°58'50" W for 8.17 feet to the Point of Beginning.

### AND

A portion of Lots 4, 5 and 6, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 155.06 feet; thence

S 87°01'10" W for 61.25 feet to the Point of Beginning; thence S 02°58'50" E for 21.81 feet; thence

S 87°01'10" W for 11.42 feet; thence S 02°58'49" E for 16.42 feet; thence N 87°01'10" E for 11.42 feet; thence S 02°58'50" E for 26.33 feet; thence S 87°01'10" W for 30.58 feet; thence S 02°58'52" E for 5.25 feet; thence S 87°01'08" W for 12.25 feet; thence N 02°58'50" W for 10.75 feet; thence

S 87°01'10" W for 6.42 feet; thence S 02°58'43" E for 10.94 feet; thence S 87°01'10" W for 11.50 feet; thence N 02°58'50" W for 34.25 feet; thence N 87°01'10" E for 10.83 feet; thence N 02°58'50" W for 11.42 feet; thence S 87°01'10" W for 10.83 feet; thence N 02°58'50" W for 24.33 feet; thence

N 87°01'10" E for 60.75 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +10.0 to +21.3 feet, relative to the National Geodetic Vertical Datum of 1929.

## 2<sup>ND</sup> LEVEL

A portion of Lot 7, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 13.08 feet; thence

S 87°01'10" W for 5.50 feet to the Point of Beginning; thence continue S 87°01'10" W for 13.00 feet; thence S 02°58'50" E for 8.17 feet; thence N 87°01'10" E for 13.00 feet; thence N 02°58'50" W for 8.17 feet to the Point of Beginning.

AND

A portion of Lots 4, 5 and 6, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 155.06 feet; thence

S 87°01'10" W for 72.50 feet to the Point of Beginning; thence S 02°58'50" E for 64.75 feet; thence

S 87°01'10" W for 19.33 feet; thence

S 02°58'50" E for 19.75 feet; thence S 87°01'10" W for 19.33 feet; thence N 02°58'56" W for 14.46 feet; thence S 87°01'10" W for 10.85 feet; thence N 02°58'50" W for 34.27 feet; thence N 87°01'10" E for 10.85 feet; thence N 02°58'50" W for 11.42 feet; thence S 87°01'10" W for 10.83 feet; thence

N 03°01'47" W for 24.33 feet; thence N 86°59'53" E for 49.52 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +21.3 to +34.5 feet, relative to the National Geodetic Vertical Datum of 1929.

## 3<sup>RD</sup> LEVEL

A portion of Lots 4, 5, 6 and 7, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 45.12 feet; thence

S 87°01'10" W for 20.17 feet to the Point of Beginning; thence S 02°58'50" E for 25.21 feet; thence

S 87°01'10" W for 0.67 feet; thence S 02°58'50" E for 6.83 feet; thence N 87°01'10" E for 15.17 feet; thence S 02°58'50" E for 8.17 feet; thence S 87°01'10" W for 12.83 feet; thence N 02°58'50" W for 4.18 feet; thence S 87°01'10" W for 83.82 feet; thence N 02°58'50" W for 10.82 feet; thence

S 87°01'10" W for 2.84 feet; thence N 81°43'50" W for 2.41 feet; thence N 59°13'50" W for 2.41 feet; thence N 36°43'50" W for 2.41 feet; thence N 14°13'50" W for 2.41 feet; thence N 02°58'50" W for 58.98 feet; thence S 87°01'10" W for 10.67 feet; thence N 02°58'50" W for 34.25 feet; thence

N 87°01'10" E for 10.83 feet; thence N 02°58'50" W for 11.42 feet; thence S 87°01'10" W for 10.83 feet; thence N 02°58'50" W for 24.33 feet; thence N 87°01'10" E for 49.50 feet; thence S 02°58'50" E for 64.75 feet; thence S 87°01'14" W for 19.22 feet; thence S 02°58'50" E for 15.57 feet; thence

S 10°18'37" E for 6.68 feet; thence S 25°19'49" E for 6.68 feet; thence S 40°21'01" E for 6.68 feet; thence S 55°22'13" E for 6.68 feet; thence S 70°23'25" E for 6.68 feet; thence S 85°24'37" E for 6.68 feet; thence N 89°05'19" E for 3.10 feet; thence S 82°40'22" E for 3.10 feet; thence S 74°26'04" E for 3.10 feet; thence S 60°53'52" E for 1.63 feet; thence S 62°23'39" E for 1.82 feet; thence

S 75°11'24" E for 1.82 feet; thence N 87°01'10" E for 32.28 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +34.5 to +41.2 feet, relative to the National Geodetic Vertical Datum of 1929.

