DRAFT
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DECLARATION OF COVENANTS,

RESTRICTIONS, ASSESSMENTS AND EASEMENTS OF

VILLAGE AT NEW LONGVIEW

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DECLARATION OF COVENANTS, RESTRICTIONS, ASSESSMENTS AND EASEMENTS OF THE VILLAGE AT NEW LONGVIEW

This is the Declaration of Covenants, Restrictions, Assessments and Easements of the VILLAGE AT NEW LONGVIEW made as of _____, 2023.

Recitals

A. _____, LLC, a Missouri limited liability company (the "**Declarant**"), is the owner in fee simple of all of the real property hereinafter described as the "**Townhome Property**" and the improvements thereon and appurtenances thereto.

B. The Declarant desires to create of this property a site of individually owned townhome units, an owners association.

Definitions

The terms used in this document shall have these meanings, unless the context requires otherwise:

"**Articles**" means the articles of incorporation, filed with the Secretary of State of Missouri, incorporating a Missouri non-profit corporation to serve as the Association under this Declaration, as amended from time to time.

"**Assessment**" means each monthly assessment, special assessment, Special Unit Expense, reserve fee, monetary fine, interest, lien fee, and other amount levied by the Association against a Unit or otherwise payable to the Association by the Unit Owner in accordance with this Declaration.

"**Association**" means the Missouri non-profit corporation created by the filing of the Articles.

"**Board**" and "**Board of Directors**" mean those persons who, as a group, serve as the board of directors of the Association.

"**Bylaws**" means the Bylaws of the Association, as amended from time to time.

"**City**" means the City of Lee's Summit, Missouri.

"**Common Areas**" means all of the Townhome Property, except each portion described in this Declaration as constituting a Unit or Units.

"**Completed Unit**" means a Unit where the residence is substantially completed and for which a temporary or permanent certificate of occupancy has been issued by the City.

"**Declarant**" means _____, LLC, a Missouri limited liability company, and its successors and assigns.

"**Declaration**" means this instrument, by which the Townhome Property is submitted to the provisions of the Townhome Act and the Townhome Property is subjected to the covenants, restrictions, assessments and easements set forth herein, as this instrument may be amended from time to time.

"**Lot**" means any separate building lot on any recorded Plat of all or part of the Townhome Property upon which a single townhome residence has been or will be constructed as part of a multi-unit building.

"**Occupant**" means a person lawfully residing in a Unit, regardless of whether or not that person is a Unit Owner, tenant or otherwise.

"**Person**" means an individual, corporation, partnership, limited liability company, trust, or other legal entity capable of holding title to real property.

"**Plats**" means the plats or replats of various parts of the Townhome Property filed from time to time with the Recording Office.

"**Private Streets**" means all streets, alleys, cul-de-sacs, and other roadways within the Townhome Property that are private streets for the use of all residents and guests of the Townhome Property and not dedicated as public streets of the City, and all off-street guest parking areas within the Townhome Property. The Private Streets do not include any individual driveways leading from such private streets and roadways to the garage of each Unit.

"**Recording Office**" means the Office of the Recorder of Deeds of Jackson County, Missouri, or other applicable governmental office in which documents related to ownership and encumbrance of real property in Jackson County, Missouri are filed of record in order to give public notice thereof.

[**"Size**" means, with respect to a Unit, the approximate number of square feet of floor space of the Unit as reflected on Exhibits B and C. Size of a Unit [does] [does not] include the floor space within [the garage, balcony, patio or basement] of the Unit.

"**Special Unit Expenses**" shall mean those costs and expenses specifically attributable to a specific Unit or Unit Owner for his or her own benefit, including, but not limited to, the costs of certain maintenance, repair and replacement of a specific Unit by the Association as specified in this Declaration; fines or penalties imposed by the Board upon a specific Unit Owner from time to time; and other expenses and charges specified in this Declaration as being a "Special Unit Expense" of a specific Unit(s) or Unit Owner(s), but not of all Units and Unit Owners. For the sake of convenience, such costs and expenses may be billed to the Association but shall be payable by the applicable Unit Owner(s) by assessment.

"**Townhome Instruments**" means this Declaration, the Articles, the Bylaws, the Plats, and all rules and regulations adopted by the Board from time to time in accordance with this Declaration or the Bylaws.

"**Townhome Property**" means the tracts of land herein described as being submitted to this Declaration, all buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto. The Townhome Property is legally described in Exhibit A attached hereto.

"**Turnover Date**" means the earlier of (i) the date as of which all of the potential Units (as then contemplated by the Declarant) have been sold as Completed Units and a deed thereto delivered by the Declarant, or (ii) the date the Declarant, in its absolute discretion, selects as the Turnover Date for this Declaration.

"**Unit**" means, collectively, a Lot and the townhome residence built or to be built thereon.

"**Unit Owner**" and "**Unit Owners**" mean that person or those persons owning fee simple title to a Unit.

The Plan

NOW, THEREFORE, the Declarant hereby subjects all of the Townhome Property to the covenants, restrictions, assessments and easements hereinafter set forth and makes and establishes the following plan for the Townhome Property.

ARTICLE I
THE LAND

The legal description of the land constituting the Townhome Property, located in the City of Lee's Summit, Missouri, is attached hereto at Exhibit A.

ARTICLE II
NAME

The name by which the Townhome Property shall be known is the "Village at New Longview", or such other name as may be determined by Declarant from time to time.

ARTICLE III
PURPOSES; RESTRICTIONS

3.1 Purposes. This Declaration is being made to establish separate individual parcels from the Townhome Property to which fee simple interests may be conveyed; to create restrictions, covenants and easements providing for, promoting, and preserving the values of Units and the Common Areas and the well-being of Unit Owners and Occupants; and to establish a "Unit Owners" association to administer the Townhome Property, to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth, and to raise funds through assessments to accomplish these purposes.

