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**DECLARATION OF RECIPROCAL EASEMENTS AGREEMENT
AND
DECLARATION OF COVENANTS AND RESTRICTIONS FOR
ELM PLACE**

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**DECLARATION OF RECIPROCAL EASEMENTS AGREEMENT
AND
DECLARATION OF COVENANTS AND RESTRICTIONS FOR
ELM PLACE**

THIS DECLARATION OF RECIPROCAL EASEMENTS AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR ELM PLACE (the "REA") is made as of the 24th day of June, 1999 by 501 ELM PLACE PARTNERS, LTD., a Texas limited partnership.

RECITALS:

A. Declarant is the fee simple owner of a tract of land (the "Property") located in Dallas, Texas, as more particularly described in Exhibit "A" attached hereto.

B. The Property is comprised of three (3) tracts, as follows: (i) the Residence Tract (hereinafter defined), being the second (2nd) through the top floor of the brick building (the "509 Elm Building") located on the land and improvements known as 509 Elm Street (the "509 Elm Parcel"), and upon which Declarant intends to create and impress an apartment-type unit condominium regime, together with related common elements (the "Condominium"), and (ii) the 509 Elm Commercial Tract (hereinafter defined), being all of the 509 Elm Parcel, save and except the Residence Tract (which 509 Elm Commercial Tract includes, but is not limited to, the first (1st) floor of the 509 Elm Building and the associated one-level underground parking garage); and (iii) the 501 Elm/Record Commercial Tract (hereinafter defined) upon which is located a multi-level office building known as "501 Elm Street" and a multi-story brick building known as "209 and 211 North Record Street", such property also including one level of underground parking, a multi-level parking garage above ground and other commercial/retail facilities.

C. On or about the date hereof Declarant intends to record the Condominium Declaration (hereinafter defined), thereby describing, delineating and creating the Residence Tract and the Condominium existing on and within the Residence Tract within the 509 Elm Building. For purposes of this REA, the Declarant, pursuant to this REA, shall also be the Condominium Declarant which shall execute and record the Condominium Declaration (hereafter defined) creating the Residence Tract and further describing the Condominium.

D. The Residence Tract and the Condominium shall be comprised of all of the 509 Elm Parcel lying above the first story of the 509 Elm Building, and the 509 Elm Commercial Tract shall be comprised of all of the 509 Elm Parcel lying below the second story of the 509 Elm Building, so that the common boundary between the Residence Tract and the 509 Elm Commercial Tract shall be the ceiling of the first floor of the 509 Elm Building, the floor of the second story of the 509 Elm Building, and the material, fill and air between such ceiling and floor.

E. The Condominium and Residence Tract will be connected to the 509 Elm Commercial Tract by way of elevators, stairs, mechanical systems, utility systems, fire safety systems, security systems, structural support systems and the common structural elements existing as the floor of the second story and the ceiling of the first story of the 509 Elm Building, all as are shown on the Plans (hereinafter defined).

F. The Condominium and Residence Tract will also be connected to the one-story underground parking facilities located within the 509 Elm Commercial Tract by stairways and elevators, and the 509 Elm Commercial Tract will also be connected to the following: (i) the multi-level parking garages located within the 501 Elm/Record Commercial Tract and providing vehicular and pedestrian access to, through and within the 501 Elm/Record Commercial Tract Parking Facilities to the 509 Elm Commercial Tract and the Residence Tract and providing pedestrian and vehicular access to, from and between the Residence Tract and the 509 Elm Commercial Tract on the one hand and public streets, specifically Houston Street, on the other hand, and (ii) the driveways, ramps and other parking facility appurtenances and amenities lying within such multi-level garages.

G. Declarant, as owner of the 509 Elm Commercial Tract, and Condominium Declarant desire that common access to and common use of the Common MUS Facilities (hereinafter defined), the 509 Elm Common Facilities located within the 509 Elm Commercial Tract, and the 501 Elm/Record Common Facilities located within the 501 Elm/Record Commercial Tract be created and exist for the use and benefit of the Residence Tract and Condominium, the 509 Elm Commercial Tract and the respective of the respective users of the 509 Elm Commercial Tract and the Residence Tract and Condominium.