#### 4<sup>TH</sup> LEVEL

A portion of Lots 4, 5 and 6, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 155.06 feet; thence

S 87°01'10" W for 72.50 feet to the Point of Beginning; thence S 02°58'50" E for 64.75 feet; thence

S 87°01'10" W for 19.33 feet; thence S 02°58'50" E for 5.29 feet; thence S 87°01'10" W for 30.19 feet; thence N 02°58'50" W for 34.29 feet; thence N 87°01'10" E for 10.85 feet; thence N 02°58'50" W for 11.37 feet; thence S 87°01'10" W for 10.85 feet; thence N 02°58'50" W for 24.35 feet; thence

N 86°59'53" E for 49.52 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +41.2 to +49.3 feet, relative to the National Geodetic Vertical Datum of 1929.

#### 5<sup>TH</sup> LEVEL

A portion of Lots 3, 4, 5, 6, 7 and 12, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 90.24 feet; thence

S 87°01'10" W for 11.37 feet to the Point of Beginning; thence S 00°35'03" E for 14.55 feet; thence

S 02°03'36" E for 14.55 feet; thence S 03°32'09" E for 14.55 feet; thence S 05°00'42" E for 14.55 feet; thence S 01°08'02" W for 4.68 feet; thence S 16°15'18" W for 4.68 feet; thence S 31°22'34" W for 4.68 feet; thence S 46°29'50" W for 4.68 feet; thence S 61°37'06" W for 4.68 feet; thence

S 76°44'22" W for 4.68 feet; thence S 87°42'44" W for 3.06 feet; thence N 89°31'53" W for 3.06 feet; thence N 86°52'20" W for 5.32 feet; thence N 87°27'51" W for 6.70 feet; thence S 88°58'53" W for 6.70 feet; thence S 85°25'38" W for 6.70 feet; thence S 83°40'03" W for 7.72 feet; thence

S 84°03'25" W for 7.72 feet; thence S 84°26'46" W for 7.72 feet; thence S 85°17'41" W for 5.41 feet; thence S 86°26'31" W for 5.41 feet; thence S 87°35'21" W for 5.41 feet; thence S 88°44'36" W for 4.42 feet; thence N 88°57'14" W for 4.42 feet; thence N 79°31'47" W for 3.46 feet; thence

N 63°58'12" W for 3.46 feet; thence N 48°24'36" W for 3.46 feet; thence N 26°25'57" W for 3.41 feet; thence N 12°11'36" W for 3.41 feet; thence N 02°02'44" E for 3.41 feet; thence N 04°54'07" E for 3.13 feet; thence N 00°26'12" E for 3.13 feet; thence N 04°01'44" W for 3.13 feet; thence N 18°04'05" W for 3.54 feet; thence N 26°06'21" W for 3.54 feet; thence N 34°08'36" W for 3.54 feet; thence

N 42°10'52" W for 3.54 feet; thence N 43°07'47" W for 13.36 feet; thence N 45°21'28" W for 3.01 feet; thence N 57°02'42" W for 3.01 feet; thence N 68°43'55" W for 3.01 feet; thence N 66°45'10" W for 2.45 feet; thence N 52°06'09" W for 2.45 feet; thence N 37°27'07" W for 2.45 feet; thence

N 22°48'06" W for 2.45 feet; thence N 08°09'05" W for 2.45 feet; thence N 06°29'57" E for 2.45 feet; thence N 11°56'00" E for 3.00 feet; thence N 14°03'49" E for 3.00 feet; thence N 16°08'29" E for 5.93 feet; thence N 11°50'02" E for 2.95 feet; thence N 01°52'52" E for 2.95 feet; thence N 08°04'18" W for 2.95 feet; thence N 18°01'29" W for 2.95 feet; thence N 27°58'39" W for 2.95 feet; thence

N 37°55'49" W for 2.95 feet; thence N 53°06'52" W for 2.33 feet; thence N 62°58'17" W for 2.33 feet; thence N 72°49'41" W for 2.33 feet; thence N 82°41'06" W for 2.33 feet; thence N 87°12'05" W for 2.33 feet; thence S 82°56'31" W for 2.33 feet; thence