3.2 Restrictions. The Townhome Property shall be benefited by and subject to the following restrictions:

(a) Unit Uses. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto; provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility (except where such use may not be prohibited by applicable law). Timeshare ownership and functionally equivalent ownership with part time possession is prohibited. The Board shall have the right to determine whenever an extended family or roommate situation or multiple, direct or indirect, owners becomes a burden on the neighbors or the Townhome Property and is no longer within the "single family" use intended by this Declaration; *provided, however*, nothing herein shall prohibit the parents, grandparents, children or grandchildren of the Owner from also living in the residence on the Owner's Lot. Notwithstanding the foregoing:

(i) an Occupant maintaining a personal or business library, keeping personal or business records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit on a regular basis and also complies with all City ordinances), making business telephone calls or corresponding, in or from a Unit, is deemed to be engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions. No day care center, home school, or other business that has customers or nonresidents of the residence regularly visiting the residence shall be operated in any residence;

(ii) Declarant shall have the right to use and maintain, during the period of the Declarant's sale or rental of Units, (A) one or more Units as sales and rental models and offices and for storage and maintenance purposes, and (B) such other portions of the Townhome Property as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction or sale of Unit(s) or the Townhome Property, including, without limitation, the maintenance of a construction and/or sales trailer, which right may not be limited or revoked without the specific consent of the Declarant. Any use of a Common Area by the Declarant or the project marketing company shall be without the payment of rent or utilities (other than telephone and internet access) by the Declarant and the project marketing company to the Association; and

(iii) one or more Units may be maintained for the use of the Association in fulfilling its responsibilities.

(b) Common Areas Uses. Except as otherwise provided in this Declaration, the Common Areas shall be used in common by all Unit Owners and Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the Units.

(c) Visible Areas.

(i) Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows or placed on the outside walls of a building or any part thereof, except for seasonable decorations and flags in compliance with any rules and regulations adopted by the Board.

(ii) No outside antenna, satellite dish, or other device for the reception or transmission of radio or television or other electronic signals shall be erected or maintained on any Lot or upon the exterior of any Unit, without prior written approval of the Board or the Declarant, and then only in such places and under such conditions as are expressly authorized by the Board or the Declarant. The Board and the Declarant shall have the power to limit the size of the device and require such specific areas and methods of placement of any such device as it deems appropriate in order to render the installation as inoffensive as possible to other Occupants. In the event these limitations, or any part thereof, are deemed unlawful, the Board and the Declarant shall have the right to regulate the placement of such devices in a manner not in violation of the law.

(iii) No speaker, horn, whistle, siren, bell or other sound device shall be located, installed or maintained upon the exterior of any residence or in any yard, except intercoms and devices used exclusively for security purposes.

(iv) No artificial flowers, artificial trees or other artificial vegetation, bird baths, statues or other lawn art shall be permitted on the exterior of any residence or in any yard without the prior written consent of the Board or as may be permitted by rules and regulations adopted by the Board. No lawn art may obstruct or interfere with the maintenance activities of the Association, and the Association and its contractors shall have absolutely no liability with respect to any damage to any lawn art caused by such maintenance activities.

(v) No lights or other illumination (other than street lights) shall be higher than the residence. Exterior holiday lights shall be permitted only between November 15 and January 15. Except for such holiday lights or as may be expressly approved by the Board, all exterior lighting shall be white (clear) and not colored and shall not be flashing or create any changing lighting patterns. All exterior landscape lighting must be approved in advance by the Board or the Declarant.

(vi) No shed, barn, detached greenhouse or outbuilding, basketball goal or court or other sports court of any kind, animal run, animal house, trampoline, play house, play structure, tree house, batting cage, tennis court, swimming pool or clothesline shall be erected upon, moved onto or maintained upon any Lot or in any yard, except for those that may be installed by or for the Declarant or the Association as part of the Common Areas.

(vii) No garage sales, estate sales, sample sales or similar activities shall be held other than as a part of a neighborhood event approved by the Board.

(viii) No solar panels shall be erected or maintained on any Lot or upon the exterior of any Unit, without prior written approval of the Board or the Declarant, and then only in such places and under such conditions as are expressly authorized by the Board or the Declarant. The Board and the Declarant shall have the power to limit the size of the solar panels and require such specific areas and methods of placement of any such solar panels as it deems appropriate in order to render the installation as inoffensive as possible to other Occupants. In the event these limitations, or any part thereof, are deemed unlawful, the Board and the Declarant shall have the right to regulate the placement of such solar panels in a manner not in violation of the law.

(ix) No fences shall be permitted on any Lot, except when installed by the Declarant or with the express written consent of the City (if required by the City) and of the Declarant or the Board, and consisting of materials and locations expressly approved by the Declarant or the Board. The Association shall not be responsible for repairing or replacing any private fence that may be allowed to be installed for a Unit or (except as otherwise expressly provided int his Declaration) for maintaining any area enclosed by any such private fence. No underground electric pet fences shall be permitted.

(d) Offensive Activities. No noxious or offensive activity shall be carried on with respect to any Unit, or upon the Common Areas; nor shall any Unit or Common Area be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Occupant. Such provisions, however, shall not be construed to limit the powers or rights of the Declarant or the Association under this Declaration.

(e) Trash. No outdoor burning of trash, grass or construction material shall be allowed on any Lot or in any yard, except as authorized by the Declarant or the Board. No trash, refuse, or garbage can or receptacle shall be placed outside a residence, except in the evening of the day before or upon the day for scheduled trash collection through twelve (12) hours after actual pick-up. The Declarant shall have the right to maintain construction dumpsters at locations selected by the Declarant.

(f) Garages and Vehicles.

(i) Garage doors shall remain closed at all times except when necessary for ingress and egress.

(ii) Unlicensed or inoperative motor vehicles are prohibited, except in an enclosed garage. Motor vehicles may be serviced or repaired only in an enclosed garage.

(iii) Overnight parking of motor vehicles, motorcycles, trailers or similar apparatus of any type or character in any street (public or private) is prohibited (other than on the Unit's individual driveway directly leading to the

Unit), except as expressly authorized by the Association in writing on a short-term basis due to special circumstances. No vehicle (other than an operable, non-dilapidated passenger automobile, passenger van or small truck), commercial truck or van (including, but not limited to, one that bears a sign or other reference to any commercial enterprise on the front, top, sides or rear (other than license plates)), motorcycle, bus, boat, trailer, camper, mobile home, or similar apparatus shall be left or stored overnight in the Townhome Property, except in an enclosed garage or as permitted in clause (v) below. No vehicle from one Unit shall park on the driveway of another Unit or on a common driveway so as to block access to another Unit (without the consent of the Occupants of that other Unit). No vehicle shall be left on any driveway shared by any Units so as to block the entry or exit of vehicles from another Unit.

