

AFFIDAVIT IN COMPLIANCE WITH TEX. PROP. CODE § 202.006

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared CARLO WHITE, who, being by me duly sworn according to law, stated the following under oath:

“My name is CARLO WHITE. I am fully competent to make this Affidavit. I have personal knowledge of the facts stated herein, and they are all true and correct.

I am the President of Van Cleave Modern Owners Association, Inc., a Texas nonprofit corporation (the “Association”). Misti White is the custodian of the records for the Association, and I have been authorized by the Association’s Board of Directors to sign this Affidavit.

The Association is a “property owners’ association” as that term is defined in *TEX. PROP. CODE* § 202.001. The Association’s jurisdiction includes, but may not be limited to, the property subject to:

- (a) Preliminary Condominium Declaration for Van Cleave Modern Condominiums as recorded in Document No. 20230046132 of the Official Public Records of Real Property of Bexar County, Texas;

Attached hereto are the originals of, or true and correct copies of, the following dedicatory instruments, including known amendments or supplements thereto, governing the Association, which instruments have not previously been recorded:

*Certificate of Filing and Certificate of Formation
for
Van Cleave Modern Owners Association, Inc.*

*Bylaws
of
Van Cleave Modern Owners Association, Inc.
A Nonprofit Corporation*

The documents attached hereto are subject to being supplemented, amended or changed by the Association. Any questions regarding the dedicatory instruments of the Association may be directed to the Association at:

Misti White
c/o Van Cleave Modern Owners Association, Inc.
1150 N. Loop 1604 W, Ste. 108-457
San Antonio, TX 78248
Phone: 210-557-7361
mistiwhite.build@gmail.com

SIGNED on this the 23 day of JANUARY, 2024.

VAN CLEAVE MODERN OWNERS ASSOCIATION, INC.

By: Carlo White
CARLO WHITE, President
Member of the Board of Directors

VERIFICATION

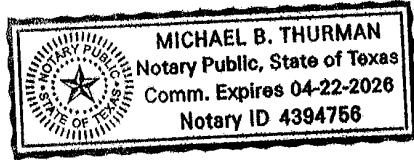
STATE OF TEXAS §
 §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared CARLO WHITE, President of Van Cleave Modern Owners Association, Inc., who, after being duly sworn, acknowledged and stated under oath that he has read the above and foregoing Affidavit and that every factual statement contained therein is within his personal knowledge and is true and correct.

ACKNOWLEDGED, SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this the 23 day of JANUARY, 2024.

Michael B. Thurman
NOTARY PUBLIC, STATE OF TEXAS

After Recording, Return To:
Michael B. Thurman
THURMAN & PHILLIPS, P.C.
4093 De Zavala Road
Shavano Park, Texas 78249
Phone: (210) 341-2020



Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Jane Nelson
Secretary of State

Office of the Secretary of State

CERTIFICATE OF FILING OF

Van Cleave Modern Owners Association, Inc.
File Number: 804938038

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/09/2023

Effective: 02/09/2023



A handwritten signature in black ink that reads "Jane Nelson".

Jane Nelson
Secretary of State

**CERTIFICATE OF FORMATION
OF
VAN CLEAVE MODERN OWNERS ASSOCIATION, INC.**

I, the undersigned, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as organizer of a nonprofit corporation (the "Corporation") under the Texas Business Organizations Code, as it may be amended (the "TBOC"), do hereby adopt this Certificate of Formation for the Corporation:

**ARTICLE I
ENTITY NAME**

The name of the Corporation for which this Certificate of Formation is being filed is:

Van Cleave Modern Owners Association, Inc.

**ARTICLE II
ENTITY TYPE**

The filing entity being formed is a nonprofit corporation organized pursuant to the TBOC and has no capital stock. The Corporation is the Condominium Owners Association required by the terms and conditions of the Van Cleave Modern Condominium Declaration ("Declaration"), to be recorded in the Official Public Records of Bexar County, Texas, encumbering and restricting the real property and any annexations thereto, described in the Subdivision Plat Establishing Van Cleave Modern Condominiums, in the City of San Antonio, according to plat filed and recorded in the Deed and Plat Records of Bexar County, Texas, and any replat of or amendments thereto, a condominium regime located in San Antonio, Bexar County, Texas (the "Property").

**ARTICLE III
DURATION**

The period of duration of the Corporation is perpetual unless the Corporation winds up and terminates in accordance with the provisions of its Bylaws and the TBOC.

**ARTICLE IV
REGISTERED AGENT/OFFICE, INITIAL MAILING ADDRESS AND PRINCIPAL OFFICE**

The initial registered agent and registered office of the Corporation is as follows:

Michael B. Thurman
4093 De Zavala Road
Shavano Park, Texas 78249

The initial mailing address and principal office information is:

CM Market Share, LLC
Attention: Carlo White
1150 N. Loop 1604 W, Ste 108-457
San Antonio, Texas 78248

The undersigned, as organizer, affirms that the person designated herein as registered agent has consented to the appointment.

ARTICLE V
ORGANIZER

The name and address of the organizer is as follows:

Michael B. Thurman
4093 De Zavala Road
Shavano Park, Texas 78249

ARTICLE VI
PURPOSE AND POWERS

The Corporation shall operate for nonprofit purposes pursuant to the TBOC and does not contemplate pecuniary gain or benefit, direct or indirect, to its Members. The Corporation, acting through a Board of Directors, shall have the powers and duties necessary for the administration of the affairs of the Corporation and for the operation and maintenance of the Corporation's property as may be required or permitted by the Declaration, Bylaws, duly adopted rules, regulations and policies (collectively "Governing Documents") and Texas State law, including but not limited to, Texas Property Code Uniform Condominium Act, Chapter 82 (the "Act") and the Texas Business Organizations Code Chapters 2 and 22. Without limiting the generality of the foregoing, the Corporation is organized for the following general purposes:

(A) To assure the upkeep, maintenance, improvement and administration of the Property owned by the Corporation, if any, and all lands, improvements, security devices and other real or personal property owned by, leased to, used by or the responsibility of the Corporation ("Common Elements", meaning all portions of the Property save and except the Units. All Common Elements are "General Common Elements" except if such Common Elements have been allocated as "Limited Common Elements" by the Declaration for the exclusive use of one or more but less than all of the Units);

(B) To assure the upkeep, maintenance, improvement and administration of any additional Property which may in the future be acquired by, placed under the control of or responsibility for which is assumed by the Corporation;

(C) To enter into and perform any contract and to exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the Common Elements or affairs of the Corporation in accordance with the Governing Documents and the Act, as amended from time to time;