S 73°05'06" W for 2.45 feet; thence N 02°58'50" W for 31.86 feet; thence S 75°58'59" E for 3.60 feet; thence N 86°26'13" E for 3.58 feet; thence N 76°57'20" E for 3.58 feet; thence N 59°22'33" E for 3.58 feet; thence N 41°47'45" E for 3.58 feet; thence N 24°12'58" E for 3.58 feet; thence N 06°38'11" E for 3.58 feet; thence N 10°56'36" W for 3.58 feet; thence N 22°22'46" W for 5.06 feet; thence

N 20°20'59" W for 2.05 feet; thence N 11°13'48" W for 2.05 feet; thence N 02°06'36" W for 2.05 feet; thence N 07°00'35" E for 2.05 feet; thence N 16°07'47" E for 2.05 feet; thence N 25°14'59" E for 2.05 feet; thence N 34°28'06" E for 7.95 feet; thence N 37°45'51" E for 7.65 feet; thence N 31°10'10" E for 12.76 feet; thence N 46°36'53" E for 4.65 feet; thence N 67°34'56" E for 4.65 feet; thence

N 89°31'24" E for 4.06 feet; thence S 82°18'52" E for 4.06 feet; thence S 89°26'29" E for 5.11 feet; thence N 80°28'11" E for 5.11 feet; thence N 73°03'33" E for 10.31 feet; thence N 78°11'33" E for 2.04 feet; thence N 87°06'29" E for 8.60 feet; thence S 84°12'06" E for 8.60 feet; thence

S 75°30'40" E for 8.60 feet; thence S 74°23'24" E for 7.82 feet; thence S 81°12'51" E for 7.82 feet; thence N 86°10'42" E for 6.97 feet; thence N 76°33'20" E for 6.97 feet; thence N 77°17'26" E for 1.70 feet; thence N 88°23'01" E for 1.70 feet; thence S 79°12'39" E for 2.33 feet; thence S 65°29'33" E for 2.33 feet; thence S 51°46'26" E for 2.33 feet; thence S 38°03'20" E for 2.33 feet; thence

S 24°20'13" E for 2.33 feet; thence S 12°57'17" E for 0.91 feet; thence S 03°54'30" E for 0.91 feet; thence S 02°22'53" W for 2.06 feet; thence S 05°54'51" W for 2.06 feet; thence S 04°03'34" W for 4.58 feet; thence S 01°19'30" E for 4.58 feet; thence S 06°42'33" E for 4.58 feet; thence

S 12°05'37" E for 4.58 feet; thence S 11°53'53" E for 4.18 feet; thence S 08°44'48" E for 4.18 feet; thence S 05°35'43" E for 4.18 feet; thence S 06°18'32" W for 3.68 feet; thence S 24°57'21" W for 3.68 feet; thence S 43°36'10" W for 3.68 feet; thence S 62°15'00" W for 3.68 feet; thence S 80°53'49" W for 3.68 feet; thence S 69°39'45" W for 1.21 feet; thence S 53°57'27" W for 1.21 feet; thence

S 31°16'32" W for 1.11 feet; thence S 17°03'55" W for 1.11 feet; thence S 02°51'18" W for 1.11 feet; thence S 07°02'43" E for 1.72 feet; thence S 12°22'30" E for 1.72 feet; thence S 17°42'18" E for 1.72 feet; thence S 17°41'59" E for 1.81 feet; thence S 12°29'25" E for 1.81 feet; thence S 07°16'51" E for 1.81 feet; thence S 04°53'17" W for 2.46 feet; thence S 13°57'22" W for 2.46 feet; thence

S 15°01'16" W for 2.10 feet; thence S 07°56'06" W for 2.10 feet; thence S 08°47'19" E for 3.07 feet; thence S 27°50'19" E for 3.07 feet; thence S 46°53'18" E for 3.07 feet; thence S 66°30'52" E for 3.33 feet; thence S 86°47'39" E for 3.33 feet; thence N 88°46'14" E for 2.54 feet; thence S 79°49'04" E for 2.54 feet; thence S 66°50'09" E for 3.96 feet; thence S 52°17'02" E for 3.96 feet; thence

S 37°43'55" E for 3.96 feet; thence S 23°10'48" E for 3.96 feet; thence S 08°37'41" E for 3.96 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +49.3 to +65.4 feet, relative to the National Geodetic Vertical Datum of 1929.