(iv) Trucks or other vehicles with gross vehicle weight of 12,000 pounds or over are prohibited in the Townhome Property except during such limited time as such truck or vehicle is actually being used during working hours within the Townhome Property for its specific purpose.

(v) Parking of recreational motor vehicles of any type or character is prohibited in the Townhome Property and on the streets except:

(1) When stored in an enclosed garage;

(2) Temporary parking on the individual driveway for the Unit for the purpose of loading and unloading (maximum of one overnight every fourteen (14) days); or

(3) With prior written approval of the Board.

(g) Storage. No storage shall be permitted under a deck. No temporary storage pod or container may remain on any Lot (other than in an enclosed garage) for more than ten (10) days in any sixty (60) day period.

(h) Renting and Leasing. Each Unit Owner who desires to rent any part of a Unit must comply with all licensing and other requirements of the City. No Unit or part thereof shall be leased, rented or used for transient or hotel purposes, which are defined as: (i) lease or rental of less than _____ (___) months consecutive to the same tenant(s) or under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (ii) rental to roomers or boarders, that is, rental to one or more persons of a portion of a Unit only. No lease may be of less than an entire Unit. AirBNB, VRBO and similar short-term rentals are prohibited. Each lease agreement shall be in writing, shall require that the tenant and other Occupants comply with all provisions of the Townhome Instruments, shall provide that the lease shall be subject in all respects to the provisions of the Townhome Instruments and to the rules and regulations promulgated by the Board from time to time, shall provide that the failure by the tenant or any Occupant to comply with the terms of the Townhome Instruments and such rules

and regulations shall be a default under the lease, shall require the tenant to obtain and maintain at all times renter's insurance coverage with at least $_____ amount of liability insurance coverage (or such greater amount as may be specified by the Board) and naming the Association as an additional insured, and shall require the tenant to provide to the Association proof of such insurance coverage upon request by the Association or the Unit Owner. If a tenant or other Occupant fails to comply with the terms of this Declaration or such rules and regulations, the Unit Owner shall, if so directed by the Board and to the extent permitted by law, terminate the lease and evict the tenant. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Board, in writing, of the name(s) of the tenant(s) and the time during which the lease term shall be in effect and provide the Board with a copy of the lease. Notwithstanding the existence of a lease, the Unit Owner shall remain liable for all obligations, including, without limitation, the payment of assessments, fines and enforcement charges, under this Declaration with respect to the Unit and shall cause the Unit to be maintained to the same general conditions and standards as then prevailing for owner-occupied Units.

(i) Signs. Except for signs erected by or for the Declarant or its approved real estate brokerage company for the Townhome Property, no sign, advertisement or billboard may be erected or maintained on any Lot, except that:

(i) One sign not more than three feet high and/or three feet wide may be maintained offering the residence for sale. The Board shall have the right to require and establish a uniform "for sale" sign.

(ii) One garage sale sign not more than three feet high and/or three feet wide is permitted on the Lot when a permitted garage sale is being held, provided such signs are erected in accordance with City code and are installed no more than two hours before the start of the sale and are removed within two hours after the close of the sale.

(iii) One political sign per candidate or issue not more than three feet high or three feet wide is permitted on the Lot for up to three weeks before the election but must be removed within 24 hours after the election

(iv) Small school-related activities signs may be maintained near the residence while the student is residing in the residence. Event celebration signs ("new baby", "graduation", etc.) may be maintained for up to seven (7) days.

No signs offering a Unit for lease or rent shall be allowed at any time. Without limiting the foregoing, no sign shall be permitted which (A) describes the condition of the Unit or the Lot, (B) describes, maligns, or refers to the reputation, character or building practices of the Declarant, any builder, any realtor, or any other Owner, or (C) discourages or otherwise impacts or attempts to impact a party's decision to acquire a Unit. In the event of a violation of the foregoing provisions, the Declarant and/or the Association shall be entitled to remove any such offending sign, and in so doing, shall not be subjected to any liability for trespass, violation of constitutional or other rights, or otherwise. If these limitations on the use of signs, or any part thereof, are determined to be unlawful, the

Board shall have the right to regulate the use of signs in a manner not in violation of law. No sign shall be placed or maintained in any Common Area without the approval of the Declarant or the Board.

(j) Fuel Tanks. No outside fuel storage tanks of any kind shall be permitted (except standard propane tanks for outside grills).

(k) Maintenance. Except for the specific items listed as the Association's responsibility in Section 7.1, each Unit Owner shall properly maintain the owner's Unit (including, without limitation, the interior and exterior thereof and any fence or wall that may have been installed by or for the Developer on the Lot) in a neat, clean and orderly fashion and in good condition and repair at all times.

(l) Replacements. All replacements of all or any portion of a completed structure because of age, casualty loss or other reason shall be of the same materials, colors, location and elevation as the original structure unless and until the changes thereto have been submitted to and approved in writing by the Board. Any building erected to replace an existing building containing Units shall be of new construction, be of comparable structure type, size, design, colors and construction to that replaced, and shall contain a like number of Units of comparable size to the Units in the building replaced.

(m) Structural Integrity. Nothing shall be done in any Unit, or in, on or to the Common Areas, which may impair the structural integrity of any improvement.

