

This instrument is prepared by:
Ben Fernandez
Bercow Radell Fernandez Larkin +Tapanes, PLLC
200 South Biscayne Boulevard, Suite 300
Miami, FL 33131

Reserved for Recording

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENT that the undersigned Casa Neo's Partners, LLC, a Florida limited liability company ("**Owner**") hereby makes, declares and imposes on the land herein described, this Restrictive Covenant (the "**Covenant**") running with title to the land contained herein, which shall be binding on Owner, all heirs, grantees, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them.

WHEREAS, Owner is the fee simple title holder to certain property located at 40 SW North River Drive, located in Miami, Florida, more particularly described in **Exhibit "A"** (the "**Property**") attached hereto and incorporated herein; and

WHEREAS the Owner seeks a Waiver application to permit the redevelopment of the Property with Residential, Commercial, Office, and other related uses at the Property (the "**Application**"); and

WHEREAS, the Owner voluntarily proffers this Covenant acknowledging and accepting the presence of the existing Working Waterfront 24-hour operations, as permitted, and providing for certain other improvements to the portion of the Property abutting the Miami River; and

NOW, THEREFORE, in consideration of the premises, agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Owner, Owner hereby agrees as follows:

- 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein as if repeated at length.
- 2. Restrictions.** Owner covenants the following:

- a. The Owner shall construct a publicly accessible Riverwalk in accordance with the Miami River Greenway Action Plan and Miami 21 Code Waterfront Standards and as consistent with the Site Plan to allow outdoor seating requiring administrative approval by the City of Miami's Planning Department and the Office of Zoning. The minimum width of the publicly accessible Riverwalk's unobstructed circulation zone shall be eight (8) feet wide, while complying with pool safety codes as appropriate.
- b. The Owner shall comply with the applicable City of Miami Code noise regulations and will hire a professional sound engineer to design a system which minimizes unintended noise outside of the venue.

3. Covenant Running with the Land. This Covenant on the part of the Owner shall constitute a covenant running with the land and shall be recorded by Owner within ten (10) days of acceptance by the City of Miami ("**City**"), at Owner's expense, in the Public Records of Miami-Dade County, Florida, and same shall remain in full force and effect and be binding upon the undersigned Owner, and its heirs, successors, and assigns until such time as the Covenant is terminated, modified, or released. These restrictions during their lifetime shall be for the benefit of, and be a limitation upon, all present and future owners of the subject Property and for the public welfare.

The provisions of this instrument shall become effective upon their recordation in the Public Records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless this Covenant, pursuant to Section 2 and Section 4 herein, is released in writing by the following: (i) then owners of the Property AND (ii) the City's Directors of the Department of Planning and the Department of Zoning subject to the approval of the City Attorney as to legal form, or their respective designees or successors.

4. Modification, Amendment, Release. This Covenant may be modified, amended, or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, or any portion thereof, provided that the same is reviewed by the Miami River Commission, Planning Director and Zoning Director for an advisory recommendation and approved by the City of Miami City Commission. Should this Declaration be so modified, amended, or released, the Directors of the Departments of Planning and

Zoning or the executive officer of a successor department, or their designees or successors, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release, at the direction of the City Commission subject to the City Attorney, or successor or designee, as to legal form.

5. Inspection and Enforcement. It is understood and agreed that any official inspector of the City may have the right at any time during the normal working hours of the City's inspector to enter upon the Property for the purpose of investigating the use of the Property, and for determining whether the conditions of this Declaration and the requirements of the City's building and zoning regulations are being complied with. Enforcement shall be by action against any parties or person violating or attempting to violate any covenant contained herein. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

6. Election of Remedies. All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

7. Severability. Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions of this Covenant, which shall remain in full force and effect.

8. Recording. This Covenant shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the full approval of the Application and expiration of any appeal period. This Covenant shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Covenant shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Directors of the Planning and Zoning Departments, or their designees or successors, shall forthwith execute a written instrument, in recordable form, acknowledging that this Covenant is null and void and of no further effect, subject to the City Attorney, or successor or designee, as to legal form.

9. No Vested Rights. Nothing in this covenant shall be construed to create any vested rights whatsoever to the Owner, its successors and assigns.

[Signature Page(s) to Follow]

Signed, witnessed, executed and acknowledged this _____ day of _____, 2022.

Witnesses

Signature

Name

Signature

Name

Casa Neo’s Partners, LLC, a Florida limited liability company

By: _____

Name: _____

Title: _____

Address: 601 Brickell Key Drive
Suite 101
Miami, FL 33131

STATE OF FLORIDA)
)**SS**
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2022, by _____, of Casa Neo’s Partners, LLC, a Florida limited liability company, who is personally known to me or has produced _____ as identification.

(SEAL)

NOTARY SIGNATURE
Print, type, or stamp of Notary
Notary Public, State of Florida
My. Commission expires: _____

APPROVED:

By: _____
Daniel Goldberg, Director of Zoning

By: _____
_____, Director of Planning

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

By: _____
Victoria Mendez, City Attorney