



leased or controlled by the Association, or to which the Association holds possessory or use rights or maintenance obligations, for the common use and enjoyment of the Owners (hereinafter defined) including, but not limited to such property which may be: (i) conveyed to the Association in fee simple title, (ii) leased to the Association, (iii) landscape or maintenance easements granted or dedicated to the Association by plat or other written instrument, (iv) retention ponds within the Property, and (v) any other real property or improvement thereon, or personal property, fixtures or equipment that the Association, at the sole discretion of the Board, decides to maintain. Common Properties shall also mean and include all areas of land identified on the preliminary-final plat containing the Property (hereinafter defined) filed with and approved by the City of McKinney, Texas and/or the Final Plat (hereinafter defined) as "Common Areas" or as being dedicated to the Association."

(b) Section 2.12 of the Declaration is hereby deleted in its entirety.

(c) Section 4.1 is hereby modified and amended to add after the last sentence thereof the following:

"The Declarant's and/or the Association's obligation to repair, maintain and/or replace fences, walls and or screening landscaping is also subject to the requirements of Sections 142-106 and 142-107 of the City of McKinney Code of Ordinances, as such provisions may hereafter be amended (collectively "McKinney Code")."

(d) Section 4.4 of the Declaration is hereby modified and amended to read in its entirety as follows:

"Section 4.4 Declarant's and the Association's Discretion.

"Notwithstanding any provisions herein to the contrary, neither Declarant nor the Association shall ever be obligated to erect, install, maintain, repair or replace any fences, walls, sprinkler systems, grading, planting or landscaping on the Property; save and except only to the extent required otherwise by Sections 142-106 and 142-107 of the McKinney Code, as such provisions may hereafter be amended."

(e) Section 9.1 of the Declaration is hereby modified and amended to read in its entirety as follows:

"Section 9.1 Initial Common Properties.

"The Initial Common Properties shall include all areas of land identified on the preliminary-final plat containing the Property filed with and approved by the City of McKinney, Texas and/or the Final Plat as "Common Areas" or as being dedicated to the Association. The Common Properties may include but are not limited to, and by way of illustration only, all aspects of the entry features, entry monuments and walls, landscaping, irrigation for same and the land on which such entry features are situated, retention ponds, screening walls, pocket parks, a clubhouse and associated recreational

amenity, gates, fences, fountains and other structures, whether or not shown on a Final Plat, or as deemed necessary by Declarant, each as may be leased, maintained or owned by the Association. The foregoing list is intended to illustrate examples of Common Properties and under no circumstance shall such list impose any obligation on the Declarant or the Association to purchase, install or construct any such features or amenities. The Common Properties may hereafter include any neighborhood parks or other improvements or land conveyed to or leased by the Association for the use and benefit of the Owners.”

(f) The Declaration is hereby modified and amended to add a new Article XVI to read as follows:

**“ARTICLE XVI**

**“SPECIAL PROVISIONS REGARDING THE RIGHTS OF THE CITY**

“Section 16.1 Obligation of the Association.

“The Association, or the Declarant during the time period in which the Declarant controls the Property and any Common Properties, has and shall have the sole responsibility to maintain the Common Properties as provided herein in a condition not less than the minimum standards required by the City. The Association, or the Declarant during the time period in which the Declarant controls the Property, also has and shall have the sole responsibility to maintain the landscaping, buffering, screening, irrigation and associated improvements adjacent to the Property along public thoroughfares which improvements are required by Section 142-106 of the McKinney Code (the “Required Screening and Buffering”). The costs of maintaining the Common Properties and the Required Screening and Buffering will be collected from the Owners through Assessments as provided herein.

“Section 16.2 Rights of the City.

“The Association and Declarant shall not seek, by either act or omission, to abandon the Association’s and/or Declarant’s obligations as established by this Declaration to maintain the Common Properties. The Association may not be dissolved or terminated without the consent of the City. It is specifically understood and agreed by the Declarant, Owners and Association that public funds shall not be used for the maintenance and control of the Common Properties or the Required Screening and Buffering. To that end, in the event that:

“(i) The Association dissolves and the Common Properties and the Required Screening and Buffering shall not be either (a) dedicated to and accepted by an appropriate municipal corporation, public agency, authority or utility to be devoted to purposes as nearly as practicable to the same as those to which such Common Properties was required to be devoted by the Association, or (b) conveyed to another organization or entity which assumes all obligations imposed hereunder upon the Association to maintain said Common Properties; or

“(ii) The Association, its successors or assigns, shall fail or refuse to adequately maintain the appearance and condition of the Common Properties and/or the Required Screening and Buffering which the Association is obligated to maintain hereunder;