(n) Animals. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Areas. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) the maintaining of animals for any Unit is in compliance with all applicable City ordinances; (ii) dogs with vicious propensities (as determined by the Board) may be prohibited by the Board, and (iii) the right of a Unit Owner or Occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Townhome Property or other Units or Occupants. All pets shall be confined to the residence, except when on a leash controlled by a responsible person. Unit Owners and Occupants shall immediately clean up after their pets on all streets, yards, Common Areas, areas owned by others and their own Lot. Any costs incurred by the Association to correct any damage caused by a pet shall be assessed against the Unit Owner of the Unit keeping the pet and such Unit as a Special Unit Expense. **By acceptance of a deed to a Unit, all Unit Owners thereof acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with dogs and other animals. The Declarant and the Association and their respective officers, directors, managers, representatives and agents shall have no liability or responsibility to any Unit Owner or other party with respect to such inherent risks and hazards. To the maximum extent permitted by law, each Unit Owner, for himself, the members of his family, his guests, his tenants, and invitees, shall be deemed to have released and agreed never to make a claim against the Declarant or the Association or any of their respective officers, directors, managers,**

representatives or agents for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with any dogs or other animals, and each of them shall be deemed to have waived any and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.

(o) Discrimination/Handicapped Accommodation. No action shall at any time be taken by the Association or its Board which in any manner would unlawfully or unfairly discriminate against any Unit Owner in favor of another.

(p) Landscaping and Irrigation. No trees, bushes, or other landscaping (other than landscaping installed by or for the Declarant or the Association and flowers) shall be installed by or for any Unit Owner or Occupant, and no modifications or extensions of any common irrigation system shall be made by or for any Unit Owner or Occupant, in each case without the express written consent of the Declarant or the Board. As a condition to granting such consent, the Declarant or Board may require that the Unit Owner pay a supplemental assessment to the Association, as a Special Unit Expense, to cover the additional costs of the Association to maintain such additional items.

(q) Architectural Control. Following the completion of construction of any Unit, no exterior addition or alteration to a Unit shall be made unless and until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing by the Board and (if required) approved by the City. However, no such approval of the Board shall be required for the Declarant to construct or alter the Units.

(r) Warranties. All warranties and guaranties given by any manufacturers, suppliers, contractors or other third parties relating to any roofs, landscaping or other items for which the Association has any repair or replacement responsibility shall be automatically deemed assigned by the Unit Owner to the Association, as applicable, for purposes of submitting claims thereunder and enforcement thereof. Each Unit Owner shall cooperate with the Association in connection with all such warranties and guaranties.

(s) Rules and Regulations In addition to adopting and enforcing rules and regulations in the instances specifically mentioned, the Board (on behalf of the Association) may, from time to time, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable, and not in conflict with this Declaration to promote harmony, to serve the best interests of the Unit Owners, as a whole, and the Association, and to protect and preserve the nature of the Townhome Property. A copy of all rules and regulations, and amendments thereof, shall be furnished by the Board to the Unit Owners prior to the time when the same shall become effective.

(t) Fines and Other Enforcement. The Board may enforce all of the foregoing restrictions, rules and regulations by establishing, levying and collecting fines and other enforcement charges, having vehicles, trailers or other apparatus towed away at the

expense of the owner, and/or taking such other lawful actions as the Board, in its sole discretion, deems appropriate.

3.3 Enforcement of Restrictions and Rules. Any violation by a Unit Owner or Occupant or with respect to a Unit of any rule or regulation adopted by the Association, or the breach of any restriction, covenant or provisions contained in this Declaration, shall give each of the Declarant and the Association (acting through the Board) the right, in addition to all other rights set forth herein:

(i) To establish, levy and collect monetary fines as a Special Unit Expense upon the offending Unit Owner and the Unit in such amounts as the Board deems necessary to effect compliance with the requirements.

(ii) To enter upon the portion of the Townhome Property upon which or as to which such violation or breach exists and to summarily abate and remove, or repair and maintain, at the expense of the offending Unit Owner as a Special Unit Expense, any structure, thing or condition which may exist thereon, contrary to the intent and meaning of the provisions hereof, and the Declarant, the Association, or their successors, assigns or agents shall not thereby be deemed guilty in any manner of trespass. Notwithstanding the foregoing, the Declarant and the Association shall have no right or authority to alter (other than to repair) or demolish any items of construction without institution of judicial proceedings. So long as the Association or the Declarant (as applicable), its agents, servants or employees exercise reasonable care in the performance of such repairs, maintenance or alterations, they shall not be liable to the offending Unit Owner for any damages caused in so doing. The cost of such work shall be collected from the offending Unit Owner as a Special Unit Expense in the same manner as other assessments. In addition, the Association or its representatives, together with emergency personnel, shall have an immediate right of access to all Units in the Occupants' absence under emergency conditions;

(iii) To enjoin, abate or remedy the continuance of any breach by appropriate legal proceedings, either at law or in equity; and/or

(iv) To recover from the offending Unit Owner as a Special Unit Expense, in any legal proceedings to enjoin, abate or remedy a breach, all costs of such action incurred through the Association, including court costs and reasonable attorneys' fees.

3.4 Potential View Obstruction. No Unit Owner or Occupant has any right to an unobstructed view beyond the boundaries of the applicable Unit. No Unit Owner shall be entitled to prevent the construction or location of any structure, trees, landscaping or other item on any other part of the Townhome Property, where otherwise permitted by this Declaration, because such structure, trees, landscaping or other item obstructs any view from the affected Unit.

3.5 Relationship to City Ordinances. The provisions of this Declaration shall be valid and enforceable even if such provisions are more restrictive than the City's ordinances or other

applicable laws. The parties entitled to enforce this Declaration shall also have the right to enforce, in a private civil action under this Declaration, all City ordinances and other laws that are applicable to the Townhome Property, even if the City or other applicable governmental authority chooses not to enforce the same. All such City ordinances and other applicable laws that are in effect from time to time shall be automatically incorporated into this Declaration by this reference.

ARTICLE IV
UNITS

4.1 Unit Designations. Each of the dwelling units, each of which is called a "Unit", is or will be designated by a Lot number shown on the Plat indicating the separate Lot on which that Unit is located. All Units are described on the attached Exhibit B, as amended from time to time by the Declarant, which also sets forth the Size of the Unit.