H. Declarant, as owner of the 501 Elm/Record Commercial Tract, desires that access to and common use of, the 509 Elm Common Facilities and the Common MUS Facilities exist for the use and benefit of the 501 Elm/Record Commercial Tract and the users thereof.

I. 501 Elm Place Partners, Ltd., a Texas limited partnership, as Declarant, Condominium Declarant, and the owner of the Residence Tract, the 509 Elm Commercial Tract and the 501 Elm/Record Commercial Tract, desires to create and impress upon the Residence Tract, the 501 Elm/Record Commercial Tract and the 509 Elm Commercial Tract, certain other covenants, agreements, easements, rights, obligations, conditions and restrictions, all as set forth in this REA.

J. By this REA, Declarant intends to establish a plan for the separate ownership and operation of the Residence Tract, the 509 Elm Commercial Tract, and the 501 Elm/Record Commercial Tract, subject to the covenants, conditions, restrictions, easements, liens, charges and equitable servitudes as set forth in this REA.

NOW, THEREFORE, Declarant hereby declares that the Property shall be owned and operated only upon and subject to this REA and to the following licenses, covenants, conditions, restrictions, easements, liens, charges, and equitable servitudes, all of which are hereby declared (a) to be for the benefit and protection of the Property and its desirability, value, and attractiveness, (b) to run with the Property and be binding upon anyone who has or acquires any right, title or interest

in the Property or in any part thereof, whether as owner, mortgagee, lessee, occupant, or otherwise, and (c) to inure to the benefit of and be binding upon each Owner (as hereafter defined). Any conveyance, mortgage, encumbrance, assignment, lease, or other transfer of any part of the Property or of any interest therein shall automatically be subject to (and be deemed to incorporate) the provisions of this REA.

ARTICLE I DEFINITIONS

As used herein, each of the following terms shall have the meaning stated:

1.1 "Affiliate" means anyone who controls, is controlled by, or is under common control with another. Anyone who owns fifty percent (50%) or more of the shares or other equity interest of another, or who is a general partner of another, shall be deemed to have control.

1.2 "Alteration" means any physical alteration, addition, or improvement to any part of a Common Facility other than (a) replacement of worn or broken parts or equipment, repainting, replacement of worn carpeting, or other Maintenance of any part of a Common Facility or (b) work to restore any part of a Common Facility to substantially its former condition following a Casualty or a Condemnation.

1.3 "Association" means 509 Elm Place Residences Association, Inc., a Texas non-profit corporation.

1.4 "Casualty" means a fire, storm, earthquake, or other sudden or accidental event causing loss or damage to any part of the Common Facilities.

1.5 "Common ADA Facilities" means the handicap lift, if any, handicap ramps and other pertinent improvements which have been installed at the street level pedestrian entrance to the 509 Elm Commercial Tract as generally shown on the Plans, which Common ADA Facilities are intended, necessary and desirable for the use and operation of all Tracts in the manner contemplated by this REA.

1.6 "Common Facilities" means, collectively, that portion of the 501 Elm/Record Commercial Tract Parking Facilities located in the 501 Elm/Record Commercial Tract, the Common MUS Facilities, the 501 Elm/Record Commercial Tract Driveways located within the 501 Elm/Record Commercial Tract Parking Facilities, the 509 Elm Commercial Tract Driveways, the 509 Elm Commercial Tract Parking Facilities, the Common Pedestrian Entrances and Corridors, the Common ADA Facilities, and Common Security Facilities located within the Property, together with any other equipment, common areas, hallways, utility systems, furniture or fixtures located within the respective underground garages and/or first floors of the 501 Elm/Record Commercial Tract or the 509 Elm Commercial Tract and which are specifically intended for the common use and benefit of the Residence Tract, the 509 Elm Commercial Tract and the 501 Elm/Record Commercial Tract and the respective Owners or Occupants thereof and their respective guests and invitees.

1.7 "Common MUS Facilities" means, collectively, all mechanical, utility systems, and structural improvements, including wires, distribution equipment, transformers, conduit, pumps, motors, pipes, sewer and drainage and other lines, emergency generators, common HVAC ducts and other mechanical, electrical, or plumbing fixtures or equipment, lights, elevators, common fire alarm systems, common security systems, structural supports and improvements, security gates and gatehouses located on the Property that are necessary or desirable for the use and operation of the Tracts in the manner contemplated by this REA.

