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DECLARATION AND MASTER DEED  
LOS NOGALES CONDOMINIUMS

**CONDOMINIUM  
RECORDS**

THIS DECLARATION AND MASTER DEED is made and executed on this the 14<sup>th</sup> day of SEPTEMBER, 1978 by LOU SMITH, INC., a Texas corporation (hereinafter referred to as the "Developer"), pursuant to the provisions of the Texas Condominium Act, Article 1301a of the Texas Revised Civil Statutes (hereinafter referred to as the "Act") for the purpose of submitting the hereinafter described real property and the improvements located thereon to a condominium regime.

W I T N E S S E T H:

WHEREAS, the Developer is the owner of certain real property locally known as 4347 Dickason, Dallas, Texas with four buildings located thereon containing a total of thirty-one (31) dwelling units, and certain other improvements located thereon (such real property and the improvements located thereon being hereinafter sometimes referred to as "LOS NOGALES"), and which is more particularly described on Exhibit "C", attached hereto and made a part hereof for all purposes.

WHEREAS, the Developer desires by recording this Declaration and Master Deed, together with the Condominium By-Laws attached hereto as Exhibit "B", and the Condominium Subdivision Plan attached hereto as Exhibit "A" (all of which are hereby incorporated by reference and made a part hereof) to establish a condominium project under the provisions of the Act.

NOW, THEREFORE, the Developer does upon the recording hereof, establish Los Nogales as a Condominium Project under the Act and does declare the Los Nogales Condominium shall, after such establishment, be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved and in any other manner utilized, subject to the provisions of the Act and to the covenants, conditions, restrictions, uses, limitations and affir-

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mative obligations set forth in this Declaration and Master Deed and Exhibits "A" and "B" hereto, all of which shall be deemed to run with all or any portion of Los Nogales Condominium and shall be a burden upon and a benefit to the Developer, its successors and assigns, and any persons acquiring or owning any interest in Los Nogales Condominium, their grantees, successors, heirs, executors, administrators and assigns. In furtherance of the establishment of this Condominium Project, it is provided as follows:

1. Certain terms as used in this Declaration and Master Deed and attached Exhibits shall be defined as follows:

(a) "Apartment-Home" means: (i) an enclosed space consisting of one or more rooms contiguous and on the same floor or occupying all or part of the two floors connected by a stairway in a building of the Condominium Project having direct access to a thoroughfare and (ii) an enclosed space consisting of one or more rooms occupying all of the designated area as shown on the plat describing each apartment-home and (iii) where applicable a patio or balcony as such patio and/or balcony may be described and delimited in Exhibit "A" attached hereto.

(b) "Condominium" means the separate ownership of Apartment-Homes, together with an undivided ownership of an interest in the limited and general common elements as set forth and defined herein.

(c) "Condominium Project" means Los Nogales Condominium as a condominium project established hereby in conformance with the provisions of the Act.

(d) "Co-Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof who or which owns one or more Apartment-Homes in the Condominium Project.

(e) "Council of Co-Owners" shall mean the non-profit Association, of which all Co-Owners shall be members, which Association shall administer the operation and management of Los Nogales as a Condominium Project, (hereinafter called "Association").

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(f) "Common Elements" shall mean both the general and limited common elements as described in Paragraph 3 hereof. Each Co-Owner shall own an undivided interest in the limited and general common elements as set out in Paragraph 4 hereof.

(g) Whenever any reference herein is made to one gender, the same shall include a reference to any and all genders where the same would be appropriate. Similarly, wherever a reference herein is made to the singular, the same shall include a reference to the plural where the same would be appropriate.

2. The major elements of the Condominium Project consist of four residential buildings (all containing two floors), a swimming pool and parking spaces. The Condominium Project and the foregoing improvements are described by apartment number, boundary, dimension and area in the condominium subdivision plan attached hereto and marked Exhibit "A". The buildings contain thirty-one individual Apartment-Homes as set forth in Paragraph 4 hereof, all of which are to be used for residential purposes, and each Apartment-Home described therein has its own entrance from and exit to a thoroughfare. Each Co-Owner in the Condominium Project shall have an exclusive right to his Apartment-Home and shall have undivided and inseparable rights to share with other Co-Owners the limited and general common elements of the Condominium Project designated herein. Such undivided and separable rights of each Co-Owner in the common elements shall not be separated from the Apartment-Home to which they appertain and shall be deemed to be conveyed or encumbered or released from liens with the Apartment-Home even though such rights are not expressly mentioned or described in the conveyance or other instrument.

