# PAST DUE UTILITY ACCOUNT PAYMENT AGREEMENT

**THIS PAST DUE UTILITY ACCOUNT PAYMENT AGREEMENT**, ("Payment Agreement") is entered into this **9** day of **April, 2018**, by and between the City of North Miami, a Florida municipal corporation with a principal address of 776 NE 125th Street, North Miami, Florida ("City"), and The Lofts Town Villas Condominium Association, Inc. the Owner of the Utility Account with the City, having its principal office at 27501 So. Dixie Highway, 208, Homestead, FL 33032 ("Owner"). The City and Owner shall collectively be referred to as the "Parties", and each may individually be referred to as a "Party".

**WITNESSETH:**

**WHEREAS**, the City provides water and sewer services ("Services") to the Owner, regarding the real property located at: 1461 NE 150 ST, NORTH MIAMI BEACH, FL 33162 ("Property"); and

**WHEREAS**, as a result of the provision of Services to the Property, the City is owed the amount of Seventeen Thousand, Five Hundred Forty Nine dollars and Seventy Seven cents **($17,549.77)** by the Owner, as of **February 22, 2018** and

**WHEREAS**, the Owner is desirous of settling this past due amount to prevent liens imposed upon the Property and/or the termination of Services by entering into this Agreement with the City; and

**WHEREAS**, the City desires to ensure that its utility customers are provided with adequate Services without the necessity of terminating the Owner's account for Services.

**NOW, THEREFORE**, in consideration of the mutual conditions, the Parties agree as follows:

1. A down payment in the amount of Four Hundred Thirty Eight dollars and Seventy Four cents **$438.74** shall be paid on **April 1st, 2018**

2. The Balance of Seventeen Thousand, One Hundred Eleven dollars and Three cents **($17,111.03)** shall be paid in Twenty Four **(24)** monthly installments each in the amount of Thirty Six dollars and Eighty Four cents **($36.84)** followed by Seventy Two **(72)** monthly installments of Two hundred Twenty Five dollars and Thirty Seven cents **($225.37).** Each monthly installment amount shall be due on the **1st** day of the month, starting on **April 1st, 2018** until the Remaining Balance is paid in full, on or before **March 1st, 2026.**

3. Owner agrees to continue to pay current bills in addition to the payments of the past due amounts presented in this agreement. Failure to achieve timely payment shall be

regarded as a material breach of this Agreement ("Default") and shall be subject to all appropriate remedies available at law.

4. In the event of Default, the City will advise the Owner that the Default must be cured within ten **(10)** days or this Agreement will be terminated. All amounts due and remaining unpaid shall become due and payable immediately, notwithstanding any provisions of this Agreement to the contrary. The City reserves the right to impose a lien on the Property for the unpaid amount and shall take all appropriate legal action to enforce its lien, including termination of Services.

5. Owner agrees to pay all costs of collection incurred in enforcing this Agreement, including attorney's fees and costs. In the event any legal proceedings are instituted in connection with, or for the enforcement of this Agreement, the Owner shall be entitled to recover its costs of suit, including attorneys' fees and costs, at both trial and appellate levels and in any bankruptcy action.

6. Notice to each Party shall be sent by certified mail, registered receipt requested to the following:

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| To Owner: | The Lofts Town Villas Condominium Association, Inc.<br>Attention: Millie Fernandez, President<br>27501 So. Dixie Highway, #208<br>Homestead, FL 33032 |
| With a copy to: | Paul A. McKenna & Associates<br>703 Waterford Way, #220<br>Miami, FL 33126 |
| To City: | City Manager<br>776 N.E. 125th Street<br>North Miami, Florida 33161 |
| With a copy to: | City Attorney<br>776 N.E. 125th Street<br>North Miami, Florida 33161 |

7. The City may avail itself of each and every remedy existing at law or in equity, and each and every such remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time and as often and in such order as may be deemed expedient by the City. The exercise or the beginning of the exercise, of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the City in law or in equity.

8. No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by all Parties.

9. This Agreement shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

10. This Agreement embodies the entire agreement and understanding between the Parties, and there are no other agreements and understandings, oral or written, with reference to this subject matter that are not merged and superseded.

11. The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action arising out of the Agreement, so that its liability never exceed the agreed sum of One Hundred Dollars **($100.00).** Owner expresses its willingness to enter into this Agreement with Owner's recovery from the City for any action or claim arising from this Agreement to be limited to One Hundred Dollars **($100.00).**

    Accordingly, and notwithstanding any other term or condition of this Agreement, the Parties agree that the City shall not be liable to Owner for damages in an amount in excess of One Hundred Dollars **($100.00),** for any action or claim of the Owner or any third party arising out of this Agreement.

12. The Owner shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against any claim, demand or cause of action arising out of the actions of the Owner, its agents, servants, employees or subcontractors during the performance of this Agreement.

13. Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

14. In the event of any dispute arising under or related to this Agreement, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

15. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

16. **IN WITNESS WHEREOF**, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST:

Corporate Secretary or Witness:

By: _____

Print Name: Nina Correa

Date: 04/13/18

The Lofts Town Villas Condominium Association, Inc.

"**Owner**":

By: _____

Print Name: Jose Roque

Date: 4/13/18

ATTEST:

By: _____
Michael A. Etienne, Esq.
City Clerk

City of North Miami, a Florida municipal Corporation:
"**City**"

By: _____
Larry MJ Spring, Jr.
City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Jeff P. H. Cazeau, Esq.
City Attorney

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