

**DECLARATION OF RESTRICTIVE COVENANTS AND AGREEMENT**

**THIS DECLARATION OF RESTRICTIVE COVENANTS AND AGREEMENT** (this “**Declaration**”), made this \_\_\_\_ day of July, 2017 (the “**Effective Date**”), by 1700 South, LLC and its assigns (the “**Declarant**”), and the Mount Washington Improvement Association, Inc. (the “**MWIA**”).

**RECITALS**

**WHEREAS** the Declarant is the assignee of the contract for the purchase of the real property located at 1700 South Road, Baltimore, Maryland 21209, which is more fully described on **Exhibit A** attached hereto, (collectively, the “**Property**”) where the St. John’s Episcopal Church is located (the “**Church**”); and

**WHEREAS**, the Declarant intends to renovate the Property for its corporate offices that is not allowed under the current residential R-1D zoning; and

**WHEREAS**, the Declarant is seeking to rezone the Property to an office-residential (O-R) zoning classification as well as amend the Urban Renewal Plan (URP) for the Mount Washington Village (the “**Rezoning and Amendment**”), which will be introduced to City Council in or around July 2017; and

**WHEREAS**, the Declarant and the MWIA desire to cooperate and facilitate Declarant’s efforts in connection with the Rezoning and Amendment for the purpose of Declarant’s renovation of the Property, which shall be limited to the MWIA providing support for the Rezoning and Amendment; and

**WHEREAS** the Declarant intends by this Declaration to subject the Property to certain restrictions to run with the land as provided herein; and

**WHEREAS** the Declaration shall be recorded at closing on the purchase by Declarant, Blue Ocean, successors or assigns.

**DECLARATION**

**NOW, THEREFORE**, for good and valuable consideration the sufficiency of which is hereby acknowledged, the Parties hereby agree and covenant to the following:

1. Restrictions. The Declarant hereby declares that the Declarant’s Property shall be held, sold, conveyed, leased, used, occupied and improved subject to the following covenants, conditions and restrictions as provided in this Declaration:

A. The Following Uses Are Permitted On The Property:

Dwelling: Detached P Dwelling  
Semi-Detached P Dwelling  
Rowhouse

Offices (excluding all health care clinics)  
Cultural facility  
Educational facility: primary and secondary  
Government office  
Place of worship  
Community-managed open space  
Parks and playgrounds  
Urban agriculture  
Art galleries – no live entertainment or dancing.  
Arts studios

Notwithstanding anything contained herein to the contrary, in the event that Declarant wishes to use the property for a “use” not listed above, Declarant shall request from the MWIA, via the notice provision of Paragraph 7, approval for such use. The MWIA shall in good faith give serious consideration to approve such a request. In the event that such request is rejected, the MWIA shall provide Declarant with a reason for such rejection.

B. The Following are Conditional Uses With Restrictions:

Dwelling: Multi-Family within existing Church structure  
Bed and Breakfast, but with no commercial restaurant  
Cell antennas are permitted and are subject to the approval of the Board of Municipal Zoning Appeals and/or The Commission for Historical and Architectural Preservation.

C. Height Restriction:

Any new structure or addition cannot exceed the height of the existing Church structure;

D. Parking:

No fewer than 30 off-street parking spaces shall be provided in connection with the non-residential use of the Property. In the event of a change of use, the parking provided at the Property shall comply with the applicable Zoning Code.

E. Lighting and Signage:

All exterior lighting and signage will require prior written approval by the MWIA. Declarant shall deliver any lighting or signage proposal for approval to the MWIA, via the notice provision of Paragraph 7, which approval shall not be unreasonably withheld and requests shall be promptly considered. After receipt of the proposal for approval by the MWIA, and during such time that the MWIA is considering the proposal, the MWIA shall provide Declarant with a monthly status update regarding consideration of the proposal.

In the event the Declarant does not receive written acceptance, rejection or a status update within forty-five (45) days, Declarant shall send a second notice. In the event that the MWIA does not provide any status update within fifteen (15) days after the second notice, the request for approval shall be deemed to be approved. In the event the Declarant does not receive written acceptance or

rejection within one hundred and twenty (120) days from the original notice, the request for approval shall be deemed to be approved.

2. Covenants Run with Land: The covenants, conditions and restrictions set forth in this Declaration shall run with the Declarant's land and shall be binding on Declarant and its heirs, successors and assigns and shall inure to the benefit of the Association and its successors and assigns and any other person or entity having or acquiring any right, title or interest in the Declarant's Property or any portion thereof, and such burden or benefit, as applicable, shall bind on or benefit any other person or entity having or acquiring any right, title or interest in the Declarant's Property or any portion thereof.

3. The MWIA's Required Support for the renovations:

The MWIA agrees to provide the Declarant with the following:

- a. Execute the letter attached hereto as Exhibit B for the use by Declarant in obtaining approval of the Rezoning and Amendment;
- b. Upon request from Declarant, the MWIA shall review and consider providing additional support, in the form of letters or otherwise, which additional requested support shall not be unreasonably withheld, throughout the Rezoning and Amendment processes; and
- c. During the Rezoning and Amendment application process, the MWIA shall not oppose, hinder or object to the Rezoning and Amendment application.