3. The general and limited common elements of the Condominium Project are as follows:

A. The general common elements are:

- (1) The land in the Condominium Project, as described in Exhibit "C" hereto;
- (2) The foundations, bearing walls including those bearing walls totally within any one Apartment-Home and columns (including any windows, doors and chimneys therein), roofs, ceilings and floors,

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thoroughfares such as stairways, entrances, exits or communication ways of the buildings located on the land described above;

(3) The compartments or installations of central services such as power, light, electricity, telephone, gas, cold and hot water, plumbing, reservoirs, water tanks and pumps, incinerators and the like, and all similar devices and installations existing for common use;

(4) The premises and facilities, including leasehold improvements such as leased trash bins, and contractual agreements such as laundry and concessions, if any, used for the maintenance or repair of the Condominium Project;

(5) All common recreational facilities such as the swimming pool and the grounds, yards and walkways;

(6) All other elements desirable or rationally of common use or necessary to the existence, upkeep and safety of the Condominium Project.

B. The limited common elements, being those common elements reserved for the use of specified Apartment-Homes to the exclusion of others, consist of those ground level patios, individual storage lockers (if any), and balconies which have access to or use of, only from the Apartment-Homes adjacent thereto as shown on the condominium subdivision plan attached hereto as Exhibit "A".

The cost of maintenance, repair and replacement of the general common elements shall be an expense of administration of the Condominium Project to be assessed in accordance with the By-Laws attached hereto as Exhibit "B". The cost of maintenance, repair and replacement of the limited common area, patios, and balconies shall be an expense of the Apartment-Home or Apartment-Homes using same, which such area, patio or balcony is shared by two or more Apartment-Home Co-Owners. The cost of maintenance and repair of air-conditioning/heating equipment shall be the expense of the Apartment-Home using same. The cost maintenance and repair of any limited common elements which is partially or totally recoverable under common insurance carried by the Association, shall be claimed for and paid by the Association. Unless approved in writing by the holders of first mortgages on at least 70% of the Apartment-Homes, the general common elements cannot be partitioned, subdivided, encumbered, sold or transferred.

No Co-Owner shall use his Apartment-Home or the general or limited common elements: (i) in any manner inconsistent with the purposes of the Condominium Project or (ii) in any manner so as to

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interfere with or impair the rights of another Co-Owner in the use and enjoyment of his Apartment-Home or the general or limited common elements.

Public utilities furnishing services for common use such as water, electricity, gas and telephone to the Condominium Project shall have access to the general and limited common elements and the Apartment-Homes as may be necessary for the installation, repair or maintenance of such services, and any cost incurred in opening and repairing any wall in the Condominium Project to install, repair or maintain such services shall be an expense of the administration of the Condominium Project to be assessed in accordance with the By-Laws attached hereto as Exhibit "B".

There shall be permanent easements to, through and over those portions of Log Nogales as may be reasonably necessary for the installation, maintenance and repair of all public utilities, the general common elements and limited common elements, which easement shall run to and be administered by the Association.

4. In the condominium subdivision plan attached hereto as Exhibit "A", the residential buildings in the Condominium Project contain thirty-one (31) Apartment-Homes, numbered in a broken series as listed below. In determining dimensions and area each enclosed space in an Apartment-Home shall be measured from the interior finished, unpainted surface of the bearing walls and each patio or balcony in such Apartment-Home shall be measured to the exterior surface of its fence, (i.e. the common patio or balcony fence).

The percentage of value assigned to each Apartment-Home in the Condominium Project is set forth below and shall be determinative of the proportionate share of each respective Co-Owner in the proceeds and expenses of administration, and the value of such Co-Owner's vote at meetings of the Association. The percentage of cost for all common utilities service shall be assessed against each Apartment-Home in the Condominium Project as set forth below. The total value of the Condominium Project is

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100%

Set forth below are:

(a) Each Apartment-Home number as it appears on the condominium subdivision plan attached hereto as Exhibit A; and

(b) The percentage of value assigned to each such Apartment-Home:

<u>Condominium Number</u>	<u>Percentage of Value Assigned</u>
<u>Building A</u>	
101 with 878 sq. ft.	3.6712%
102 with 1,172 sq. ft.	4.9005%
103 with 1,172 sq. ft.	4.9005%
104 with 680 sq. ft.	2.8433%
105 with 452 sq. ft.	1.8899%
106 with 687 sq. ft.	2.8726%
205 with 452 sq. ft.	1.8899%
206 with 687 sq. ft.	2.8726%
<u>Building B</u>	
107 with 687 sq. ft.	2.8726%
108 with 452 sq. ft.	1.8899%
109 with 680 sq. ft.	2.8433%
110 with 1,172 sq. ft.	4.9005%
111 with 1,172 sq. ft.	4.9005%
112 with 878 sq. ft.	3.6712%
207 with 687 sq. ft.	2.8726%
208 with 452 sq. ft.	1.8899%
<u>Building C</u>	
114 with 579 sq. ft.	2.4210%
115 with 927 sq. ft.	3.8761%
116 with 452 sq. ft.	1.8899%
117 with 928 sq. ft.	3.8802%
214 with 579 sq. ft.	2.4210%
215 with 927 sq. ft.	3.8761%
216 with 452 sq. ft.	1.8899%
217 with 928 sq. ft.	3.8802%
<u>Building D</u>	
118 with 1,392 sq. ft.	5.8203%
120 with 927 sq. ft.	3.8761%
121 with 579 sq. ft.	2.4210%
218 with 928 sq. ft.	3.8802%
219 with 452 sq. ft.	1.8899%
220 with 927 sq. ft.	3.8761%
221 with 579 sq. ft.	2.4210%

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5. So long as the Developer owns one or more Apartment-Homes in the Condominium Project, the Developer shall be subject to the provisions of the Master Deed and Exhibits "A" and "B" attached hereto.

6. If the Condominium Project is totally or partially damaged or totally or partially taken by eminent domain, the repair, reconstruction or disposition thereof shall be as provided for in the By-Laws attached hereto as Exhibit "B".

7. The existing physical boundaries of an Apartment-Home or of an Apartment-Home reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than any metes and bounds expressed in the Condominium Subdivision Plan or in an instrument conveying, granting, or transferring an Apartment-Home, regardless of settling or lateral movement and regardless of minor variances between boundaries shown on the Condominium Subdivision Plan or reflected in the instrument of grant, assignment or conveyance and those existing from time to time.

8. The regime established for the Condominium Project hereby shall not be vacated, waived or revoked, or any of the provisions herein amended, unless all of the Co-Owners and the mortgagees of all the mortgages covering the Apartment-Homes unanimously agree to such termination, revocation, or amendment by duly approved and recorded instruments; provided, however, that prior to the first annual meeting of the members of the Council of Co-Owners, the Developer may, with the written consent of any institutional mortgagee of any Apartment-Home in the Condominium Project, (but without the consent of any Co-Owner) amend this Declaration and Master Deed, the By-Laws attached hereto as Exhibit "B" and the Condominium Subdivision Plan attached hereto as Exhibit "A", in order to correct survey or other errors made in such documents, and further provided the Developer may change the percentages allocated to and the dimensions of the Apartment-Homes owned by the Developer by an amendment to this Declaration and Master Deed duly executed and recorded by the Developer only, provided such

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changes do not affect the percentages allocated to the other Apartment-Homes in the Condominium Project which are not owned by the Developer.

9. Until Developer has completed all of the contemplated improvements and closed the sales of all of the Condominiums, neither the Co-Owners nor the Council of Co-Owners nor the use of Los Nogales nor the application of this Declaration and Master Deed shall interfere with the completion of the contemplated improvements and the sale of the Condominiums. Developer may make such use of the unsold Apartment-Homes and of the Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, the showing of Los Nogales and the Apartment-Homes therein, the display of signs thereon and therein and the transient use of Apartment-Homes and parking spaces therein.

LOU SMITH, INC.

BY: *Lou Smith*  
President

THE STATE OF TEXAS X  
COUNTY OF DALLAS X

BEFORE ME, the undersigned a Notary Public in and for said County and State, on this day personally appeared Lou Smith ALBRIGHT, PRESIDENT, of LOU SMITH, INC. a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed, and the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 15th day of SEPTEMBER, 1978.

*Stanley Fryman*  
Notary Public in and for  
Dallas County, Texas



My Commission Expires:  
10-8-79

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