1.8 "Common Pedestrian Entrances and Corridors" means any and all street level, first floor pedestrian entrances, pedestrian hallways, and restroom areas, together with any carpets, floor coverings, wall coverings, landscaping, doors, artwork, appointments, furnishings, fixtures and other design treatments intended for the common use and benefit of the Residence Tract, the 509 Elm Commercial Tract and the 501 Elm/Record Commercial Tract and the respective Owners or occupants thereof and their respective guests and invitees, as such are depicted on the Plans at Exhibit "B", (Sheet 1 of 6).

1.9 "Common Security Facilities" means security personnel, equipment, and systems, together with any furnishings, equipment and material used by security personnel, which personnel, materials and systems are maintained on the first floor, street level of the 501 Elm/Record Commercial Tract, the 509 Elm Commercial Tract or the underground parking garage areas of either of these two Tracts, so long as such common security facilities serve both the 509 Elm Parcel and the 501 Elm/Record Commercial Tract.

1.10 "Condemnation" means the condemnation or other involuntary taking of any part of the 501 Elm/Record Commercial Tract, the 509 Elm Commercial Tract or the Residence Tract or of any interest therein pursuant to any condemnation, eminent domain, or other Laws or sale in lieu thereof.

1.11 "Condominium" is defined in the Recitals above.

1.12 "Condominium Declarant" means 501 Elm Place Partners, Ltd., a Texas limited partnership, which is the "Declarant" under the Condominium Declaration.

1.13 "Condominium Declaration" means that certain Declaration of Condominium Regime for 509 Elm Place Residences dated as of the date hereof.

1.14 "Condominium Unit" shall have the meaning given to it in the Condominium Declaration.

1.15 "Default" has the meaning specified in Section 9.1.

1.16 "509 Elm Commercial Tract" means, collectively, all land and improvements (including any Common Facilities) now or hereafter located within the boundaries of the tract of land described on Exhibit "B" (Sheet 5 of 6) attached hereto, including, vertically, below the exterior surface of the first floor ceiling.

1.17. "509 Elm Commercial Tract Driveways" means those driveways and pedestrian walkways (but excluding parking spaces and parking rights) located within the 509 Elm Commercial Tract Parking Facilities for use and passage of pedestrian and vehicular traffic, as such are generally depicted on the Plans at Exhibit "B" (Sheet 2 of 6) attached hereto.

1.18. "509 Elm Commercial Tract Parking Facilities" means, collectively, that portion of the 509 Elm Commercial Tract located within the one-level garage areas of the 509 Elm Commercial Tract as shown as the 509 Elm Street Parking Facility (Basement Level) on the Plans at Exhibit "B" (Sheet 2 of 6) attached hereto including, collectively, vehicular driveways, vehicular and/or pedestrian entrances to and exists from such garage areas, pedestrian walkways, garage lighting, security gatehouses, security gates, any garage sweeping or cleaning equipment, parking stops, parking garage furniture and fixtures, ramps, fixtures and equipment necessary for the operation of the entrances and exists to the garage, card reading equipment, other unattended security and gate devices and all other fixtures, equipment, utility systems, security systems and other property necessary for the proper operation, maintenance and configuration of all parking facilities maintained within the one-level underground parking garage located on the 509 Elm Commercial Tract as are necessary or desirable for the use and operation of the foregoing in the manner contemplated by this REA. Parking spaces and parking rights are expressly excluded from this definition.

1.19 "509 Elm Common MUS Facilities" means (i) any garbage dumpsters and the electrical utility room and facilities located therein located in the one-level underground parking garage comprising part of the 509 Elm Commercial Tract, and (ii) structural supports and structural improvements located in the 509 Parcel which support and maintain the Residence Tract.

1.20 "509 Elm Commercial Owner" means the Owner(s) of the 509 Elm Commercial Tract, or any portion thereof.

1.21 "501 Elm/Record Commercial Tract" means, collectively, all land and improvements (including any Common Facilities) now or hereafter located within the boundaries of the tract of land described at Exhibit "B" (Sheet 6 of 6) attached hereto and made a part hereof by this reference for all purposes.

1.22 "501 Elm/Record Commercial Tract Driveways" means those driveways and pedestrian walkways (excluding parking spaces and parking rights) located within the 501 Elm/Record Commercial Tract Parking Facilities for use and passage of pedestrian and vehicular traffic, as such are generally depicted on the Plans at Exhibit "B" (Sheet 3 of 6) attached hereto.