4.2 Composition of Units. Each Unit constitutes a single fee simple estate and consists of real estate within the Lot boundaries designated for that Unit on the Plat, and all improvements located thereon. Without limiting the generality of the foregoing, or, as appropriate, in addition, each Unit shall include:

(i) the portion of the building and improvements located within the boundaries of the Lot;

(ii) any and all fixtures and appliances installed for the exclusive use of that Unit, including, without limiting the generality hereof, built-in cabinets and appliances, furnaces, hot water heaters, heat pumps, air conditioning units, television antennas and satellite dishes, and utility meters, and components of the foregoing, if any;

(iii) all plumbing, electric, heating, cooling, fire suppression, and other utility or service lines, pipes, wires, ducts, conduits and apparatus, wherever located, to the extent serving only that Unit; and

(iv) non-exclusive easements for the use of the Common Areas, including, without limitation, an unrestricted ingress and egress to the Unit that is perpetual and passes with the Unit upon transfer of ownership of the Unit.

4.3 Conveyances. Each Unit shall be conveyed or transferred (voluntarily or involuntarily) as a separately designated and legally described fee simple estate subject to the terms, conditions and provisions of this Declaration. The Unit's rights and interest in the Common Areas shall be deemed to be conveyed or encumbered with the Unit even though those rights and interest are not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. In any instrument of conveyance or creating an encumbrance, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit by referring to the Lot designation of the Unit on the relevant Plat and the appropriate recording references of the initial page of this Declaration. Failure to include a reference to this Declaration in any deed shall neither invalidate any such transfer nor relieve the Unit from being subject to or benefited by this Declaration. The right of a Unit Owner to sell,

transfer or otherwise convey that owner's Unit is not subject to any right of first refusal, and any Unit Owner may transfer that owner's Unit free of any such limitation. To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five (5) days after title to any interest in that Unit Owner's Unit has been transferred to another person. In addition, each Unit Owner agrees to provide to a purchaser of that owner's Unit a copy of all Townhome Instruments.

4.4 Party Walls. Each wall which is built as a part of the original construction of the building for the specific attached Units or otherwise built as an exterior boundary or patio wall between any two Units, and placed or intended to be placed on the dividing line between two or more Units, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence and willful acts or omissions shall apply thereto.

(a) The repair and maintenance of a party wall to the extent not covered by insurance or as provided below shall be shared equally by the Unit Owners who make use of the wall.

(b) Notwithstanding any other provision of this Declaration, any Unit Owner who by his, her, or its, or an Occupant's, contractor's, or guest's negligence or willful act causes any damage to a party wall shall bear the entire cost of repair or replacement.

(c) The right of any Unit Owner to contribution from any other Unit Owner with respect to the obligations relating to party walls shall be considered an appurtenant right and pass to any and all successors in interest to the title of such Unit.

(d) The boundary line between Units which share a party wall is and shall be deemed to be the center line of the wall regardless of the actual location of the platted boundary line.

(e) In the event of a dispute between Unit Owners relating to a party wall, the Board shall have the right to make a decision in settlement of such dispute, and the decision of the Board shall be final and binding on the Unit Owners.

ARTICLE V
COMMON AREAS

5.1 Common Areas - General Description and Ownership.

(a) All of the Townhome Property, including all of the land and all improvements thereon and appurtenances thereto, except those portions labeled or described in this Declaration or on the Plats as a part of a Unit or a public street, are Common Areas.

(b) The Declarant shall have the right (but is not obligated) to provide Common Areas for the use and benefit of the Townhome Property. The size, location, nature, timing, and extent of improvements and landscaping in the Common Areas, and

all other aspects of the Common Areas that are provided by the Declarant, shall be determined by the Declarant in its absolute discretion.

(c) Subject to Section ___.4 below, Developer covenants and agrees to convey, by special warranty deed or other appropriate assignment, all of its rights, title and interest in the Common Areas (except any part thereof that is within any Lot) to the Association, without any cost to the Association, at such time(s) as the Declarant, in its absolute discretion, may determine, but in all events not later than one (1) month after the Turnover Date. Such conveyance shall be free and clear of all deeds of trust, security interests and mechanic's liens caused by the Developer. Developer shall not be required to provide the Homes Association with any title insurance policy for any of the Common Areas. Any conveyance of title by the Developer shall not require the consent of the Homes Association and shall not constitute an assignment by the Developer of any of its rights, as the developer of the Subdivision, pursuant to this Declaration or any other instrument, contract or declaration.

(d) Notwithstanding the actual date of conveyance, except as otherwise provided in an agreement with the Declarant, the Association shall at all times, from and after the date of its formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas as otherwise provided in this Declaration, subject to any control thereover maintained by any governmental authority, utility or similar person or entity. In insuring the Common Areas, the Association shall cause the Declarant to be named as an additional insured on the insurance coverages so long as Declarant owns any Lots or Common Areas.

(e) Each of the Declarant and the Association, in its discretion, shall have the right to reconfigure and/or replat all or any part of the Townhome Property then owned by it, including, without limitation, to make part of a Common Area tract a part of a Lot, and vice versa and, in connection therewith, to convey to the Declarant, the Association, or any other party (as applicable) title to or any easements over any part of the Common Areas and/or Lots (as applicable). In addition, each of the Declarant and the Association shall have the right to convey to the City (but only with the City's consent) title to or easements over all or any part of the Common Areas so that they become public areas maintained by the City.

5.2 Undivided Interest in Common Areas and Common Expenses. Each Unit shall be deemed to have an undivided interest in the Common Areas and (except as otherwise provided in this Declaration) in the "common expenses" as allocated among all of the Completed Units [on an equal basis per Completed Unit] [on the basis of the relative approximate [Size] [Par Value] of each Completed Unit (based upon the type or category of the Unit)]. [Based on such relative [Size] [Par Value], the percentage undivided interest of each Completed Unit in the Common Areas and "common expenses" is set forth on Exhibit B, as the same may be amended from time to time.] No Unit Owner may waive or release any rights in the Common Areas or any liability for common expenses. Further, the rights in the Common Areas shall not be separated from the Unit to which they appertain.

5.3 Enjoyment of Common Areas. Each Unit Owner shall have a right and easement of ingress to, egress from, and use and enjoyment of the Common Areas for their intended purposes, which shall be appurtenant to, inseparable from and shall pass with the title to each Unit. Each Unit Owner may use the Common Areas, subject to reasonable rules and regulations adopted by the Board of Directors, in accordance with the purpose for which they were intended, but without hindering or encroaching upon the lawful rights of other Unit Owners.

