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**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ALIANA COMMERCIAL PROPERTIES**

WHEREAS, that certain Declaration of Covenants, Conditions and Restrictions for Aliana Commercial Properties dated August 7, 2014 (as heretofore amended or supplemented, the "**Declaration**"), executed by ALIANA DEVELOPMENT COMPANY, a Texas corporation (the "**Declarant**"), and filed under Clerk's File No. 2014085319 and recorded in the Official Records of Real Property of Fort Bend County, Texas (the "**Official Records**", which definition is hereby incorporated into the Declaration), subjected certain land described therein and property thereafter made subject to the Declaration to the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration;

WHEREAS, said Declaration of Covenants, Conditions and Restrictions for Aliana Commercial Properties was amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Aliana Commercial Properties dated February 9, 2015, filed under Clerk's File No. 2015013735 and recorded in the Official Records;

WHEREAS, pursuant to Section 1 of Article VIII of the Declaration, Declarant has annexed additional property into the jurisdiction of the Aliana Commercial Owners Association, Inc. (the "**Association**"), and subjected such annexed property to the provisions of the Declaration, pursuant to various declaration of annexation instruments including, without limitation, the Declaration of Annexation of Property into Aliana Commercial Properties filed on February 10, 2015 under Clerk's File No. 2015014307 in the Official Records, the Declaration of Annexation filed on February 27, 2015 under Clerk's File No. 2015020435 in the Official Records, the Declaration of Annexation of Property into Aliana Commercial Properties filed on June 29, 2015 under Clerk's File No. 2015070614 in the Official Records, and the Declaration of Annexation filed on March 1, 2016 under Clerk's File No. 2016020974 in the Official Records.

WHEREAS, Section 5 of Article X of the Declaration provides that the Declaration may be amended unilaterally by Declarant during the Declarant Control Period (as defined in the Declaration); and

WHEREAS, the Declarant Control Period is still in effect, and Declarant wishes to amend the Declaration as hereinafter specified.

NOW, THEREFORE, for and in consideration of the recitals set forth above, and for other good and valuable consideration the receipt and sufficient of which is hereby acknowledged, Declarant hereby amends the Declaration as follows:

1. The definition of "Dedicator Instrument" in Section 13 of Article I of the Declaration is clarified to provide that the defined term includes the Rules which are adopted by the Board including, without limitation, the Rules with an effective date of February 1, 2015 which are an exhibit to the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Aliana Commercial Properties dated February 9, 2015, filed under Clerk's File No. 2015013735 and recorded in the Official Records.
2. The definition of "Dedicator Instrument" in Section 13 of Article I of the Declaration is amended by adding the phrase "enforceable by the Association" after the word "assessments" on the fifth line thereof.
3. The following Section 15A is hereby added to Article I of the Declaration:

“SECTION 15A. ‘Guidelines’ shall mean collectively the Design Guidelines and, if separate, the Landscaping Guidelines.”

4. The first sentence of the third unnumbered paragraph of Section 3 of Article V of the Declaration is hereby amended to read in its entirety as follows:

“Upon approval of Plans, such approval may not be withdrawn, amended or modified without the written consent of the Owner who submitted such Plans, and no further approval under this Article shall be required with respect to such Plans, unless (in each case) construction of the proposed improvements has not substantially commenced within six (6) months of the written approval of such Plans (e.g. clearing and grading, pouring of footings, etc.) or unless such Plans are materially altered or changed; provided, however this provision shall not be construed as a waiver by the Commercial ARC of the right to approve a detail not disclosed in Plans submitted for approval or a waiver of its right to reject Plans submitted for approval as incomplete and require additional detail before consideration for approval.”

5. The following sentence is hereby added after the last sentence of Section 7 of Article V of the Declaration:

“Once granted under this Section 7, a variance may not be withdrawn, amended or modified without the written consent of the Owner of the applicable Tract for which it was granted unless it is thereafter discovered that the variance conflicts with an applicable governmental law or regulation or could in the reasonable opinion of the Architectural Control Authority create a health or safety issue.”

6. The second sentence of Section 4 of Article VI of the Declaration is hereby amended to read in its entirety as follows:

“No Dedicatory Instrument, nor any amendment thereto, shall (i) require (or be used to require) modifications to or removal of any improvements previously approved, or amendments or modifications of any Plans previously approved (or the withdrawal of any such approval) during the period ending six (6) months after such approval, unless (in each case) not constructed in accordance with the approved Plans, or (ii) impose (or be used to impose), with respect to the construction of improvements pursuant to Plans approved by the Architectural Control Authority (including the Commercial ARC or any other committee with Architectural Control Authority), any additional obligation on the Owner of the applicable Tract (or any portion thereof) not existing as of the date of approval of such Plans.”