1.24 "501 Elm/Record Commercial Tract Parking Facilities" means, collectively, that portion of the 501 Elm/Record Commercial Tract located within the below ground garage areas of the 501 Elm/Record Commercial Tract as shown as the 501 Elm Street Parking Facility (Basement Level) on the Plans at Exhibit "B" (Sheet 3 of 6) attached hereto including, collectively, vehicular driveways, vehicular and/or pedestrian entrances to and exist from such garage areas, pedestrian walkways, garage lighting, security gatehouses, security gates, any garage sweeping or cleaning equipment, parking stops, parking garage furniture and fixtures, ramps, fixtures and equipment necessary for the operation of the entrances and exists to the garage, card reading equipment, other unattended security and gate devices and all other fixtures, equipment, utility systems, security systems and other property necessary for the proper operation, maintenance and configuration of all parking facilities maintained within the parking garage located on the 501 Elm/Record Commercial Tract as are necessary or desirable for the use and operation of the foregoing in the manner contemplated by this REA. Parking spaces and parking rights are excluded from this definition.

1.25 "501 Elm/Record Owner" means the Owner(s) of the 501 Elm/Record Commercial Tract, or any portion thereof.

1.26 "Force Majeure" means any shortage or inability to obtain materials or equipment, strikes or other labor difficulties, restrictions imposed by Laws, Casualties, or other causes beyond an Owner's reasonable control (other than insolvency or the lack of unavailability of loss, equity, or other funds).

1.27 "Laws" means statutes, codes, regulations, ordinances, judgments, orders, and other legally binding actions and decisions of governments, courts, or other government agencies.

1.28 "Maintenance" means all work and service necessary or desirable to preserve the appearance or function of any part of a Common Facility in accordance with reasonable and customary standards, including acquisition and use of parts, supplies, and equipment, cleaning and janitorial work, collection and disposal of rubbish and garbage, care of vegetation, repairs, replenishment of consumable items, replacement of worn or broken parts or equipment, repainting and replacement of worn carpeting, and all other such work and services, but excluding any Alterations.

1.29 "Mortgage" means any recorded mortgage, deed of trust, or security agreement encumbering any Tract or Common Facility or any portion thereof, including but not limited to any recorded mortgage, deed of trust or security agreement encumbering a Condominium Unit.

1.30 "Mortgagee" means the holder or other owner of any debt or other obligation secured by a Mortgage.

1.31 "Occupant" means, as applicable: (a) a "Condominium Occupant," which is any owner of a Condominium Unit or such owner's immediately family, tenants or guests who reside in a

Condominium Unit pursuant to the terms of the Condominium Declaration, and (b) an "Office/Retail Occupant," which is any tenant of any Office/Retail Owner, or any employee, guest, visitor, customer, or agent of an Office/Retail Owner or of any tenant of an Office/Retail Owner.

1.32 "Owner(s)" means, individually or collectively as the context requires, each owner from time to time of fee simple title to any one or more of the 509 Elm Commercial Tract, the 501 Elm/Record Commercial Tract, or the Residence Tract or any portion of any Tract including any Owner of a Condominium Unit.

1.33 "Parking Facilities" shall mean the 501 Elm/Record Commercial Tract Parking Facilities and/or the 509 Elm Commercial Tract Parking Facilities, as the context dictates.

1.34 "Plans" means those certain drawings depicting the Tracts and certain of the Common Facilities thereon, copies of which are attached hereto and made a part hereof as Exhibit "B".

1.35 "Residence Lobby" means the 509 Elm Street Residence Lobby (first floor) and 509 Elm Street Residence Lobby (basement level) as depicted on Exhibit "B" (Sheet 1 of 6 and Exhibit "B" (Sheet 2 of 6), which Residence Lobby is located within the 509 Elm Commercial Tract.

1.36 "Resident Owner" means the Owner(s) of the Residence Tract, or any portion thereof.

1.37 "Residence Tract" means, collectively, all real property and improvements (including any Common Facilities) now or hereafter located within the boundaries of the tract of land described on Exhibit "B" (Sheet 4 of 6) attached hereto, including, vertically, above the exterior surface of the first floor ceiling.

