



After Recording Return To:

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**FIRST AMENDMENT
TO
COMMUNITY COVENANT FOR INDIGO COMMUNITY FOUNDATION**

THIS FIRST AMENDMENT TO COMMUNITY COVENANT FOR INDIGO COMMUNITY FOUNDATION (this "Amendment") is made on the 4th day of March 2024 by 300 Acres, LLC, a Texas limited liability company (the "Founder"). Capitalized terms used in this Amendment which are not defined shall have the meanings given to such terms in the Community Covenant for Indigo Community Foundation recorded on July 5, 2022, in the Real Property Records of Fort Bend County, Texas as Document No. 2022089088, as may be amended and supplemented (the "Community Covenant").

RECITALS:

- A. **WHEREAS**, as of the date of this Amendment, Founder owns portions of the Community Property;
- B. **WHEREAS**, per Section 4.1 of the Community Covenant, so long as the Founder owns any portion of Community Property, the Founder may annex real property into the Community through an amendment to the Community Covenant;
- C. **WHEREAS**, per Section 4.3 of the Community Covenant, the Founder may unilaterally amend all or any portion of the Community Covenant for any purpose so long as the Founder owns any portion of the Community Property; and
- D. **WHEREAS**, the Founder desires to amend the Community Covenant to modify the Commercial Community Enhancement Fee provisions and defined terms and to correct the legal description originally recorded with the Community Covenant to annex real property into the Community Property and subject such real property to the terms of the Community Covenant.

NOW, THEREFORE, for and in consideration of the Community Property and exercising the rights granted to it in the Community Covenant, Founder hereby amends the Community Covenant as follows:

1. Amendment to Definition of Terms. The section of the Community Covenant entitled "Definition of Terms" is hereby amended as follows:

- a. **Amendment to Section 6 of Definition of Terms, "Commercial Community Enhancement Fee".** Section 6 of the Definition of Terms is hereby deleted in its entirety and replaced with the following.

6. "Commercial Community Enhancement Fee" shall mean the Commercial Community Enhancement Fee to be paid in connection with the sale of Commercial Lots and Commercial Leases, as further defined and described in Section 2.2 of this Community Covenant.

- b. **Amendment to Section 10 of Definition of Terms, "Commercial Lot".** Section 12 of the Definition of Terms is hereby deleted in its entirety and replaced with the following:

10. "Commercial Lot" Any lot or tract of land in the Commercial Property upon which a Commercial Building is or will be constructed or which is intended for the construction of Commercial Building(s), or which is designated as a Lot on a Commercial Plat, but excluding any Commercial Lot or tract of land in the Commercial Property which is a Commercial Common Area.

- c. **Amendment to Section 12 of Definition of Terms, "Community Charges".** Section 12 of the Definition of Terms is hereby amended to change the title of the defined term "Community Charges" to "Charges".

- d. **Amendment to Definition of Terms, New Defined Terms.** The Definition of Terms is hereby amended to add the following defined terms which shall be included as numbered regardless of alphabetical order in the Community Covenant:

30. "Commercial Building" means a building, dwelling or other structure located on a Commercial Lot constructed and used for commercial purposes as further defined and described in the Commercial Declaration.

31. "Residence" means a building, dwelling or other structure located on a Residential Lot used for, or intended to be used for, single family residential purposes and including differing architectural types of attached or detached housing, as further described in the Residential Declaration.

32. "Total Commercial Sale Price" means the gross sales price charged for the sale of a Commercial Lot, with or without improvements constructed thereon, as further defined and described in Subsection 2.2(c) of this Community Covenant.

33. "Total Residential Sales Price" shall mean the gross sales price charged for the sale of a Residential Lot with the Residence and other improvements constructed thereon, as further defined and described in Subsection 2.2(a) of this Community Covenant.