7. The following Section 5 is hereby added to Article VI of the Declaration:

“SECTION 5. LIMITATION ON PARKING REQUIREMENT FOR GENERAL RETAIL BUILDINGS. Notwithstanding anything to the contrary set forth in this Article VI or elsewhere in any Dedicatory Instrument: (i) neither the Design Guidelines nor any other Dedicatory Instrument, nor any amendment thereto, shall impose a requirement that the number of parking spaces within the parking area of a Tract used (or to be used) for general retail sales or other commercial purposes be greater than the greater of (1) the number of parking spaces required by governmental requirements, or (2) four (4) parking spaces for each one thousand (1,000) square feet of Floor Area (as defined below) within the building(s) on such Tract (with fractions thereof being rounded up to the next whole parking space; and (ii) no parking requirement prohibited under the foregoing clause (i) shall ever be imposed by the Declarant, the Architectural Control Authority (including the Commercial

ARC or any other committee with Architectural Control Authority), the Association or the Board, whether in connection with the approval of Plans or otherwise.

As used in this Section 5, the term "Floor Area" of a building means the aggregate number of square feet of space contained on each floor within the perimeter of the outside walls of such building as measured from the inside surface of the exterior walls, with no deductions, but excluding any parking structures, outdoor patios and other non-air conditioned space."

8. The following Section 6 is hereby added to Article VI of the Declaration:

"SECTION 6. SIGNS. Notwithstanding anything to the contrary contained in this Declaration or any other Dedicatory Instrument, the Declarant, during the Declarant Control Period and thereafter, the Architectural Control Authority, shall have the right and authority from time to time to permit any exterior sign (including without limitation building-mounted identification signs) to be constructed upon or located within any Tract (or specified portions thereof) and to make any and all decisions and give any and all approvals under or in connection with the Dedicatory Instruments with respect to the size, location, placement, design, graphics, materials, colors and/or other physical aspects of exterior signs (or to grant a variance from compliance with any applicable requirement contained in the Dedicatory Instruments with respect to such exterior signs), all for any reason, in its sole discretion, notwithstanding that such exterior sign may then be restricted, limited or prohibited by any Dedicatory Instrument(s)."

9. The following Section 7 is hereby added to Article VI of the Declaration:

"SECTION 7. IRRIGATION. Notwithstanding anything to the contrary set forth in this Declaration or any other Dedicatory Instrument, the Owner of a Tract that is within the portion of the Property annexed into the jurisdiction of the Association by that certain Declaration of Annexation instrument filed under County Clerk's File No. 2016129370 and recorded in the Official Records (the "November 2016 Annexation Property") shall not be required to install a landscape irrigation system, water meter or controller serving a setback within such Owner's Tract which is separate from the irrigation system serving the remainder of such Owner's Tract or to transfer such separate irrigation system or any related water meter or controller to the Association."

10. The following Section 8 is hereby added to Article VI of the Declaration:

"SECTION 8. PERMITTED USES. Notwithstanding anything to the contrary contained in this Declaration or any other Dedicatory Instrument, upon approval by the Architectural Control Authority of Plans for improvements submitted by an Occupant for a particular use which is then permitted under the Dedicatory Instruments, or commencement of construction of improvements on a Tract for a particular use which is then permitted under the Dedicatory Instruments, no amendment to any Dedicatory Instrument thereafter made shall be effective to prohibit, limit or restrict such use within the Tract upon which such improvements are located, but nothing herein shall be construed to imply that such use may not be prohibited with respect to other portions of the Property. No Dedicatory Instrument, nor any amendment thereto, shall prohibit any of the following specific uses (nor shall any of the Declarant, the Architectural Control Authority, the Association or the Board take any action to prohibit any of such uses) within the November 2016 Annexation Property, and any provision, requirement or restriction set forth in a Dedicatory Instrument which conflicts with the foregoing shall be void and unenforceable:

(a) The operation of a Massage Envy, as same is operated as of October 2016 on a national basis, or of another Massage Establishment (as such term is defined in Section 455.001 of

the Texas Occupations Code) which is comparable to a Massage Envy; provided, however, that the massage-related services provided by such Massage Establishment shall be limited to massage therapy for therapeutic purposes, in accordance with the Texas Occupations Code, in which each individual that performs such massage therapy is the holder of a current certificate of registration as a licensed Massage Therapist, as defined in the Texas Occupations Code;