#### 6<sup>TH</sup> – 11<sup>TH</sup> LEVEL

A portion of Lots 3, 4, 5, 6, and 7, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 44.00 feet; thence

S 87°01'10" W for 46.02 feet to the Point of Beginning; thence N 02°58'50" W for 157.18 feet; thence S 87°01'10" W for 101.82 feet; thence S 02°58'50" E for 157.18 feet; thence N 87°01'10" E for 101.82 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +65.4 to +131.9 feet, relative to the National Geodetic Vertical Datum of 1929.

#### 12<sup>TH</sup> LEVEL

A portion of Lots 3, 4, 5, 6, and 7, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 44.00 feet; thence

S 87°01'10" W for 46.02 feet to the Point of Beginning; thence N 02°58'50" W for 157.18 feet; thence S 87°01'10" W for 101.82 feet; thence S 02°58'50" E for 157.18 feet; thence N 87°01'10" E for 101.82 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +131.9 to +142.8 feet, relative to the National Geodetic Vertical Datum of 1929.

#### 14<sup>TH</sup> – 23<sup>RD</sup> LEVEL

A portion of Lots 3, 4, 5, 6, and 7, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 44.00 feet; thence

S 87°01'10" W for 46.02 feet to the Point of Beginning; thence N 02°58'50" W for 157.18 feet; thence S 87°01'10" W for 101.82 feet; thence S 02°58'50" E for 157.18 feet; thence N 87°01'10" E for 101.82 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +142.8 to +259.7 feet, relative to the National Geodetic Vertical Datum of 1929.

#### ROOF LEVEL

A portion of Lots 4, 5 and 6, Block 1, TOWNSITE OF HARDING, according to the Plat thereof, as recorded in Plat Book 34 at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Southeast corner of said Block 1; thence N 02°58'50" W along the East line of said Block 1, also being the West right of way line of Ocean Terrace for 86.58 feet; thence

S 87°01'10" W for 92.67 feet to the Point of Beginning; thence N 02°58'50" W for 9.17 feet; thence

S 87°01'10" W for 5.64 feet; thence

N 02°58'50" W for 48.67 feet; thence N 87°01'10" E for 5.64 feet; thence N 02°58'50" W for 9.17 feet; thence S 86°07'52" W for 10.75 feet; thence N 02°58'50" W for 0.67 feet; thence S 87°01'10" W for 6.08 feet; thence N 02°58'51" W for 12.50 feet; thence S 87°01'09" W for 19.37 feet; thence

S 77°51'01" W for 3.43 feet; thence S 59°53'16" W for 3.43 feet; thence S 41°55'31" W for 3.43 feet; thence S 23°57'47" W for 3.43 feet; thence S 06°00'02" W for 3.43 feet; thence S 02°58'50" E for 71.25 feet; thence S 11°58'50" E for 3.44 feet; thence S 29°58'50" E for 3.44 feet; thence

S 47°58'50" E for 3.44 feet; thence S 65°58'50" E for 3.44 feet; thence S 83°58'50" E for 3.44 feet; thence N 87°01'10" E for 19.33 feet; thence N 02°58'50" W for 12.75 feet; thence N 87°01'10" E for 6.08 feet; thence N 02°58'50" W for 0.50 feet; thence N 87°01'10" E for 10.75 feet to the Point of Beginning.

The above described perimetrical boundary being between elevation +259.7 to +290.0 feet, relative to the National Geodetic Vertical Datum of 1929.

DRAFT

## **CONSENT OF MORTGAGEE AND SUBORDINATION OF MORTGAGE**

The undersigned, holder of that certain MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING, dated as of February 7, 2025, and recorded in Book 34628, at Page 3562, of the Official Records of Miami-Dade County, Florida (as may be amended from time to time, the "Mortgage"), encumbering the real property to be subjected to the foregoing Declaration of Restrictive Covenants made by OCEAN TERRACE TRUSTEE LLC, a Delaware limited liability company, in favor of the CITY OF MIAMI BEACH, a Florida municipal corporation, hereby consents to said Declaration of Restrictive Covenants and agrees that the lien of said Mortgage shall be subject and subordinate to the terms of said Declaration of Restrictive Covenants.

IN WITNESS WHEREOF, the undersigned has set his hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2025.

**JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a national banking association chartered under the laws of the United States of America

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

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2025, by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, who is personally known to me or has produced \_\_\_\_\_ as identification.

My commission expires:

NOTARY PUBLIC – State of Florida

Print Name