2. Amendment to Subsection 2.2(a), Residential Builder Fee. Subsection 2.2(a) of the Community Covenant entitled *Residential Builder Fee* is hereby deleted in its entirety and replaced with the following:
 - (a) Residential Builder Fee. One source of funding for the Foundation's activities shall be the Residential Builder Fee to be paid by Residential Builders and collected upon each transfer of title to a Residential Lot purchased by a homeowner from a Residential Builder, subject to those exemptions described in Subsection 2.2(d) below. The Residential Builder Fee shall be payable to the Foundation at the closing of the transfer of title of a Residential Lot from the Residential Builder to a third-party purchaser (i.e., home buyer) of the Residential Lot. The Residential Builder Fee will be an amount equal to one percent (1.00%) of the Total Residential Sales Price of the Residential Lot. For purposes of this Subsection 2.2(a) and Subsection 2.2(b) below, "Total Residential Sales Price" means the gross sales price charged and to be paid for the sale of a Residential Lot, including the Residence and any other improvements constructed thereon, without reduction for any discounts, credits or other amounts extended to the respective purchaser.
3. Amendment to Subsection 2.2(c), Commercial Community Enhancement Fee. Subsection 2.2(c) of the Community Covenant entitled *Commercial Community Enhancement Fee* is hereby deleted in its entirety and replaced with the following:
 - (c) Commercial Community Enhancement Fee. Another source of funding for the Foundation's activities shall be the Commercial Community Enhancement Fee which shall be charged by the Commercial Association (1) to the Commercial Lot purchaser upon each non-exempt transfer of title to a Commercial Lot in an amount equal to one percent (1.00%) of the Total Commercial Sales Price of the Commercial Lot, including the initial non-exempt transfer of title to a Commercial Lot by the Commercial Declarant, as defined in the Commercial Declaration; and (2) to the Commercial Owner upon execution of each non-exempt Commercial Lease in an amount equal to one-half percent (0.50%) of the total rental amount for the entire initial term of the Commercial Lease of the Commercial Lot. Commercial Community Enhancement Fees charged by the Commercial Association are payable to the Foundation and are secured by liens in favor of the Foundation as provided in Subsection 2.2(e) of this Community Covenant. "Total Commercial Sales Price" means the gross sales price charged and to be paid for the sale of a Commercial Lot, including a Commercial Lot with a Commercial Building and other improvements constructed thereon, or an unimproved Commercial Lot, as the case may be, without reduction for any discounts, credits or other amounts extended to the respective purchaser.
4. Amendment to Legal Description of Community Covenant. The legal description attached as Exhibit A and recorded with the Community Covenant inadvertently excluded the fifth page of such description eliminating a portion of the legal description for the Commercial Community; therefore, Exhibit A and the entire legal description therein is hereby deleted in its entirety and replaced with the Exhibit A and the legal description therein contained attached to this Amendment and included herein for all intents and purposes.
5. Effective Date; Amendment. This Amendment shall be effective upon its recordation in the Real Property Records of Fort Bend County, Texas (the "Effective Date").

6. No Other Changes. Except as expressly set forth in this Amendment, there are no other changes, amendments or modifications to the Community Covenant, and the Community Covenant shall remain in full force and effect.

[Remainder of Page Intentionally Left Blank – Signature Page to Follow.]

IN WITNESS WHEREOF, Founder has duly executed this Amendment on the date provided below, and this Amendment shall be effective on the Effective Date.

FOUNDER:

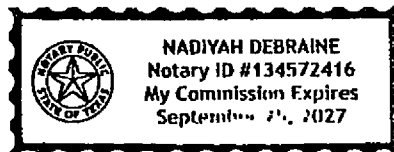
300 Acres, LLC
a Texas limited liability company


By: Edible Group, LLC
its sole Managing Member

By: 
Clayton S. Garrett, President

STATE OF TEXAS §
 §
COUNTY OF Harris §

This instrument was acknowledged before me on the 4th day of March, 2024, by Clayton S. Garrett, the President of 300 Acres, LLC, a Texas limited liability company, on behalf of said limited liability company.




Notary Public, State of Texas

Exhibit(s):

Exhibit A – Legal Description of Annexed Community Property

EXHIBIT "A"
to
COMMUNITY COVENANT

Legal Description of Annexed Community Property

Community Property located in the Residential Community

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

A METES & BOUNDS description of a certain 44.46 acre (1,936,772 square feet) tract of land situated in the Jane Wilkins Survey, Abstract No. 96, in Fort Bend County, Texas, being a portion of a called 145.368 acre tract (Tract III) conveyed to 300 Acres LLC by deed recorded in Clerk's File No. 2017087205, Fort Bend County Official Public Records; said 44.46 acre (1,936,772 square feet) tract of land being more particularly described as follows with all bearings being based on the Texas Coordinate System, South Central Zone, NAD 83:

COMMENCING at a 5/8-inch iron rod (with cap) found, being the northwest corner of said called 145.368 acre tract, being on the south line of a called 70 foot drainage canal (Fourth Tract) recorded in the name of Fort Bend County Drainage District in Volume 331, Page 468, Fort Bend County Deed Records, and being on the east right-of-way line of Harlem Road (width varies) as recorded in Volume 63, Page 203, Fort Bend County Deed Records and in Clerk's File Nos. 2011015402 and 2015075797, Fort Bend County Official Public Records;

THENCE, along the east right-of-way line of Harlem Road, the following three (3) courses and distances:

1. South 07°27'01" West, 74.13 feet to a 5/8-inch iron rod (with cap) found;
2. South 03°26'09" East, 577.51 feet to a 5/8-inch iron rod (with cap) found, being the beginning of a curve to the right;
3. Along said curve to the right in a southerly direction, with a radius of 10,758.45 feet, a central angle of 00°32'10", an arc length of 100.67 feet, and a chord bearing South 03°10'04" East, 100.67 feet to a point;
4. South 02°53'59" East, 485.93 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the northwest corner and POINT OF BEGINNING of the herein described tract and being the beginning of a curve to the left;

THENCE, over and across said called 145.368 acre tract, the following thirty-seven (37) courses and distances:

1. Along said curve to the left in a southeasterly direction, with a radius of 30.00 feet, a central angle of 90°16'59", an arc length of 47.27 feet, and a chord bearing South 48°02'28" East, 42.53 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

2. North 86°49'03" East, 589.04 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

3. Along said curve to the left in a northeasterly direction, with a radius of 15.00 feet, a central angle of 90°00'00", an arc length of 23.56 feet, and a chord bearing North 41°49'03" East, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

4. North 86°49'03" East, 50.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

5. Along said curve to the left in a southeasterly direction, with a radius of 15.00 feet, a central angle of 90°00'00", an arc length of 23.56 feet, and a chord bearing South 48°10'57" East, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

6. North 86°49'03" East, 534.47 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the right;

7. Along said curve to the right in an easterly direction, with a radius of 387.00 feet, a central angle of 21°14'39", an arc length of 143.49 feet, and a chord bearing South 82°33'38" East, 142.67 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

8. North 13°36'56" East, 4.56 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the right;

9. Along said curve to the right in a northeasterly direction, with a radius of 120.00 feet, a central angle of 28°12'06", an arc length of 59.07 feet, and a chord bearing North 27°43'00" East, 58.47 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

10. North 41°49'03" East, 128.75 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

11. South 57°59'45" East, 112.93 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

12. South 63°30'34" East, 556.89 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

13. South 56°22'53" East, 230.69 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the northeast corner of the herein described tract;

14. South 41°49'03" West, 161.03 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

15. Along said curve to the left in a southerly direction, with a radius of 25.00 feet, a central angle of 90°00'00", an arc length of 39.27 feet, and a chord bearing South 03°10'57" East, 35.36 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

16. South 48°10'57" East, 57.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the right;

17. Along said curve to the right in a southerly direction, with a radius of 25.00 feet, a central angle of 90°00'00", an arc length of 39.27 feet, and a chord bearing South 03°10'57" East, 35.36

feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

18. South $41^{\circ}49'03''$ West, 219.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
19. North $48^{\circ}10'57''$ West, 268.62 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;
20. Along said curve to the left in a westerly direction, with a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 23.56 feet, and a chord bearing South $86^{\circ}49'03''$ West, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
21. South $41^{\circ}49'03''$ West, 440.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;
22. Along said curve to the left in a southerly direction, with a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 23.56 feet, and a chord bearing South $03^{\circ}10'57''$ East, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
23. South $41^{\circ}49'03''$ West, 50.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;
24. Along said curve to the left in a westerly direction, with a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 23.56 feet, and a chord bearing South $86^{\circ}49'03''$ West, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
25. South $41^{\circ}49'03''$ West, 127.28 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the right;
26. Along said curve to the right in a southwesterly direction, with a radius of 375.00 feet, a central angle of $45^{\circ}00'00''$, an arc length of 294.52 feet, and a chord bearing South $64^{\circ}19'03''$ West, 287.01 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
27. South $86^{\circ}49'03''$ West, 125.52 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;
28. Along said curve to the left in a southwesterly direction, with a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 23.56 feet, and a chord bearing South $41^{\circ}49'03''$ West, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
29. South $86^{\circ}49'03''$ West, 50.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;
30. Along said curve to the left in a northwesterly direction, with a radius of 15.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 23.56 feet, and a chord bearing North $48^{\circ}10'57''$ West, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
31. South $86^{\circ}49'03''$ West, 95.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
32. South $03^{\circ}10'57''$ East, 460.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

33. South 86°49'03" West, 95.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
34. South 03°10'57" East, 50.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;
35. South 86°49'03" West, 80.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the right;

36. Along said curve to the right in a southeasterly direction, with a radius of 15.00 feet, a central angle of 90°00'00", an arc length of 23.56 feet, and a chord bearing South 48°10'57" East, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

37. South 03°10'57" East, 104.89 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being on the north line of a called 317.812 tract (Tract One) conveyed to RES/VLS Real Estate Limited Partnership by deed recorded in Clerk's File No. 2018058651, Fort Bend County Official Public Records;

THENCE, South 86°49'03" West, 665.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being on the east right-of-way line of said Harlem Road and being the southwest corner of the herein described tract;

THENCE, North 02°06'41" West, along said east right-of-way line of Harlem Road, 715.57 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

THENCE, over and across said called 145.638 acre tract, the following seven (7) courses and distances:

1. Along said curve to the left in a southeasterly direction, with a radius of 30.00 feet, a central angle of 91°04'17", an arc length of 47.68 feet, and a chord bearing South 47°38'49" East, 42.82 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

2. North 86°49'03" East, 587.63 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

3. Along said curve to the left in a northeasterly direction, with a radius of 15.00 feet, a central angle of 90°00'00", an arc length of 23.56 feet, and a chord bearing North 41°49'03" East, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

4. North 03°10'57" West, 958.00 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

5. Along said curve to the left in a northwesterly direction, with a radius of 15.00 feet, a central angle of 90°00'00", an arc length of 23.56 feet, and a chord bearing North 48°10'57" West, 21.21 feet to a 5/8-inch iron rod (with cap stamped "ELS") set;

6. South 86°49'03" West, 571.36 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being the beginning of a curve to the left;

7. Along said curve to the left in a southwesterly direction, with a radius of 30.00 feet, a central angle of $89^{\circ}10'05''$, an arc length of 46.69 feet, and a chord bearing South $42^{\circ}14'00''$ West, 42.12 feet to a 5/8-inch iron rod (with cap stamped "ELS") set, being on the east right-of-way line of said Harlem Road;

THENCE, North $02^{\circ}21'03''$ West, along said east right-of-way line of Harlem Road, 18.85 feet to a 5/8-inch iron rod found, being the beginning of a curve to the left;

THENCE, along said east right-of-way line of Harlem Road and said curve to the left in a northerly direction, with a radius of 10,506.91 feet, a central angle of $00^{\circ}32'56''$, an arc length of 100.66 feet, and a chord bearing North $02^{\circ}37'31''$ West, 100.65 feet to a 5/8-inch iron rod (with cap) found;

THENCE, North $02^{\circ}53'59''$ West, along said east right-of-way line of Harlem Road, 14.21 feet to the POINT OF BEGINNING, CONTAINING 44.46 acres (1,936,772 square feet) of land in Fort Bend County, Texas, filed in the offices of Elevation Land Solutions in The Woodlands, Texas.

Community Property located in the Commercial Community

That certain 12.79 acre tract of land more particularly described on the plat for Indigo Village Core recorded in the Official Public Records of Fort Bend County, Texas on August 16, 2023, as Document No. 2023078467, as may be amended.

CONSENT AND SUBORDINATION

The undersigned, Silver Heights Development LLC, a Connecticut limited liability company (the "Lender") signatory to that certain Construction Loan Agreement dated effective July 15, 2021, by and between Founder and Lender, hereby consents to the filing of the First Amendment (the "Amendment to Community Covenant") to the Community Covenant for Indigo Community Foundation recorded on July 5, 2022, in the Real Property Records of Fort Bend County, Texas as Document No. 2022089088, as may be amended and supplemented, as may be modified or amended from time to time (the "Community Covenant") and, subject to the terms and provisions of this Consent and Subordination, subordinates the lien and security interests of that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated July 15, 2021, and recorded as Document No. 2021118720 in the Official Public Records of Fort Bend County, Texas, as modified or amended from time to time (the "Deed of Trust"), to the Amendment to Community Covenant; provided, however, (a) notwithstanding anything in this Consent and Subordination or the Community Covenant or Amendment to Community Covenant to the contrary, the lien and the security interests of the Deed of Trust are, and shall remain, superior in all respects to any and all liens and security interests created by the Community Covenant or Amendment to Community Covenant, and (b) this Consent and Subordination: (i) shall not be construed or operate as a release of the lien and security interests of the Deed of Trust, but shall instead confirm that the lien and security interests of the Deed of Trust shall hereafter be upon the Community Property; (ii) shall not release, subordinate, impair or otherwise affect any and all rights the Lender has under the Deed of Trust, including, without limitation, to succeed to the rights, powers and authority of Founder under the Community Covenant in the event of a foreclosure of the lien and security interests of the Deed of Trust; and (iii) shall not modify or amend the terms and provisions of the Deed of Trust.

Silver Heights Development LLC,
a Connecticut limited liability company

By: [Signature]

Printed Name: Sam Greenwald

Title: Authorized Signatory

STATE OF Connecticut §
COUNTY OF Fairfield §

Damen

This instrument was acknowledged before me on this 4th day of March, 2024, by Sam Greenwald, the Authorized Signatory of Silver Heights Development LLC, a Connecticut limited liability company, on behalf of said company.

[Signature]
Notary Public - State of Connecticut

My Commission Expires:

JULIE MAGNANO

Notary Public, State of Connecticut

My Commission Expires 06/30/2028



CONSENT AND SUBORDINATION – Silver Heights Development LLC
First Amendment to Community Covenant for Indigo Community Foundation