- (b) A bar, tavern, restaurant or other establishment whose annual gross revenues from the sale of alcoholic beverages for on-premises consumption does not exceed 35% of the gross revenues of such business;
- (c) A retail tire store or automobile service facility that provides services ancillary to the operation of a retail tire store (including, but not limited to, tire sales, installations, wheels sales and services, suspension repairs, alignments, brake related services, and general automotive repair and maintenance services including, but not limited to, lubrication, air conditioning service, transmission and cooling services typically performed by national tire retailers such as National Tire and Battery, Discount Tires, Goodyear Auto Retail Services), provided such operation shall not regularly retain motor vehicles outside overnight;
- (d) The sales, service and/or storage of recreational vehicles, boats, trailers, jet skis, and/or other watercraft in connection with the operation of a retail sporting goods store, such as Academy, Bass Pro Shops, REI, Dick's Sporting Goods, so long as such items are displayed and stored inside building improvements;
- (e) A pet shop, including without limitation Petco or PetSmart, however, any veterinary or boarding services provided in connection with the operation of a pet shop may only be incidental to such operation; the boarding of pets as a separate customer service is prohibited; and all kennels, runs and pens must be located inside building improvements;
- (f) Any coffee shop or similar business on the grounds that coffee odors typical of such operations are obnoxious or offensive; and/or
- (g) A store operated by Five Below as operated as of October 2016 which for purposes hereof shall not be considered to be a "dollar store" which is prohibited."

Notwithstanding anything to the contrary contained in this Declaration or any other Dedicatory Instrument, the Declarant, during the Declarant Control Period and thereafter, the Architectural Control Authority, shall have the right and authority from time to time to permit any use, business or operation within any Tract (or specified portions thereof) (or to grant a variance from compliance with any applicable requirement contained in the Dedicatory Instruments) and to make any and all decisions and give any and all approvals under or in connection with the Dedicatory Instruments with respect to such use, business or operation, and/or permit the use for sales and/or display purposes of parking areas, driveways and sidewalks within any Tract (or specified portions thereof) (or to grant a variance from compliance with any applicable requirement contained in the Dedicatory Instruments) and to make any and all decisions and give any and all approvals under or in connection with the Dedicatory Instruments with respect to use for such sales and/or display purposes, all for any reason, in its sole discretion, notwithstanding that such use, business or operation, or use for such sales and/or display purposes, may then be restricted, limited or prohibited by any Dedicatory Instrument(s)."

11. The first sentence of Section 1 of Article VII of the Declaration is amended to read in its entirety as follows:

“The Property may be generally used for any commercial purpose which for purposes hereof includes retail, multi-family residential, office and medical uses, and related uses, unless otherwise specified in a Supplemental Declaration or the Rules.”

12. The following paragraphs are hereby added as the third and fourth unnumbered paragraphs at the end of Section 5 of Article X of the Declaration:

“Notwithstanding anything to the contrary set forth in this Article X or elsewhere in this Declaration, the following provisions of this Declaration may not be amended (either during or after the Declarant Control Period) except with the written consent (reflected by its signature to the amendment instrument) of each Owner that owns one or more Tracts having an aggregate surface area of seven (7) or more acres: (a) the definition of Dedicatory Instruments, (b) in Section 3 of Article V, the first sentence of the third unnumbered paragraph; (c) the last sentence of Section 7 of Article V; (d) the second sentence of Section 4 of Article VI; (e) Section 5 of Article VI; (f) Section 6 of Article VI; (g) Section 7 of Article VI; (h) Section 8 of Article VI, (i) first sentence of Section 1 of Article VII, and (j) the third and fourth unnumbered paragraphs of Section 5 of Article X.”

“Notwithstanding anything to the contrary set forth in this Article X or elsewhere in this Declaration, during the Declarant Control Period, Declarant shall not (a) vote pursuant to Section 3 of Article VII to amend any existing Rules or to adopt new Rules (including without limitation policies, rules and regulations of the Association), or (b) execute any amendment of a Dedicatory Instrument which in either case imposes a restrictive covenant not existing as of October 31, 2016, that materially, adversely affects or impairs the rights of an Owner of one or more Tracts having an aggregate surface area of seven (7) or more acres unless Declarant obtains the prior written consent of such Owner.”

13. The undersigned Declarant hereby confirms that the Declarant Control Period has not terminated as of the date of this Amendment and is in full force and effect.

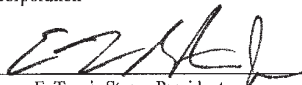
Except as expressly amended hereby, the Declaration is not affected hereby and the same is ratified as being in full force and effect. Capitalized terms used and not defined herein have the meanings specified in the Declaration.

[SIGNATURE PAGE FOLLOWS]

EXECUTED on this 10th day of November, 2016.


DECLARANT:

ALIANA DEVELOPMENT COMPANY,
a Texas corporation

By: 
E. Travis Stone, President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me this 10th day of November, 2016, by E. Travis Stone, as President of Aliana Development Company, a Texas corporation, on behalf of said corporation.


Notary Public in and for
The State of Texas