ARTICLE VI
HOMEOWNERS ASSOCIATION

6.1 Establishment of Association. The Association has been or will be formed to be and to serve as the Unit Owners' association for the Townhome Property.

6.2 Membership and Voting Rights. Until the Turnover Date, the Association shall have two classes of membership, namely Class A and Class B. The Declarant shall be the sole Class A member. Each Unit Owner, including the Declarant as an owner, shall be a Class B member. Until the Turnover Date, all voting rights of the members shall be held by the Class A member, except that the Class B members shall have the sole right to vote on matters described in Section 10.10 (certain elections not to restore), Section 12.3(a)(viii) (certain assessment increases) below, and Section 16.1 (certain amendments).

After the Turnover Date, there shall be only one class of membership which shall consist of the owners of the Units, and every such owner shall be a member.

The foregoing is not intended to include as members persons or entities that hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and transfer of ownership of a Unit shall automatically transfer membership to the transferee.

Where voting rights exist based on Unit ownership, each member shall have [one vote] [a percentage vote equal to the Unit's relative percentage undivided interest in the Common Areas and common expenses as set forth on Exhibit B] for each Unit for which he or she is the Unit Owner; *provided, however*, that when more than one person is an owner of any particular Unit, all such persons shall be members, and the [one] [percentage] vote for such Unit shall be exercised as they, among themselves, shall determine, but in no event shall more than [one] [applicable percentage] vote be cast with respect to such Unit.

Subject to the foregoing, the Association shall be the sole judge of the qualifications of each Unit Owner to vote and to participate in the Association's meetings and proceedings.

To the extent permitted by law, the Board, from time to time, may suspend the right of a member to vote with respect to his, her, or its Unit for failure to pay any Assessments when due, or for failure to observe other of the terms of the Townhome Instruments.

6.3 Board of Directors.

(a) The Board initially shall be the one or more persons named as the initial director(s) pursuant to the provisions of the Articles, or such other person or persons as

may from time to time be substituted by the Declarant. As soon as possible after the Turnover Date, the Declarant shall appoint replacement directors from among the Unit Owners or, at the discretion of the Declarant, the Association shall hold a meeting of its members and the Unit Owners shall elect directors to replace all of those directors earlier designated by the Declarant. Notwithstanding the foregoing, the Declarant shall have the right at any time to waive its right to designate one or more directors or to vote in an election of directors.

(b) Prior to the Turnover Date, the Declarant may establish an advisory board consisting of Unit Owners, appoint and remove Unit Owners from time to time on the advisory board and establish and set the powers, rules and procedures of the advisory board.

6.4 Authority of Board. The Board shall have all authority to manage, maintain, repair, replace, alter and improve the Common Areas and certain specified exterior portions of the Units (as set forth in Section _____ below) and assess and collect funds for the payment thereof, and to do all things, and exercise all rights provided by the Townhome Instruments that are not specifically reserved to Unit Owners, or the Declarant. In addition to the powers granted by other portions of this Declaration or by law but subject to all of the limitations set forth in this Declaration, the Association, acting through the Board, shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by the Board to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in the Association's name, any and all building, use or other restrictions, obligations, agreements, reservations or assessments which have been or hereafter may be imposed upon any of the Units; provided, however, that this right of enforcement shall not serve to prevent waivers, changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the Association or other parties having the right to make such waivers, changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth. The expense and cost of any such enforcement proceedings by the Association shall be paid out of the general funds of the Association, except as herein provided. Nothing herein contained shall be deemed or construed to prevent the Declarant or any Unit Owner from enforcing any building, use or other restrictions in his or her own name.

(b) To acquire and own title to or interests in, to exercise control over, and to improve and maintain the Common Areas, subject to the rights of any governmental authority, utility or any other similar person or entity therein or thereto.

(c) To maintain public liability, worker's compensation, fidelity, property coverage, director and officer liability, indemnification and other insurance with respect to the activities of the Association, the Common Areas and the property within the Townhome Property.

(d) To levy the Assessments which are provided for in this Declaration and to take all steps necessary or appropriate to collect such Assessments.

(e) To enter into and perform agreements from time to time with the Declarant and other parties regarding the performance of services and matters benefiting both the Declarant and the Association and its members and the sharing of the expenses associated therewith.

(f) To enter into and perform agreements with the Declarant, other developers, other homes associations, and other parties relating to the joint use, operation and maintenance of any recreational facilities and other similar common areas, whether in or outside the Townhome Property, and the sharing of expenses related thereto.

(g) To engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Association, including, without limitation, keeping of books and records, repairs and maintenance of Common Areas, and planning and coordination of activities.

(h) To engage the services of a security guard or security patrol service.

(i) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the Townhome Property; and to do any other things necessary or desirable in the judgment of the Board to keep any property in the Townhome Property neat in appearance and in good order.

(j) Subject to the superior rights of the Declarant, to exercise any architectural, aesthetic or other control and authority given and assigned to the Association in this Declaration or in any other deed, declaration or plat relating to all or any part of the Townhome Property.

(k) To incur borrowings, and grant liens and security interests on the Association's assets and future Assessments to secure such borrowings.

(l) Subject to the superior rights of the Declarant, in accordance with applicable law, to adopt reasonable rules, regulations, restrictions, policies, guidelines, and procedures regarding (i) the use of the Common Areas and the personal conduct of the members and their guests thereon, (ii) the implementation of provisions set forth in this Declaration, (iii) the establishment and enforcement of construction and design criteria and aesthetic standards, or (iv) the regulation of behavior which violates this Declaration or which adversely affects the use and enjoyment of other properties or the Common Areas.

(m) To make, amend and revoke reasonable rules, regulations, restrictions and guidelines (including, without limitation, regarding the use of Common Areas) and to provide means to enforce such rules, regulations and guidelines, including, without limitation, the establishment, levying and collection of monetary fines and other enforcement charges for violations of this Declaration and such rules, regulations and guidelines.

(n) To exercise such other powers as may be set forth in this Declaration or in the Articles or Bylaws of the Association.