1.38 "Tract" means the 509 Elm Commercial Tract, the 501 Elm/Record Tract or the Residence Tract.

ARTICLE II OWNERSHIP AND RECIPROCAL EASEMENTS

2.1 Ownership of Common Facilities. The 509 Elm Commercial Owner shall own and hold the 509 Elm Commercial Tract, including all parts of the Common Facilities located therein, subject to the covenants, conditions, restrictions, licenses, easements, liens, charges, and equitable servitude created by this REA. The 501 Elm/Record Owner shall own and hold the 501 Elm/Record Commercial Tract, including all parts of the Common Facilities located therein, subject to the covenants, conditions, restrictions, licenses, easements, liens, charges, and equitable servitude created by this REA. The Residence Owner shall own and hold the Residence Tract subject to the covenants, conditions, restrictions, licenses, easements, liens, charges, and equitable servitude created by this REA.

2.2 Grant of Easements. Subject in all respects to the other terms and provisions of this REA, the following easements are declared to exist and are granted and conveyed:

(a) Each Owner shall have, and Declarant and Condominium Declarant, hereby convey to each Owner and hereby creates, the following nonexclusive easements over, on, across and through the Tracts of the other Owners to the extent reasonably necessary for the following purposes:

(1) To connect with, access, use, enjoy and have the benefit of the Common Facilities, each in accordance with its intended use, capacity, and purpose.

(2) To restore any part of the Common Facilities to substantially its former condition following a Casualty or a Condemnation, to the extent permitted under this REA, and to exercise any other rights or perform any other duties under this REA.

(3) For structural support of the land, structural elements, and other parts of one Tract by the land, structural elements, or other parts of another Tract.

(4) To make such determinations in connection with a closure, discontinuance or demolition of a Tract and/or Common Facility, as permitted in this REA.

(b) The 509 Commercial Owner shall have, and Declarant, as owner of the 501 Elm/Record Commercial Tract, and Condominium Declarant hereby convey to the 509 Elm Commercial Owner, an easement over such portions of the Residence Tract and the 501 Elm/Record Commercial Tract as are deemed by the 509 Elm Commercial Owner necessary or desirable to perform Maintenance on the Common Facilities as is required or permitted under this REA, or to construct or install Alterations in such portions of the Common Facilities as permitted by this REA.

(c) Each Condominium Occupant and each Owner of a portion of the Residence Tract shall have and Declarant and Condominium Declarant, hereby convey to each Owner of a portion of the Residence Tract and each Condominium Occupant an exclusive easement for the use of and for access to and from the Residence Lobby. Access to and from the Residence Lobby may be regulated by such security systems and personnel as may be determined by the Condominium Declarant and/or the Association as they shall elect. The maintenance, operation, furnishing, improvement and use of the Residence Lobby shall be at the sole cost and expense of the Association, and Owners of the Residence Tract and the Residence Lobby shall not be or constitute a portion of the Common Facilities.

2.3 Appurtenance. The easements created by this REA are appurtenant to fee simple ownership of a Tract, or any portion thereof, and the conveyance, assignment, or other transfer of all or a portion of the entire estate and interest of an Owner in and to a Tract shall transfer the rights of each Owner in and to the easements created by this REA. By way of example, since owners of individual Condominium Units are assignees of Condominium Declarant's fee simple interest in the

Residence Tract, such Owners are entitled to the rights and benefits of, and are bound by the duties and burdens of, the Residence Owner hereunder, subject, however, to the provisions of Section 10.14 hereof.

2.4 Priority of Easements. The easements created by this REA are intended to be superior to any Mortgage or other encumbrance now or hereafter encumbering any part of the Property, and may not be subordinated to any Mortgage or other encumbrance.

2.5 Duration and Modification. The easements created by this REA are intended to be perpetual (except as and to the extent otherwise herein specifically provided to the contrary) and, except as provided in this Section 2.5, shall continue until this REA terminates. A particular easement may be relocated or terminated only by an amendment to this REA in accordance with Section 10.1, and no easement may be abandoned, terminated, relocated, or otherwise altered by lack of use, by any change in use, by any express or implied waiver, or by any act or omission other than by an amendment to this REA in accordance with Section 10.1.