(D) To promote the health, safety and welfare of the Members in accordance with the Governing Documents, as amended from time to time;

(E) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Corporation arising under the Governing Documents, as amended from time to time or the Act and other applicable laws of the State of Texas;

(F) To enforce applicable provisions of the Governing Documents (as amended from time to time) and any other instruments for the management and control of the properties within the Condominium Project including, without limitation, the power:

(1) To fix, levy, collect and enforce payment, by any lawful means, including but not limited to a collection policy providing for payment plans, late fees and administrative fees;

(2) To enforce all restrictions, covenants and affirmative obligations imposed pursuant to the terms of the Governing Documents, as amended from time to time and to adopt such policies

as needed, including but not limited to, a fine policy, a suspension of privileges policy, a towing policy and a forced maintenance policy to aid in the enforcement of the terms of the Governing Documents and to collect assessments, charges and other amounts imposed on an Owner pursuant to the terms of the Governing Documents;

(3) To contract for and to pay for maintenance and improvement of the Common Elements or areas for which the Corporation is responsible as contemplated by the Governing Documents;

(4) To employ personnel or management firms reasonably necessary for the administration and operation of the Corporation, and to discharge the powers and duties of the Corporation arising under the Governing Documents, as amended from time to time, including the employment of accountants, attorneys and/or other professionals, as appropriate; and

(5) To pay all office and other expenses incidental to the conduct of the business of the Corporation, including all insurance expenses, licenses, taxes and special tax or utility Assessments which are or would become a lien on any portion of the Properties over which the Corporation has authority to exercise control;

(G) To develop, create and adopt rules, regulations, policies and procedures necessary, as determined by the Board of Directors, which are necessary or convenient to the operation, management, maintenance and administration of the Common Elements or the affairs of the Association, which shall include but not limited to, use of Common Elements, construction policies, procedures and regulations, and environmental policies.

(H) To have and to exercise any and all powers, rights and privileges, including delegation of powers as permitted by law, which the Corporation may now or hereafter have or exercise in accordance with the Texas Property Code, the Act and the Texas Business Organizations Code.

Terms used but not defined in this Certificate of Formation shall have the meaning defined in the Declaration.

ARTICLE VII MEMBERSHIP

The Corporation shall be a mandatory membership Corporation without certificates or shares of stock. All Owners, by virtue of their ownership of a Unit subject to the Declaration, are Members of the Corporation and such membership is appurtenant to, and inseparable from, ownership of the Unit.

ARTICLE VIII VOTING

All Members shall have the voting rights as provided in the Declaration and the Bylaws. Cumulative voting is prohibited.

ARTICLE IX GOVERNING BODY

The business and affairs of the Corporation shall be conducted, managed and controlled by a Board of Directors. The Board of Directors shall possess all powers granted to Board of Directors for nonprofit corporations pursuant to the Act. The Board of Directors may delegate such operating authority to such companies, individuals or committees as it, in its discretion, may determine. The method of election (except for the initial Board of Directors named below), removal and filling of vacancies, and the term of office shall be as set forth in the Bylaws. The Board

of Directors shall consist of not less than three (3) nor more than seven (7) members, as set forth in the Bylaws, and all decisions of the Board of Directors shall be made by majority vote. A Director may vote in person or by proxy executed in writing by the Director appointing another member of the Board of Directors to vote on the Director's behalf. A Director's proxy shall be valid for a specific identified meeting of the Board of Directors or for a period of time contained in the proxy. If neither the meeting or the period of time is stated in the proxy, the proxy shall expire thirty (30) days after the date the proxy is executed or when revoked, whichever is sooner. The initial Board of Directors shall consist of the following three (3) members:

<u>NAME</u>	<u>ADDRESS</u>
Carlo White	4 Newton Abbot San Antonio, Texas, 78257
Misti White	4 Newton Abbot San Antonio, Texas 78257
Chad Nall	1542 N Alamo St #101 San Antonio, Texas 78215

ARTICLE X
LIMITATIONS OF LIABILITY

(A) An officer, director or committee member of the Corporation shall not be liable to the Corporation or its Members for any act or omission that occurs in its capacity as such officer, director or committee member, except to the extent it is found liable for: (i) a breach of the officer's, director's, or committee member's duty of loyalty to the Corporation or its Members; (ii) an act or omission not in good faith that constitutes a breach of duty of the officer, director or committee member to the Corporation; (iii) an act or omission that involves intentional misconduct or a knowing violation of the law; (iv) a transaction from which the officer, director or committee member receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of its office or position; or (v) an act or omission for which the liability of an officer, director or committee member is expressly prohibited by an applicable statute. The liability of officers, directors and committee members of the Corporation may also be limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended. The foregoing limitation on the liability of an officer, director or committee member does not eliminate or modify that officer's, director's or committee member's liability as a Member of the Corporation.

(B) Subject to the limitations and requirements of the TBOC, the Corporation shall indemnify, defend and hold harmless every officer, director and committee member from and against all damages, claims and expenses, including, without limitation, attorneys' fees, reasonably incurred in connection with any threatened, initiated or filed action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member, except that such obligation of indemnity shall be limited to those actions for which a director's, officer's or committee member's liability is limited in paragraph (A) above. The obligations of the Corporation in this paragraph (B) will continue as to an officer, director or committee member who has ceased to hold such position and will inure to such officer's, director's or committee member's heirs, executors and administrators. Subject to the limitations and requirements of the TBOC, the Corporation may also voluntarily indemnify a person or party who is or was an employee, trustee, agent or attorney of the Corporation, against any liability asserted against such person or party in that capacity and arising out of that capacity. Furthermore, in the event the obligations of the Corporation set forth above are more restrictive than the provisions of indemnification allowed by the TBOC, then such persons and parties named above shall be indemnified, defended and held harmless to the full extent permitted by the TBOC.

ARTICLE XI
DISSOLUTION

The Corporation may be dissolved by vote or the written approval of not less than sixty-seven percent (67%) of all outstanding votes held by the Members as may be more specifically provided in the Bylaws or the Declaration and in accordance with the laws of the State of Texas. Upon dissolution of the Corporation, other than incidental to a merger or consolidation, the assets of the Corporation will be distributed and conveyed to either (a) an appropriate public agency to be used for purposes similar to those for which the Corporation was created, or (b) a nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XII
AMENDMENT

(A) Prior to the expiration or termination of the Development Period, as defined in the Declaration, this Certificate of Formation may be altered, amended, or repealed for any reason by CM Market Share, LLC, the Declarant, unilaterally without the approval of any other party.