6.5 Delegation of Authority; Management Contracts. The Board may delegate any portion of its authority to a managing agent, which may be the Declarant or an affiliate of the Declarant. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense, provided, however, that any agreement for management (i) shall be terminable by the Association for cause on no more than thirty (30) days' written notice; (ii) shall be terminable by either party, without cause and without penalty, on not more than ninety (90) days' written notice; (iii) shall not exceed one year unless renewed by agreement of the parties for successive one-year periods; and (iv) shall be bona fide and commercially reasonable to the Association at the time entered into under the circumstances then prevailing. The Association also shall have the authority to enter into contracts with the Declarant or an affiliate of the Declarant for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners at the time entered into under the circumstances then prevailing.

6.6 Waiver and Release. Anything in this Declaration to the contrary notwithstanding, it is agreed that, to the maximum extent permitted by law, each Unit Owner (the "**Releasing Party**") hereby releases the Declarant, the other Unit Owners, and the Association, (each a "**Released Party**") from any liability which the Released Party would, but for this Section, have had to the Releasing Party resulting from any accident or occurrence or casualty (i) which is or would be covered by any insurance required to be carried under this Declaration, or (ii) which is covered by any other casualty or property damage insurance being carried by the Releasing Party at the time of such occurrence, which casualty may have resulted in whole or in part from any act or omission of the Released Party, its officers, agents or employees.

6.7 No Liability for Approval or Disapproval; Indemnification.

(a) To the maximum extent permitted by law, neither the Declarant, the Association, nor any of their officers, directors, managers, representatives or agents, nor any member of the Board (or any committee thereof) shall be personally liable to any person for (i) any approval, disapproval or failure to approve any matter submitted for approval, (ii) the adoption, amendment or revocation of any rules, regulations, restrictions or guidelines, (iii) the enforcement of or failure to enforce any of the restrictions contained in this Declaration or any other declaration or any such rules, regulations, restrictions or guidelines, or (iv) any other course of action, inaction, omission, error or negligence taken or omitted in good faith and which the Declarant, the Association, or any of their officers, directors, managers, representatives or agents or any committee member reasonably believed to be within the scope of his or its powers or duties.

(b) If any Unit Owner (other than the Declarant) commences a lawsuit or files a counterclaim or crossclaim against the Association, the Board, any committee, or any individual, director, officer or committee member, and such Unit Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Association, the Board, committee or individual director, officer or committee member sued by such Unit Owner shall be entitled to recover from such Unit Owner, as a Special Unit Expense, all litigation

expenses incurred in defending such lawsuit, counterclaim or crossclaim, including, without limitation, reasonable attorneys' fees. Such recovery right shall constitute a lien against the Unit Owner's Unit and shall be enforceable against such Unit.

(c) To the maximum extent permitted by law, the Association shall indemnify each officer and director of the Association, each member of any committee, and the Declarant (to the extent a claim may be brought against the Declarant by reason of its appointment, removal of or control over, or failure to control, any such other persons) (each, an "**Indemnified Party**") against all expenses and liabilities, including, without limitation, reasonable attorneys' fees, reasonably incurred by or imposed upon the Indemnified Party in connection with any action or proceeding, or any settlement thereof, to which the Indemnified Party may be a party or in which the Indemnified Party may become involved by reason of serving or having served in such capacity (or, in the case of the Declarant, by reason of having appointed, removed or controlled or failed to control any officer or director of the Association or member of any committee), provided the Indemnified Party did not act, fail to act or refuse to act with fraudulent or criminal intent in the performance of the Indemnified Party's duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which any Indemnified Party may be entitled at law or otherwise.

ARTICLE VII
MAINTENANCE AND REPAIR

7.1 Association Duties and Responsibilities. From and after its incorporation, the Association shall (as a common expense and not as a Special Unit Expense) (except as otherwise provided in this Declaration):

(a) maintain, repair and replace all improvements constituting a part of the Common Areas, including the Private Streets and the sidewalks along the Private Streets;

(b) maintain, repair and replace all water lines to the extent from the point of connection to the public water line located at or near the boundary of the Townhome Property to each point at which there is a connection to a service line to the Unit;

(c) provide for the maintenance, repair and replacement of roofs, roof flashing, gutters and downspouts of each Completed Unit;

(d) provide for the periodic painting, restaining, and caulking of Painted Exterior Surfaces of each building, which shall consist of preparing the surface (scraping and priming as required) of Painted Exterior Surfaces and then repainting and/or restaining same. "**Painted Exterior Surfaces**" means those wall surfaces of the building that are exposed to the out-of-doors and were painted or stained at the time such building was constructed, but shall not include any decks that may have been painted or stained. Such services by the Association shall include the recaulking of exterior caulked areas but shall not include the repair or replacement of any wood, trim, stucco, windows, doors or other materials (which shall be the responsibility and expense of the Unit Owner); and

(e) provide lawn care, consisting of mowing, edging, fertilizing, chemical treatment and overseeding of grass areas; mulching and weed control in landscape beds in fronts and sides of the Units; trimming and replacement of bushes; and trimming, replacement and insect and disease control of trees (but such services by the Association shall not include the care of any grass areas or landscaping associated with any Unit in any area made inaccessible to the Association, or any landscaping installed by or for an Owner beyond the original landscaping installed by or for the Developer for such Unit, or any annual flowers, all of which shall be the responsibility and expense of the Unit Owner);

(f) to the extent not provided as a service by any governmental authority, the Association shall provide for the normal collection and disposal of rubbish and garbage for each residence one day per week (which day, if possible, shall be the same for all residences). The Association, however, shall not be obligated to provide or pay for any recycling services, except where required by law;

(g) provide for spring start-up, winterization, and repair, maintenance, electricity and water for the use of the common lawn irrigation system;

(h) provide snow (but not ice) clearing for the Private Streets and for driveways, sidewalks from driveways to porches/stoops, and those porches/stoops (but not back patios or porches/stoops) as soon as possible when the accumulation reaches two (2) inches or more and the snow has stopped. The Association shall not be required to apply any salt or other chemical treatments to any such surfaces;

(i) except as otherwise expressly provided in this Declaration, control, insure, maintain and (as necessary) replace all Common Areas;

(j) provide for treatment of termite infestation of Completed Units as necessary (but not for repair of damaged areas); and

(k) establish, maintain and expend reserve funds for the future repair and replacement of Private Streets, roofs, gutters, and downspouts of the Completed Units, and for the periodic painting of Completed Units' exterior painted surfaces, as described above.