“then, in either such event, the City shall have the right, but not the obligation, thereafter to assume the duty of performing the Association’s maintenance obligations of all such Common Properties and/or the Required Screening and Buffering at any time after such dissolution, upon giving written notice to the Owners, or at any time after the expiration of sixty (60) days after providing written notice to the Association, or the Association’s successor or assign, specifying in detail the nature and extent of the failure to maintain without such failure being remedied. Upon assuming such maintenance obligations, the City may collect, when the same become due, the assessments levied by the Association pursuant to the provisions hereof for the purposes of repairing, replacing, maintaining or caring for the Common Properties and/or the Required Screening and Buffering; and, if necessary, the City may enforce the payment of delinquent assessments in the manner set forth herein. In the alternative, upon assuming such maintenance obligations, the City may levy an assessment upon each lot on a pro rata basis for the cost of such maintenance to be provided by the Association as set forth in this Declaration, which assessment shall be secured by an assessment lien upon the lot against which each assessment is made. During any period the City assumes the obligation to maintain and care for the Common Properties and/or the Required Screening and Buffering, the Association shall have no obligation or authority with respect to such maintenance and care. The right and authority of the City to maintain the Common Properties and/or the Required Screening and Buffering shall cease and terminate when the Association, its successors or assigns, shall present to the City reasonable evidence of the Association’s willingness and ability to resume maintenance of the Common Properties and/or the Required Screening and Buffering. Under no circumstances shall the City be liable to the Declarant, Association or any Owner or their respective heirs, devisees, personal representatives, successors and assigns for negligent acts or omissions relating in any manner to maintaining, improving and preserving the Common Properties and/or the Required Screening and Buffering.

“Section 16.3 Easement.

“In the event the City assumes the duty of performing the maintenance obligations of the Association as provided herein, then the City, its agents, representatives and employees, shall have the right of access, ingress and egress to and over the Common Properties for the purposes of maintaining, improving and preserving the same.

“Section 16.4 Amendment.

“Notwithstanding anything contained in this Declaration to the contrary: (a) the provisions of this Article XVI shall not be amended or deleted from this Declaration

without the prior written consent of the City; (b) this Declaration may not be amended to alter any provisions regarding Association's obligation to maintain the Required Screening and Buffering or Common Properties without the prior written consent of the City; and (c) this Declaration may not be terminated without the prior written consent of the City. Except as provided in the preceding sentence, this Declaration can be amended without the consent of the City.

“Section 16.5 Conflicts.

“In the event of any conflict, now or in the future, between the terms and provisions of this Article XVI and any other term or provision of this Declaration or any other document incorporated into this Declaration by reference the terms and provisions of this Article XVI shall prevail and control.”

3. No Other Effect. Except as expressly modified, amended and supplemented by this Amendment, the terms and provisions of the Declaration are not amended, modified or supplemented, and the Declaration, as modified, amended and supplemented hereby, is hereby amended as provided herein.

4. Severability. Invalidation of anyone provision of this Amendment by judgment or court order shall in no way affect any other provision of this Amendment or the remainder of this Amendment which shall remain in full force and effect. Furthermore, in lieu of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Amendment a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

5. Headings. The headings contained in this Amendment are for reference purposes only and shall not in any way affect the meaning or interpretation of this Amendment.

REMAINDER OF PAGE LEFT BLANK - SIGNATURE PAGE FOLLOWS

EXECUTED to be effective as of the date written above.


**DECLARANT:**

CTMGT Barcelona, LLC,  
a Texas limited liability company

By: CADG Holdings, LLC,  
a Texas limited liability company,  
Its Sole Member

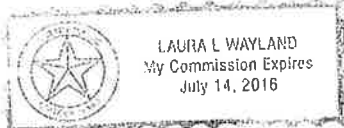
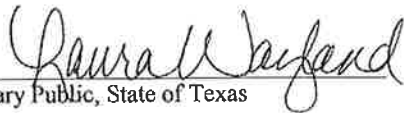
By: MMM Ventures, LLC,  
a Texas limited liability company,  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company,  
Its Manager

By:   
Name: Mehrdad Moayedi  
Its: Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the 3 day of September, 2014, by Mehrdad Moayedi, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Member of CTMGT Barcelona, LLC, a Texas limited liability company on behalf of said company.

   
Notary Public, State of Texas

Filed and Recorded  
Official Public Records  
Stacey Kemp, County Clerk  
Collin County, TEXAS  
09/04/2014 11:58:51 AM  
\$42.00 DFOSTER  
20140904000958260  