2.6 Temporary Closing. An applicable Owner may temporarily close or restrict the use of Common Facilities in its Tract during the following temporary circumstances:

(a) During any period that the Common Facilities are dangerous or unfit for normal use because of a Casualty, Condemnation, or other Force Majeure, to perform retroactive construction work as the result of a Casualty or Condemnation, or construction or installation of Alterations permitted by this REA.

(b) To prevent members of the public from obtaining prescriptive rights.

Reasonable advance notice of any temporary closing, except in the case of an emergency, shall be given to all other Owners who have easement rights thereto as provided in this REA, and such Owner shall coordinate any temporary closing with such other Owners so that no unreasonable interference in the operation of (as applicable) the Common Facilities occurs. Each Owner shall use reasonable efforts to minimize the duration of any temporary closing that it initiates.

ARTICLE III OPERATION AND MAINTENANCE - GENERAL

3.1 Parking Facilities Operation. Subject to the provisions of this REA, including, but not limited to, this Section 3.1, the 501 Elm/Record Owner shall have the right with respect to the 501 Elm/Record Commercial Tract Parking Facilities, and the 509 Elm Commercial Owner, with respect to the 509 Elm Commercial Tract Parking Facilities, shall have the right to:

(a) - Establish and enforce access controls, procedures for towing of unauthorized automobiles, and other reasonable rules and procedures relating to automobile parking operations in their respective Parking Facilities.

(b) Establish and alter rates and charges for the parking of automobiles in their respective Parking Facilities, and sell, rent, or license to any person or entity the right to park automobiles on an hourly, daily, weekly, monthly, or other basis.

(c) Collect and retain any revenue from the sale, rental, or licensing of automobile parking spaces in their respective Parking Facilities.

If either the 501 Elm/Record Owner or the 509 Elm Commercial Owner desire to pursue any of the rights set forth in this Section 3.1, such Owner shall provide to the other Owner written notice thereof, and such Owners shall use reasonable efforts to reach agreement regarding having such right established and enforced identically with respect to both Parking Facilities. If such Owners cannot so agree, after using reasonable efforts, on or before the date which is thirty (30) days after delivery of such written notice, the decision of the 509 Elm Commercial Owner shall govern.

It is understood and agreed that no Owner of any Condominium Unit is granted any easement, rights, license or interest in and to any parking spaces in and to the Parking Facilities by virtue of this REA. Rights with respect to the parking of vehicles in the Parking Facilities shall be governed and controlled by the Owner of the 509 Elm Commercial Tract as regards the 509 Elm Commercial Tract Parking Facilities, and shall be governed and controlled by the 501 Elm/Record Owner as regards the 501/Record Commercial Tract Parking Facilities. The rights in and to Parking Facilities created by this REA are limited to those rights expressly set forth in this REA. Further, no cross parking rights are created between Owners or Occupants of any Tract. The Owner of the 501 Elm/Record Commercial Tract Parking Facilities shall be entitled to control parking within its Parking Facility, and the Owner of the 509 Elm Commercial Tract shall be entitled to control parking within its Parking Facility. The Owner of the 509 Elm Commercial Tract may, in its discretion, assign its right to control parking within the 509 Elm Commercial Tract Parking Facilities to another entity.

3.2 Maintenance of Common Facilities. The 509 Elm Commercial Owner shall have the sole right and obligation, to be paid for as set forth in Section 3.8 hereinbelow, to perform Maintenance on the all Common Facilities. The rights of the 509 Elm Commercial Owner with respect to performance of Maintenance, management of the Common Facilities and collection of expenses with respect thereto may be assigned by the 509 Elm Commercial Owner to another Owner or Occupant by assignment in writing which shall be recorded in the appropriate Real Property Records of Dallas County, Texas reflecting such assignment.

3.3 Alterations and Other Maintenance Obligations. Except for the Maintenance obligations of the 509 Elm Commercial Owner set forth in Section 3.2 above, each Owner, at its sole cost and expense, subject to the provisions of this REA with respect thereto, shall have the right and obligation to perform Maintenance on the Tract, or a portion of each Tract, owned by such Owner. Except as otherwise set forth in Article VII hereof, each Owner may determine, in its sole discretion, which Alterations are to be made to its Tract. Any such Alterations shall be made subject to the provisions of this REA and at the sole cost and expense of the Owner of such Tract.