(B) After termination of the Development Period, this Certificate of Formation may only be amended at a meeting of the Members at which a quorum is present or represented, by the affirmative vote of sixty-seven percent (67%) of the total eligible votes of the membership of the Association, as determined by the Declaration. The alteration, amendment or repeal of this Certificate of Formation is reserved to the Membership and the Board of Directors is specifically prohibited from altering, amending or repealing this Certificate of Formation.

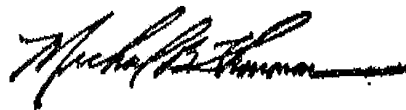
ARTICLE XIII
CONFLICT WITH OTHER DOCUMENTS

In the event of a conflict between the Certificate of Formation and the Declaration, the Declaration shall control. In the event of a conflict between this Certificate of Formation and the Bylaws, this Certificate of Formation shall control.

ARTICLE XIV
EFFECTIVENESS OF FILING

This document becomes effective as a certificate of filing for a nonprofit corporation when this document is filed by the Secretary of State.

The undersigned Organizer has executed this Certificate of Formation on the 9th day of February, 2023. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute this instrument.



MICHAEL B. THURMAN, Organizer

BYLAWS
OF
VAN CLEAVE MODERN OWNERS ASSOCIATION, INC.
A NONPROFIT CORPORATION

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**BYLAWS
OF
VAN CLEAVE MODERN OWNERS ASSOCIATION, INC.
A NONPROFIT CORPORATION**

**ARTICLE I
DEFINITIONS**

1.1 Definitions. The following words and phrases, whether or not capitalized, shall have the specified meanings when used in the Declaration and these Bylaws and in any other documents incorporated by reference, unless otherwise expressly provided. Unless otherwise defined in these Bylaws, terms defined in Section 82.003 of the Act have the same meaning when used in these Bylaws:

“Act” shall mean and refer to the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code, as amended from time to time.

“Applicable Law” shall mean and refer to the statutes and public laws and ordinances in effect at the time a provision of these Bylaws is applied and pertaining to the subject matter of the Bylaws provision contained herein. Statutes and ordinances specifically referenced in these Bylaws are “Applicable Law” on the date of these Bylaws and are not intended to apply to the Property or VCM Condominiums if they cease to be applicable by operation of law, or if they are replaced or superseded by one (1) or more other statutes or ordinances.

“Assessments” shall mean and refer to those charges established by *Article V* of the Declaration to be levied against Members, including but not limited to, General Assessments, Special Assessments, Specific Assessments, Working Capital Assessments, and Charges as defined herein.

“Association” shall mean and refer to the Van Cleave Modern Owners Association, Inc., a Texas nonprofit corporation, its successors and assigns. The Association shall be a mandatory corporation as to all Owners of any portion of VCM Condominiums and shall serve as the entity having the power, duty, and responsibility of maintaining and administering the Common Elements, administering and enforcing the restrictions, and collecting and disbursing the Assessments and Charges hereinafter described.

“Board of Directors” or “Board” shall mean and refer to the members of the board of directors of the Association, the election and procedures of which shall be as set forth in the Certificate of Formation and/or these Bylaws and resolutions of the Association. The Board of Directors is charged with the duties and responsibilities of managing and administering the Association.

“Certificate of Formation” shall mean and refer to the Certificate of Formation of the Association, filed in the Office of the Secretary of State of Texas effective February 9, 2023 [File Number: 804938038], as may be amended and as recorded in the Official Public Records of Bexar County, Texas.

“Charges” shall mean and refer to those expenses, late fees, administrative fees, fines, interest, professional fees, including attorney’s fees, and charges as set forth in the Declaration, and all of which are secured by the Assessment lien established in *Article V Section 5.1* thereof.

“Common Elements” shall mean and refer to all portions of VCM Condominiums, save and except the Units. All Common Elements are “General Common Elements”, except if such Common

Elements have been allocated as “Limited Common Elements” by the Declaration or the Plat and Plans for the exclusive use of one (1) or more but less than all of the Units.

“Common Expense(s)” shall mean and refer to expenses for which the Association is responsible, including those related to: (i) maintenance and repair of the applicable Common Elements; (ii) casualty, public liability and other insurance coverages required or permitted to be maintained by the Association under the Governing Documents; (iii) governmental impositions levied and assessed against the Common Elements; (iv) utilities related to the applicable Common Elements and Units, if applicable; (v) professional services for the Association, such as management, engineering, security, accounting and legal services; (vi) trash removal and Common Elements cleaning; (vii) janitorial services; (viii) pest control; (ix) Common Elements landscaping; and (x) such other costs and expenses as may be reasonably related to the proper maintenance, care, operation and management of the Common Elements and the administration of the Association and the VCM Condominiums.

“Condominium” shall mean and refer to the form of real property established by the Preliminary Condominium Declaration for Van Cleave Modern Condominiums, recorded as Document No 20230046132 in the Official Public Records of Bexar County, Texas, as amended and restated by the Declaration with respect to the VCM Condominiums located in Bexar County, in which portions of VCM Condominiums are designated for individual ownership or occupancy and the remainder of the VCM Condominiums is designated for common ownership or occupancy solely by the Owners of such portions, containing a maximum of twenty-nine (29) Buildings consisting of fifty-eight (58) Units, as depicted in the Plat attached hereto as Attachment “1” and the Plans for the first phase of five (5) Buildings comprised of ten (10) Units as depicted in *Attachment “2”* thereof.

“Condominium Records” shall mean and refer to the books and records, including the Governing Documents, minutes, financials, contract and all other documents or materials of the Association, subject to the limitations contained in TEX. PROP. CODE § 82.1141.

“County” shall mean and refer to the County of Bexar, in the State of Texas.

“Declarant” shall mean and refer to CM Market Share, LLC, a Texas limited liability company, organized pursuant to the TBOC by filing its Certificate of Formation in the Office of the Secretary of State of Texas, effective January 27, 2018 [File No. 802918510], its successors and assigns who are expressly designated as such in writing by Declarant as an assignee of Declarant’s partial or full rights under the Declaration, and who consent in writing to assume the duties and obligations of the Declarant. The mere conveyance of a portion of the Property without written assignment of rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant. Written evidence of the assignment of any or all of Declarant’s rights shall be filed of record in the Official Public Records of Bexar County, Texas. The Declarant therein has reserved special rights and privileges described in the Declaration to help protect its investment in the Regime. Many of the rights and privileges do not terminate until either the Declarant (i) has conveyed all Units which may be created out of VCM Condominiums; (ii) voluntarily terminates these rights and privileges by recording a written instrument in the Official Public Records of Bexar County, Texas; or (iii) the Development Period expires by its own terms.