4. Termination of this Declaration: This Declaration shall be in full force and effect for ninety-nine (99) years from the Effective Date, and shall terminate and be null and void ninety-nine (99) years after the Effective Date.

Furthermore, notwithstanding anything contained herein to the contrary, in the event that (i) the Rezoning and Amendment applications are rejected or not approved or (ii) the Rezoning and Amendment are subsequently reversed, modified, or rejected by a Court, legislative action or otherwise, then this Declaration shall terminate and shall become null and void. The termination of the Declaration shall be recorded among the land records of Baltimore City.

It is specifically understood that this Agreement shall be binding upon Declarant and any affiliate of Declarant which takes title to the property from Declarant, and in which Declarant maintain any ownership interest either directly or indirectly, regardless of the ownership structure.

5. Amendments: This Declaration may be amended only by a document in writing executed by both the Declarant, or its successors or assigns, from time to time, as applicable, and by the Association, or its successors or assigns.

6. Violations: If a violation or breach of any term, covenant, restriction, or condition contained in this Declaration occurs, then either party, including their respective successors and/or

assigns, may proceed at law or in equity to compel compliance with the terms of this Declaration, and the right by the non-breaching party to seek attorney's fees and related court costs.

Declarant agrees that MWIA would be irreparably injured by a breach of this Declaration by Declarant and that monetary damages would be an insufficient remedy for MWIA in the event Declarant breached or threatened to breach the terms of this Declaration. Declarant further agrees that MWIA shall be entitled to an injunction or injunctions (without the proof of actual damages) to prevent breaches or threatened breaches of this Declaration and/or to compel specific performance of the terms hereof. Declarant also agrees that it shall waive any requirement for the security or posting of any bond in connection with any such remedy. Such remedies shall not be deemed to be the exclusive remedy for actual or threatened breaches of this Declaration but shall be in addition to all other remedies available at law or equity to MWIA.

7. Notices: All notices to the parties, or, any of their affiliates, regarding the enforcement under the terms of this Declaration must be in writing and delivered personally, mailed by certified mail, postage prepaid, or sent by overnight courier, to the following address:

**To Declarant:** Mr. Jonathan Ehrenfeld  
1900 South, LLC  
6615 Reisterstown Rd,  
Suite 300  
Baltimore, MD 21215

With a copy to:

Elliott E. Engel, Esquire  
One South Street  
27<sup>th</sup> Floor  
Baltimore, MD 21202

**To the MWIA:** 1) President, Mwiapresident@gmail.com  
2) Zoning Chair (address listed on MWIA.org website)  
3) Address listed on file with Planning Department

8. No Waiver: No delay or failure by either party or their respective successors or assigns, to exercise any right under this Declaration, and no partial or single exercise of any such right, will constitute a waiver, release or extinguishment of such right or any other right hereunder, and shall not preclude the exercise of any such right in any future instance.

9. Governing Law; Venue, Jury Trial: This Declaration will be construed in accordance with and governed by the laws of Maryland. Venue for any action hereunder shall be in Baltimore City, Maryland. **EACH PARTY HERETO, FOR ITSELF AND RESPECTIVE SUCCESSORS AND ASSIGNS, EXPRESSLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH**

**RESPECT TO ANY ACTION BROUGHT UNDER OR PURSUANT TO THIS DECLARATION.**

10. Final Agreement: This Declaration supersedes all prior discussions and understandings between Declarant and the MWIA, whether oral or written. Any other understandings or agreements between Declarant and the MWIA and set forth in other documentation do not affect Declarant's obligations to the MWIA, or to its successors or assigns, hereunder. Parol evidence may, however, be admissible to interpret the Declarant's intent in declaring and/or granting the covenants, conditions and restrictions set forth in this Declaration.

11. Headings. The headings of the sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference, and shall not be considered in construing their contents.

12. Severability. No determination by any court, governmental or administrative entity or otherwise that any provision of this Agreement or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

IN WITNESS WHEREOF, each party has executed this Declaration or caused it to be executed on its behalf by its duly authorized representative, the day and year first above written.

1700 SOUTH, LLC



By: \_\_\_\_\_  
Name: Jonathan Ehrenfeld  
Title: Member

STATE OF MD

CITY/COUNTY OF Baltimore City, to-wit:

The foregoing instrument was acknowledged before me this 12 day of July, 2017, by Jonathan Ehrenfeld, the Managing Member of 1700 South, LLC a Maryland limited liability company, on behalf of the company.

Miriam Adil Cohen  
Notary Public

**MOUNT WASHINGTON IMPROVEMENT ASSOCIATION, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of June, 2017, by \_\_\_\_\_, as \_\_\_\_\_ of Mount Washington Improvement Association, Inc. a Maryland corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**