3.4 Exterior Maintenance Standards. Each Owner agrees to maintain, clean, and repair the exterior of the its Tract so as to maintain its first-class appearance.

3.5 Employment of Contractors. All contractors and workmen employed by any Owner to perform Maintenance or Alterations required or permitted under this Agreement shall comply with the following insurance, qualifications, and work practices:

(a) All work shall be performed in a first-class, workmanlike manner, in compliance with all applicable Laws.

(b) Each contractor or workman shall be appropriately bonded or insured in a manner consistent with the scope and nature of the work to be performed.

(c) Any mechanics' or materialmen's lien shall extend only to the interest of the Owner employing the contract or workman.

(d) Any rights to remove any part or component of any Common Facilities in connection with the enforcement of any mechanics' or materialmen's lien shall be expressly waived.

3.6 Mechanics' and Materialmen's Liens. Any mechanics' or materialmen's lien arising from any labor or materials furnished to or at the request of any Owner in connection with Maintenance or Alterations required or permitted under this Agreement shall be the sole responsibility of that Owner, who shall:

(a) Cause any such lien or claim therefor (affecting any Common Facility) to be promptly released or provide an indemnity bond to the other Owner in an amount satisfactory to such other Owner.

(b) Ensure that no Common Facilities are removed by virtue of the enforcement of any such lien.

(c) Indemnify and hold the other Owner harmless from and against any loss, liability, damage, cost, or expense (including attorneys' fees), or any claim therefor, as the result of or in connection with any such lien or claim.

3.7 General Operation. In connection with an Owner's use of Common Facilities permitted by this REA, each Owner hereby agrees to use reasonable efforts to minimize any interference or disruption in the use and employment by the other Owner of such other Owner's Tract or such other owner's use of a Common Facility.

3.8 Assessments for Maintenance of Common Facilities.

(a) All Owners are obligated to contribute, in the percentages described in Subsection 3.8 (g) below, its share of the expenses incurred or to be incurred by the 509 Elm Commercial Owner for Common Facility Maintenance. No Owner shall be exempt from the obligation to make such contribution of its share of such expenses by waiver of the use and enjoyment of the Common Facilities.

(b) The 509 Elm Commercial Owner shall annually prepare a budget for projected Maintenance and Alterations of the Common Facilities, determining the amount of the annual assessments therefor payable by the Owners, and allocating and assessing such annual assessments among the Owners in the manner set forth in Section 3.8(g). The 509 Elm Commercial Owner may also include as part of such annual assessment any amounts necessary to make up any deficit in the such expenses for a prior year. The 509 Elm Commercial Owner may also establish an adequate reserve fund for replacement of the any portion of the Common Facilities to be part of the annual assessment. The 509 Elm Commercial Owner shall promptly advise all Owners in writing of the amount of the annual assessments payable by each of them, respectively, as determined by the 509 Elm Commercial Owner as aforesaid, and shall furnish copies of the budget on which the assessments are based to all Owners. The reasonable determination of the budget and corresponding share of each Owners shall be binding upon the Owners.

(c) In addition to the annual assessments authorized above, the 509 Elm Commercial Owner may levy, at any time a special assessment for the purpose of defraying, in whole or in part, expenses for Maintenance and/or Alteration of Common Facilities not anticipated by the respective annual budget or reserve fund, including the cost of construction or reconstruction, repair or replacement of the Common Facilities, as well as the necessary fixtures and personal property related thereto. Any such Assessment must be approved by the affected Owners, and shall be allocated among the Owners in the same manner as the annual assessments.

(d) The annual assessments shall be payable in twelve (12) equal monthly installments following the date of the last determination of such assessments by the 509 Elm Commercial Owner. Such payments shall be due and payable in advance on the first (1st) day of each month. If, at any time, an Owner is in arrears more than fifteen (15) days with respect to the payment of the second of two (2) monthly installments, which need not be consecutive monthly installments, the 509 Elm Commercial Owner may, at its option, accelerate the due date of the remaining unpaid monthly installments for that budget year and declare said sums immediately due and payable and give notice of such action to such Owner. From and after the date of such notice, the 509 Elm Commercial Owner may enforce the payment of any such sums determined to be due as in the case of any other assessment. Special assessments shall be payable on or before ten (10) days after the date the Owners are invoiced therefor.