“Declarant Control Period” shall mean and refer to that period of time during which Declarant controls the operation and maintenance of the Association and has the right or combination of rights to create, relocate or properly designate Building Units or Common Elements within VCM Condominiums and to make and record corrections to the Plat to conform the Plat to the actual

location of the Buildings and Units or to correct designation of the elements of VCM Condominiums as Units or Common Elements; (ii) to convert Units into Common Elements or convert Common Elements into Units; (iii) to withdraw or add real property from or to the VCM Condominiums; (iv) to subdivide or combine Units within VCM Condominiums; or (v) the right to convert General Common Elements to Limited Common Elements, or convert Limited Common Elements into General Common Elements, and additionally, the rights retained by Declarant in *Appendix "A"* of the Declaration. The duration of the Declarant Control Period shall expire upon and shall not exceed the date that is the earlier to occur of (i) one hundred twenty days (120) days after title to seventy-five percent (75%) of the maximum Units that may be created hereunder have been conveyed to Owners other than Declarant; (ii) seven (7) years after the date this Declaration is recorded; or (iii). Not later than the 120th day after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Declarant, not less than one-third (1/3) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant.

"Declaration" shall mean and refer to the Amended and Restated Condominium Declaration together with any amendments, restatements, annexations and supplements thereto, to be recorded in the Official Public Records of Bexar County, Texas.

"Director" shall mean a member of the Board of Directors of the Association, whether elected or appointed and either an individual or entity.

"General Assessments" shall mean and refer to the uniform Assessment made against all Units pursuant to *Section 5.3* of the Declaration.

"General Common Elements" shall mean and refer to Common Elements which are not Limited Common Elements. General Common Elements are designated as "GCE" on *Attachment "1"* of the Declaration.

"Development Period" shall mean and refer to the seven (7) year period beginning on the date the Declaration is recorded, during which Declarant has rights as more particularly describes in *Appendix "A"*, attached thereto, including rights related to development, construction, expansion, and marketing of VCM Condominiums. The Development Period is for a term of years and does not require that Declarant own any portion of VCM Condominiums. Declarant may terminate the Development Period by the recording of a notice of termination.

"Governing Documents" shall mean and refer to the Declaration, restrictive covenants, these Bylaws, Plats, Plans, Certificate of Formation, policies, Rules and Regulations covering the establishment, maintenance, and operation of the Regime, governing the administration and operation of the Association.

"Lien" shall mean and refer to an encumbrance and charge against an Owner(s) Unit to secure all Assessments and Charges, including expenses, late fees, administrative fees, fines, interest, professional fees including reasonable attorney's fees, incurred by the Association in collection of unpaid amounts which is due and payable to the Association by an Owner as established in *Section 5.1* of the Declaration, as amended or restated from time to time. The Lien shall be a continuing lien and shall run with the land.

"Limited Common Elements", if any, shall mean and refer to those portions of VCM Condominiums reserved for the exclusive use of one (1) or more Owners to the exclusion of other Owners. Limited Common Elements are designated as "LCE" on *Attachment "1"* of the Declaration.

“Majority” shall mean more than fifty percent (50%).

“Member” shall mean and refer to a member of the Association, each Member being an Owner of a Unit, unless the context indicates that member means a member of the Board or a member of a committee of the Association.

“Occupant” shall mean and refer to any Person, including any Owner, tenant or otherwise having a right to occupy or use all or any portion of a Unit for any period of time.

“Owner” shall mean and refer to a holder of fee simple title to a Unit. Declarant is the initial Owner of all Units. Mortgagees who acquire title to a Unit through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure are Owners. Persons or entities having ownership interests merely for security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.

“Person” shall mean any individual, partnership, firm, association, corporation, limited liability company, limited partnership, trust, or any other form of business or entity or governmental authority.

“Property” shall mean and refer to the Van Cleave Modern Condominiums (the “VCM Condominiums”), a Condominium Regime in the City of San Antonio, Bexar County, Texas, established upon Lot 2, Block 2, New City Block 18038, Ingram Plaza Subdivision, Unit 1-A, a Subdivision of record according to the Plat thereof recorded in Volume 9500, Page 75 of the Deed and Plat Records of Bexar County, Texas, including all Improvements thereon.

“Regime” shall mean and refer to VCM Condominiums, the Buildings, Units, General Common Elements, and Limited Common Elements that comprise the condominium regime established by the Preliminary Condominium Declaration.

“Rules” or “Rules and Regulations” shall mean and refer to the rules and regulations of the Association adopted in accordance with the Governing Documents or the Act. The initial Rules may be adopted by the Board of Directors or the Declarant for the benefit of the Association.

“Special Assessments” shall mean and refer to the Special Assessments for capital Improvements or unbudgeted expenses which may be imposed pursuant to *Section 5.5* of the Declaration on each of the Units in the Condominium and secured by the Lien thereon.

“Specific Assessments” shall mean and refer to the Specific Assessments levied by the Association in accordance with *Section 5.6* of the Declaration.

“TBOC” shall mean and refer to the Texas Business Organizations Code governing nonprofit corporations.

“Unit” shall mean one-half (1/2) of a duplex Building divided by a party wall designed by the Declaration for separate ownership, the boundaries being described in *Section 6.3* therein and each Unit having its identifying number as shown on the Plat attached thereto as *Attachment “1”*. Each individual Unit being part of the Van Cleave Modern Condominiums, a Condominium Regime in the City of San Antonio, Bexar County, Texas, established upon Lot 2, Block 2, New City Block 18038, Ingram Plaza Subdivision, Unit 1-A, a Subdivision of record according to the Plat thereof recorded in Volume 9500, Page 75 of the Deed and Plat Records of Bexar County, Texas.

“Working Capital Assessments” shall mean and refer to the Working Capital Assessments assessed pursuant to *Section 5.7* of the Declaration.

**ARTICLE II
NAME, REGISTERED OFFICE, AGENT AND PRINCIPAL OFFICE**

2.1 Name. The name of the corporation is Van Cleave Modern Owners Association, Inc.

2.2 Registered Office and Agent. The Association shall comply with the requirements of the TBOC to maintain a registered office and registered agent in Texas. The registered office shall be the same office as that of the Registered Agent. The registered office may, but need not, be identical with the Association’s principal office in Texas. The Board of Directors may change the registered office and the registered agent as provided in the TBOC.

2.3 Principal Office. The principal office of the Association shall be located at 1150 N. Loop 1604 W, Ste. 108-457, San Antonio, Texas 78248, or such other location within the State of Texas as may be designated from time to time by the Board of Directors. The Association may have such other offices, either within or outside the State of Texas as the Board of Directors may determine or as the affairs of the Association may require.

**ARTICLE III
ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES**

3.1 Mandatory Membership in Association. Every Person or entity who is a record Owner of a fee or an undivided interest in any Unit which is subject to the jurisdiction of, and to Assessments by, the Association shall be a Member of the Association, provided, however, that any Person holding an interest in any Unit merely as security for the performance of an obligation, shall not be a Member. Each Unit shall be entitled to one (1) vote in the Association and one (1) share of undivided interest in the Common Elements and Common Expenses. When more than one (1) Person or entity holds such interest or interests in any Unit, all such Persons or entities shall be Members and the vote for such Unit shall be exercised as they among themselves determine; provided, however, that such Members collectively shall be entitled to cast only the same number of votes that would have been available if the Unit owned by such Members had been owned by only one (1) Member. *Attachment “3”* sets forth the allocation to each Unit of (i) a fraction of undivided interests in the Common Elements of the Condominium, and (ii) a fraction of undivided interests in the Common Expenses of the Association.

3.2 Place of Meetings. Meetings of the Members, whether in-person or remote, shall be held at the time and if an in-person meeting, the place in Bexar County, Texas as determined by the Board of Directors and stated in the notice of the meeting or in a waiver of notice.

3.3 Annual Meetings.

A. The annual meeting of the Members of the Association, whether in-person or remote, shall be held annually at such time, date, and, if an in-person meeting, place in Bexar County, Texas, as may be determined by the Board of Directors, except such meeting shall not be held on a Sunday or a national holiday and except in the case of a catastrophic event as described below. At the discretion of the Board of Directors, the annual meeting of the Members of the Association, whether in-person or remote, may be held at such other reasonable date and time

provided the date is not less than ten (10) nor more than thirteen (13) months from the previously held annual meeting of Members (except in the case of a catastrophic event) and is not a Sunday or a national holiday. Further, the Board of Directors, at its discretion, may conduct any regular or special called meeting of the Members by means of any combination of in-person, virtual, remote, electronic, telephonic conference or similar communications equipment, including video-conferencing technology or the Internet, or any combination of audio and video equipment, if the telephone, video or other equipment or system permits each Person participating in the meeting to communicate with all other Persons participating in the meeting (a "Remote Meeting"). Participation in such a Remote Meeting shall constitute presence in-person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the Remote Meeting is not lawfully called or convened. A right to attend a Remote Meeting is not the same as a right to participate.

B. However, notwithstanding any other provision to the contrary, should the annual meeting be delayed as a result of a catastrophic event caused by an act of God (e.g., floods, fires, earthquakes) or other causes, such as: war; an act of terrorism; an epidemic, pandemic, or public health crisis; a mandated quarantine, shelter in place or similar order from any applicable state, county or local governmental authority or agency; or, any other cause or event which poses a material risk to adversely impact the health, safety and welfare of the Members of the Board of Directors or the Association that is beyond the control of the Board of Directors ("Catastrophic Event"), the then seated Directors shall hold office until their successors have been elected and hold their first meeting, except as is otherwise provided herein. In such event, the Board of Directors shall schedule the annual meeting as soon as practical, at the discretion of the Board of Directors, following the scheduled date of the annual meeting or the date required by the Bylaws of the Association.

3.4 Special Meetings. Special meetings of the Members for any purpose or purposes whatsoever may be called at any time by the President, by a Majority of the Board of Directors, or by not less than ten percent (10%) of the Members entitled to vote. The meeting must be held within thirty (30) days after a resolution signed by the Board of Directors or the Board of Directors' receipt of a petition from the Members. The notice of any special meeting shall state the time, date and place of such meeting and the purpose thereof. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

3.5 Notice of Meetings. Except as otherwise provided in the Certificate of Formation or these Bylaws, written notice of each meeting of Members, whether in-person or remote or any combination thereof as determined by the Board of Directors, shall be given by, or at the direction of, the Secretary or Person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than ten (10) nor more than sixty (60) days before the date fixed for such meeting, to each Member, addressed to the Member's address last appearing in the Condominium Records of the Association or supplied by such Member to the Association for the purpose of notice. Alternatively, if the Member's email address is registered for the purpose of statutory notice, such notice may be given by emailing the same not less than ten (10) nor more than sixty (60) days before the date fixed for such meeting, to the Member's email address last appearing in the Condominium Records of the Association. Such a notice shall specify the time, date, and, if an in-person meeting, place of the meeting, whether initial or reconvened, and, in the case of a special meeting, the purpose(s) of such meeting. For an Association-wide vote or election to be conducted without a meeting, written notice to each Member shall be given not less than twenty (20) days before the latest date on which a ballot may be submitted to be counted. In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose(s) for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

Whenever written notice to a Member of the Association is permitted or required hereunder, such notice shall be given by mailing such to the address of such Member appearing in the Condominium Records of the Association, unless such Member has given written notice to the Association of a different address, in which event such notice shall be mailed to the Member at the address so designated, or, if the Member has provided the Association the Member's email address for purposes of notice, such notice shall be sent to the Member at the provided email address.

3.6 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or the Member's proxy shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

3.7 Quorum; Adjournment of Meetings. The Members representing ten percent (10%) of the total Members of the Association, present in-person or represented by proxy, absentee ballot, or electronic ballot, shall constitute a quorum at all meetings or an Association-wide vote of the Members for the transaction of business, except as otherwise provided by law, by the Certificate of Formation, the Declaration or by these Bylaws. If, however, such quorum shall not be present or represented at any in-person meeting of the Members, the Majority of the Members entitled to vote at the meeting, present in-person or represented by proxy, absentee or electronic ballot shall (with notice described as follows) have the power to adjourn the meeting and call another meeting immediately after the adjournment of the initial regular or special called meeting or within sixty (60) days following the initial meeting until a quorum shall be present or represented, subject to the limitations of the TEX. PROP. CODE. Provided the original notice to Members of an annual or special called meeting contains a provisional time and date for a reconvening of the initial meeting in case it is adjourned due to lack of quorum, verbal notice of reconvening conveyed to those present at the initial meeting shall be sufficient notice to satisfy all notice provisions in these Bylaws. Ballots cast by absentee or electronic ballot shall not count towards the quorum if the proposed item on the ballot is amended from the language on the absentee or electronic ballot at a meeting of the Members. This exclusion provision does not apply to a ballot for the election of Directors.

3.8 Ineligibility. The Board may determine that no Member may vote at meetings of the Association if the Member's financial account with the Association is in arrears forty-five (45) days before the date of a meeting of the Association at which Members will vote, provided each ineligible Member is given notice of the arrearage and an opportunity to become eligible. The Board may specify the manner, place, and time for payment for purposes of restoring eligibility. A determination of Members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than forty-five (45) days after the original meeting.

3.9 Method of Voting.

A. Subject to the foregoing limitations, the Members shall be entitled to the number of votes allocated in *Section 3.1* above for each Unit in which they hold the interest required for membership. No Owner shall be entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Unit to the Secretary of the Association.

B. All Members of the Association may attend meetings of the Association and, if voting is to occur at a meeting, all voting Members may exercise their vote or votes at such meetings

in-person, by proxy if a vote is held at an in-person meeting, by absentee ballot and/or by electronic methods as described in TEX. PROP. CODE § 209.00592, if offered by the Association. Every proxy shall: (i) be in writing, signed and dated by the Member or such Member's duly authorized attorney-in-fact; (ii) specify the Unit(s) for which it is given; (iii) contain the Member's contact information (e.g., telephone, email address, or facsimile number) for verification purposes; and (iv) be filed with the Secretary of the Association by the date and time designated by the Board of Directors. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. At any time after a Member executes a proxy, but prior to the voting deadline established by *Subsection (F)* herein, the Member may revoke the proxy by submitting a post-dated absentee ballot or delivering a notice of cancellation of the proxy to the Secretary of the Association. Every proxy shall be valid for a period of eleven (11) months, unless stated otherwise, and shall automatically cease upon conveyance by the Member of their Unit(s). In the event more than one (1) valid proxy is submitted for a Member, the latest executed proxy, as determined by the date and/or time of signature, shall control. If the latest executed proxy is undeterminable, both proxies shall be invalid. Any vote cast in an election or vote by a Member must be in writing, signed and dated by the Member. In any election, written and signed ballots are not required for uncontested races. Cumulative voting, fractional votes, and split votes will not be permitted. The decision of the Board of Directors as to the number of votes a Member is entitled to cast, based upon the number of Units owned by the Member, shall be final.

C. Notwithstanding *Section 3.9 B.* pertaining to a Member's right to vote at an in-person meeting, at the discretion of the Board of Directors, the election of the Board of Directors may occur immediately prior to an annual meeting by an Association-wide vote by electronic and/or mail-in ballots without a meeting. In such event, all the requirements for meeting quorum, as described in *Section 3.7*, and preparing a voting list shall apply to the Association-wide election without a meeting. For an election or vote of Members not taken at a meeting, the Association shall give notice of the election or vote to all Members entitled to vote on any matter under consideration. The notice shall be given not later than the twentieth (20th) day before the latest date on which a ballot may be submitted to be counted. The period of voting and the deadline for the receipt of electronic and mail-in ballots shall be published in the Notice of Association-Wide Election. In such event, votes received after the published deadline shall not be counted for quorum or voting purposes.

D. An electronic vote (i) given by email, facsimile, or posting on an internet website established by the Association for voting, if available, (ii) for which the identity of the Member submitting the ballot can be confirmed, and (iii) for which the Member may receive a receipt of the electronic transmission and receipt of the Member's ballot shall constitute a written and signed ballot.

E. For in-person meetings, an absentee or electronic ballot (i) may be counted as a Member present and voting and for the purpose of establishing a quorum only for items appearing on the ballot; (ii) may not be counted, even if properly delivered, if the Member attends the meeting to vote in-person, so that any vote cast at a meeting by a Member supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and (iii) may not be counted on the final vote of a proposal if the motion amended at the meeting is different from the exact language on the absentee or electronic ballot.

F. In the event of a Remote Meeting (as defined in *Section 3.3(A)* above), all voting Members may exercise their vote or votes at the Remote Meeting by absentee ballot and, if offered by the Association, by electronic methods as described in TEX. PROP. CODE § 209.00592. If a Member elects to appoint an individual to vote on the Member's behalf by proxy, the proxy will be

used in conjunction with an absentee ballot by attaching the proxy to the absentee ballot and submitting the absentee ballot to the Election Officer or such other Person designated by the Board of Directors. For a Remote Meeting, the Board of Directors may extend the voting period beyond adjournment to listen to candidates' presentations as to their qualifications and the reasons the candidates desire to be a member of the Board of Directors or, if the vote is on a proposal, to allow the Members to be informed. The deadline for the receipt of proxies, absentee ballots and, if offered, electronic ballots shall be published in the Notice of Annual Meeting or Special Called Meeting. In such event, votes received during the extended voting period shall be considered a vote taken at the Remote Meeting.

3.10 Proxies. At all meetings of Members, each Member may vote in-person (if a corporation, partnership or trust, through any officer, director, partner or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Applicable Law. Each proxy shall be in writing specifying the Unit(s) for which it is given, signed and dated by the Member or its duly authorized attorney-in-fact or agent, dated and filed with the Secretary of the Association prior to any meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

3.11 Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence, in-person, by proxy or absentee or electronic ballot, if permitted, of Members representing ten percent (10%) of the total votes in the Association shall constitute a quorum at all meetings of the Association. The vote of fifty-one percent (51%) of the Members present or represented and eligible to vote shall constitute a decision of the Association, unless a higher percentage is required by the Governing Documents for a specific act.

3.12 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

3.13 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at an in-person meeting of all Members entitled to vote thereon. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent delivered to the Association at its principal place of business. Such consents shall be filed in the Association's records with the minutes of the Association and shall have the same force and effect as a vote of the Members at an in-person meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

ARTICLE IV BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

4.1 Governing Body; Composition. The affairs of the Association shall be governed by the Board of Directors, each of whom individually ("Directors") shall have one (1) vote. Except with respect

to Directors appointed by the Declarant, the Directors must be eligible Members; provided, however, no two (2) Owners representing the same Unit may serve on the Board at the same time. A "Board Member" shall be any natural person eighteen (18) years of age or older whose principal place of residence is a Unit within the Regime. In the case of a Member which is not a natural person, any officer, director, partner, employee, trust officer, or designated agent of such Member shall be eligible to serve as a Director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one (1) such representative on the Board at a time, except in the case of Directors appointed by the Declarant.

4.2 Number of Directors. The Board shall consist of up to three (3) Directors, as provided in Section 4.4 below.

4.3 Change in Number. The number of Directors may be increased or decreased from time-to-time by resolution of the Board of Directors, but no decrease shall have the effect of shortening the term of any incumbent Director and the Board of Directors may never consist of less than three (3) nor more than five (5) Directors. A change in the number of Directors may be made by resolution of the Board of Directors and an amendment of the Bylaws shall not be required. Any directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting or at a special called meeting of Members called for that purpose.

4.4 Nomination and Election of Directors. Except with respect to Directors appointed by the Declarant, Directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Each Owner may cast the entire vote assigned to their Unit for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

4.5 Election and Term of Office.

A. The initial Board shall consist of three (3) Directors appointed by the Declarant. Not later than the one hundred twentieth (120th) day after conveyance of fifty percent (50%) of the Units to Owners other than the Declarant, not less than one-third (1/3) of the members of the Board must be elected by Owners other than Declarant.

B. Upon termination of the Declarant's right to appoint Directors as provided in the Declaration, the number of Directors shall be set at three (3), and the Association shall hold an election at which the Members shall be entitled to elect all three (3) Directors, with the Director receiving the highest number of votes being elected for a term of three (3) years, the Director receiving the next highest number of votes being elected for a term of two (2) years, and the Director with the next highest votes being elected for a one (1) year. In the event of a tie, the Members shall assign among those tied the number of years of their respective initial terms (one (1) or two (2) years to maintain staggered terms) for each such Director.

C. Upon the expiration of the term of office of each initial Director elected by the Members, a successor shall be elected to serve a term of three (3) years, and all subsequent terms shall be for three (3) years. The Directors elected by the Members shall hold office until their respective successors have been elected. Any Director appointed by Declarant may be replaced by Declarant at any time.

4.6 Removal of Directors and Vacancies.

A. Any Director elected by the Members may be removed, with or without cause, by Members holding two-thirds (2/3) of the votes entitled to be cast for their election. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by Members to fill the vacancy for the remainder of the term of such Director.

B. Any Director elected by the Members who has three (3) or more consecutive unexcused absences from meetings of the Board, or who is more than thirty (30) days delinquent (or is the Occupant of a Unit that is delinquent, or is the representative of a Member who is delinquent) in the payment of any Assessment or other Charges due the Association, may be removed by the Majority of Directors present at a regular or special meeting, and the Majority of the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Members shall elect a successor.

C. In the event of the death, disability, ineligibility or resignation of a Director elected by the Members, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members shall elect a successor.

D. This *Section 4.6* shall not apply to Directors appointed by the Declarant. The Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a Director appointed by the Declarant.

4.7 Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within ten (10) days at such time and place as the Board shall fix.

4.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the Directors shall determine, but at least one (1) such meeting shall be held during each quarter. Notice of regular meetings of the Board will be given to each Director, personally or by telephone, written, or electronic communication, at least three (3) days prior to the date of the meeting.

4.9 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, by any two (2) Directors, or the by Secretary of the Board, if the President is absent or refuses to act. At least three (3) days' notice will be given to each Director, personally or by telephone, written, or electronic communication, which notice must state the place, time, and purpose of the meeting.

4.10 Emergency Meetings. In case of an emergency, the Board may convene a meeting after making a diligent attempt to notify each Director by any practical method.

4.11 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

4.12 Telephone and Similar Electronic Meetings. Members, Directors, and committee Members may participate in and hold a meeting by means of telephone conference, video conference or similar communications equipment by means of which all persons participating in the meeting can communicate

with each other. Participation in such a meeting shall constitute presence in-person at the meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

4.13 Quorum; Majority Vote. At meetings of the Board, a Majority of the number of Directors fixed by these Bylaws shall constitute a quorum for the transaction of business. The act of a Majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, except as otherwise specifically provided by statute, the Certificate of Formation, the Declaration or these Bylaws. If a quorum is not present at a meeting of the Board of Directors, the Directors present may adjourn the meeting and shall (with notice as described herein) have the power to adjourn the meeting and call another meeting immediately after the adjournment of the initial meeting or within sixty (60) days following the initial meeting until a quorum shall be present or represented, subject to the limitations of the TEX. PROP. CODE. Provided the original notice to Members of the Board of Directors meeting contains a provisional time and date for a reconvening of the initial meeting in case it is adjourned due to lack of quorum, verbal notice of reconvening conveyed to those present at the initial meeting shall be sufficient notice to satisfy all notice provisions in these Bylaws. A Director may vote in-person or by proxy executed in writing by the Director appointing another member of the Board to vote on the Director's behalf. A Director's proxy shall expire thirty (30) days after the date the proxy is executed or when revoked, whichever is sooner.

4.14 Compensation. The Board shall receive no compensation for serving, except a Director may be reimbursed for any reasonable, actual expenses incurred by the Director on behalf of the Association. Nothing herein shall prohibit the Association from compensating a Director for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Directors, excluding the interested Director.

4.15 Open Meetings. Subject to the provisions of this *Section 4.16*, all meetings of the Board shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation unless permission to speak is requested on their behalf by a Director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board, reconvene in executive session, and exclude Members to discuss matters of a sensitive nature.

4.16 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Directors may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by the Directors holding at least the Majority number of votes necessary to authorize such action at an in-person meeting of all Directors entitled to vote thereon. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent delivered to the Association at its principal place of business. Such consents shall be filed in the Association's records with the minutes of the Association and shall have the same force and effect as a vote of the Directors at an in-person meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Directors entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

4.17 Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Certificate of Formation, and as provided by law. The Board may do or cause to be done all acts and things as are not directed by the Declaration, Certificate of Formation, these Bylaws, or Applicable Law to be done and exercised exclusively by the membership generally.

4.18 Duties. The duties of the Board shall include, without limitation:

A. preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;

B. levying and collecting Assessments from the Owners, as set forth in the Declaration;

C. providing for the operation, care, upkeep, and maintenance of those portions of the Common Elements as provided in the Declaration;

D. designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

E. depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association; provided, any reserve fund may be deposited, in the Directors' best business judgment, in depositories other than banks;

F. making and amending Rules in accordance with the Declaration;

G. opening and closing of bank accounts on behalf of the Association and designating the signatories required;

H. making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Elements in accordance with the Declaration and these Bylaws;

I. enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules of the Association and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with Applicable Law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

J. obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

K. paying the cost of all services rendered to the Association;

L. keeping books with detailed accounts of the receipts and expenditures of the Association;

M. making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Declaration, the Certificate of Formation, the Bylaws, rules and all other books, records, and financial statements of the Association, as provided in *Section 6.4*;

N. permitting utility suppliers to use portions of the Common Elements reasonably necessary to the ongoing development or operation of the Project;

O. indemnifying a Director, officer, or committee member, or former Director, officer, or committee member of the Association to the extent such indemnity is required or permitted under Applicable Law, the Certificate of Formation, or the Declaration; and

P. representing Members at meetings of any master association.

4.19 Management.

A. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority.

B. The Association shall not be bound, either directly or indirectly, by any management contract executed during the period that the Declarant has the right to appoint and remove Directors of the Association unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty. In addition, any management contract executed by the Association shall contain a termination clause permitting termination, with or without cause and without penalty, upon no more than ninety (90) days written notice.

C. The Board may delegate to one of its Members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

4.20 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

A. accrual basis accounting, as defined by generally accepted accounting principles, shall be employed unless the Board votes to employ cash basis accounting;

B. accounting and controls shall conform to generally accepted accounting principles; other accounts;

C. cash accounts of the Association shall not be commingled with any other accounts;

D. no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

E. any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

F. commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly (such financial statements shall include an income statement reflecting all income and expense activity for the preceding period on an accrual basis and may include such other reports as deemed necessary by the Board); and

G. an annual financial report shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year and at each Association annual meeting. Such annual report may be prepared on an audited, reviewed or compiled basis, or may be internally prepared, as the Board determines.

4.21 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of Members representing at least fifty-one percent (51%) of the total votes allocated to Units prior to borrowing such money.

4.22 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other owners or residents associations, within and outside the Regime provided, any common management agreement shall require the consent of a Majority of the total number of Directors of the Association.

ARTICLE V OFFICERS

5.1 Officers. The officers of the Association shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; the Treasurer may, but need not be, a Member of the Board. The Board may appoint such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same Member, except the offices of President and Secretary.

5.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

5.3 Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

5.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall keep the minutes of all meetings of the Association and Board of Directors and have charge of such books and papers as the Board may direct.

5.5 Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.6 Agreements; Contracts; Deeds; Leases; Checks; Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other Person or Persons as may be designated by Board resolution.

5.7 Compensation. The officers shall not be compensated.

ARTICLE VI COMMITTEES

6.1 Appointment of Committees. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution and shall continue at the pleasure of the Board.

ARTICLE VII MISCELLANEOUS

7.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

7.2 Conflicts. If there are conflicts between the provisions of Applicable Law, the Certificate of Formation, the Declaration, and these Bylaws, the provisions of Applicable Law, the Declaration, the Certificate of Formation, and the Bylaws (in that order), shall prevail.

7.3 Books and Records.

A. Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a First Mortgage on a Unit, any Member, any Person who has executed a binding contract for the purchase of a Unit, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to their interest in a Unit: the Declaration, Bylaws, and Certificate of Formation, any amendments to the foregoing, the rules of the Association, books of account, the minutes of meetings of the Members, the Board, and committees, and the Association's corporate books and records. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Property as the Board shall designate.

B. Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (1) any notice to be given to the custodian of the records;
- (2) hours and days of the week when such an inspection may be made; and
- (3) payment of the cost of reproducing copies of documents requested.

C. Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association, and the physical properties owned or controlled by the Association. The right of inspection by a Director includes

the right to make a copy of relevant documents at the expense of the Association.

7.4 Notices. Except as otherwise provided in the Declaration or these Bylaws, all notices, demands, bills, statements, and other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first-class postage prepaid:

A. if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such member; or

B. if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, or at such other address as shall be designated by notice in writing to the members pursuant to this *Section 6.4*.

7.5 Amendment.

A. By Declarant. During the Development Period, Declarant may unilaterally amend these Bylaws at any time and from time-to-time, without consent of the Owners or any eligible Mortgagee, if such amendment is necessary (i) to bring any provision into compliance with any Applicable Law; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable Agencies to make, purchase, insure, or guarantee Mortgage loans on the Units or any of them; or (iv) to satisfy the requirements of any local, state, or federal governmental agency; (v) to correct any clerical error; (vi) to clarify an ambiguity or inconsistency; (vii) to remove any contradiction in the terms hereof; and (viii) for any reason whatsoever deemed necessary for the benefit of the Regime as determined by Declarant, in its sole discretion, including but not limited to, making these Bylaws more or less restrictive for all of a portion of the Regime. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

B. By Members. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members present or represented and eligible to vote holding at least sixty-seven percent (67%) of the total votes in the Association and, for so long as the Declarant owns a Unit or has the right to appoint a Majority of the Directors of the Association, the consent of the Declarant. The Association or Board may not meet to adopt an amendment or other change to these Bylaws of the Association unless the Association or Board has given to each Owner a document showing the specific amendment or other change that would be made to these Bylaws. Notice of any meeting at which a proposed amendment will be considered shall state that fact and the subject matter of the proposed amendment. The information described in the previous two (2) sentences must be given to each Unit Owner not more than twenty (20) days or less than ten (10) days preceding the date of the meeting. The information is considered to have been given to an Owner on the date the information is personally delivered to the Owner, as shown by a receipt signed by the Owner, or on the date shown by the postmark on the information after it is deposited in the United States mail with a proper address and postage paid. If a meeting is called for the purpose of considering a proposed amendment hereunder, such meeting shall be called in accordance with these Bylaws. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

C. Validity and Effective Date. Any amendment to these Bylaws shall become effective upon approval by the Board in accordance herewith, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

D. Effect of Amendment. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of Declarant for so long as the Declarant owns any portion of the Regime. If a Member consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or, contract between the Member and a third party will affect the validity of such amendment.

CERTIFICATE OF OFFICER

The undersigned certifies that the foregoing Bylaws were duly approved and adopted by the Board of Directors of VAN CLEAVE MODERN OWNERS ASSOCIATION, INC., on the 23 day of JANUARY 2024, and that the undersigned has been authorized by the Board of Directors to execute and record this instrument. The undersigned further certifies that the foregoing Bylaws constitute a dedicatory instrument under TEX. PROP. CODE §202.006 which applies to the operation of Van Cleave Modern Condominium, a Condominium Regime located in Bexar County, Texas, as hereinabove described, including all annexations thereto.

Signed this 23 day of JANUARY 2024.

VAN CLEAVE MODERN OWNERS ASSOCIATION, INC.

By: Carlo White
CARLO WHITE, President

File Information

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LUCY ADAME-CLARK, BEXAR COUNTY CLERK**

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Any provision herein which restricts the sale or use of the described real property because of race is invalid and unenforceable under Federal law

STATE OF TEXAS, COUNTY OF BEXAR

I hereby Certify that this instrument was eFILED in File Number Sequence on this date and at the time stamped hereon by me and was duly eRECORDED in the Official Public Record of Bexar County, Texas on: 1/23/2024 4:57 PM



Lucy Adame-Clark
Lucy Adame-Clark
Bexar County Clerk