The Board, in its discretion, may cause the Association to provide other services for the Units that are not part of the required services above. The Board shall determine the scope and timing of the required and discretionary services and functions of the Association and shall determine the amounts of the foregoing reserves. Neither the Declarant, the Association nor any of their respective officers, directors, managers, representatives or agents shall have any liability to any Unit Owner or other person if no reserves are established or maintained or if the reserves established or maintained are inadequate.

7.2 Unit Owner Responsibilities. Subject to the Association's obligations to repair and/or replace specific items in the event of a casualty loss covered by insurance maintained by the Association or as expressly provided in Section _____ above, each Unit Owner shall repair and maintain in good condition at all times the interior and exterior of the Unit, and all

components thereof, owned by that Unit Owner. Without limiting the generality of the foregoing, this repair and maintenance responsibility of a Unit Owner shall include, without limitation, repair, maintenance and replacement of appliances, plumbing fixtures, lighting fixtures, electrical fixtures, fire suppression system, windows, screens, wood or other trim, exit doors, garage doors, screen doors, and other doors, including the frames, sashes and jambs, and the hardware therefor, foundation, driveways, patio enclosures, patios, decks, deck stairs, deck railings, stoops/porches, porch railings, screen porches, underground drains, walls, fences, sidewalks from the driveway to the residence, concrete pads, air conditioning units, heat pumps, sump pumps and discharge pipes, utility meters, utility lines, chimneys and flues (in each case whether or not within the boundaries of the Lot). In the event a Unit Owner fails to timely make a repair or perform maintenance or replacement required of that Unit Owner after written notice of the need therefor is given by the Association to the Unit Owner, the Association may (but shall not be obligated to) perform the repair, maintenance or replacement, or in the event the need for repair, maintenance, or replacement of any part of the Common Areas or other improvements is caused by the negligent or intentional act of any Unit Owner or its Occupants, contractors or guests, the Association shall perform the repair, maintenance or replacement, and, in either case, to the extent the cost of such repair or maintenance or replacement is not covered by actual insurance proceeds paid by the Association's insurance, whether because of a deductible, exclusion or otherwise, the cost thereof (plus a reasonable overhead fee) shall constitute a Special Unit Expense on such Unit Owner's Unit and on such Unit Owner. The determination that such repair, maintenance or replacement is necessary, or has been so caused by the Unit Owner, shall be made by the Board in good faith and shall be final and binding.

ARTICLE VIII
UTILITY SERVICES

By acceptance of a deed to a Unit, each Unit Owner agrees to pay for all utility services separately metered, submetered or otherwise separately charged to the Unit. All other utility costs provided through the Association shall be common expenses and paid by the Association.

ARTICLE IX
INSURANCE; LOSSES

9.1 Property Insurance. The Board shall obtain and maintain (or cause to be obtained and maintained) for all buildings in the Townhome Property (excluding any Unit that is not a Completed Unit that has been initially occupied, where such Unit is covered by property insurance maintained by the Declarant), and for the Association's personal property and supplies on the Townhome Property, at the Association's cost and as a common expense, blanket standard special form coverage against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard special form coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable coinsurance clause or provision and not less than (100%) of the full insurable replacement cost of such structure (excluding land value and excluding "betterments and improvements" to be insured by each Unit Owner). This insurance shall also:

(a) provide coverage for the Units and built-in or installed improvements, fixtures, appliances and equipment for each Unit that are part of the base or standard Unit;

(b) be written in the name of the Association for the use and benefit of the Association and the Unit Owners, and provide for the payment of losses thereunder by the insurer to the Association (or its nominee) as insurance trustee for the benefit of the Association, each Unit Owner and the holder of each first deed of trust of record on the Units, as their interests appear and as set forth in this Declaration;

(c) contain or have attached the standard mortgagee clause commonly accepted by institutional first deed of trust holders, insurers, and guarantors, which must provide that the carrier shall notify the named insured and each first deed of trust holder named in the mortgage clause at least ten (10) days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy;

(d) be paid for by the Association, as a common expense, subject to Section 12.3(a)(ii) and subject to Section 12.9 below;

(e) contain a waiver of subrogation of rights by the carrier as to the Association, its officers and directors, and all Unit Owners and Occupants;

(f) provide that the insurance shall not be prejudiced by any acts or omissions of individual Unit Owners or Occupants; and

(g) be primary, even if a Unit Owner has other insurance that covers the same loss.

Except to the extent that property damage or casualty loss to a Unit is covered by insurance proceeds actually received from insurance maintained by the Association for such damage or loss, the Association shall not have any responsibility to repair or replace any Unit, or component thereof, or personal property within any Unit. The Unit Owner shall be responsible for the deductible or other noncovered loss under the Association's insurance on any property damage or casualty loss to the Unit Owner's Unit, unless the damage or casualty loss is caused by the negligence or willful misconduct of another Unit Owner or his or her Occupant, contractors, or guests, in which case the other Unit Owner shall be responsible for such deductible or other noncovered loss. The amount of such deductible and all exclusions shall be uniform for all Units and shall be set by the Board from time to time in a reasonable amount.

9.2 Liability Insurance. The Association shall obtain and maintain (or cause to be obtained and maintained), at the Association's cost and as a common expense, a commercial policy of general liability insurance insuring the Association and the Common Areas, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (b) $1,000,000.00, for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the

Board, or other Unit Owners or Occupants, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the Association's operations, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Each such policy must provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association.

9.3 Fidelity Coverage. The Board may obtain and maintain (or cause to be obtained and maintained), at the Association's cost and as a common expense, fidelity insurance or bond providing coverage for the Association against dishonest and similar acts on the part of officers, directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. If a management company is engaged, such management company, at its expense, shall be required to provide fidelity insurance or bond providing coverage for the Association against the dishonest and similar acts of the management company's personnel.

9.4 Hazard Insurance Carrier. Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Missouri which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VII" or better in Best's Insurance Reports-International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBB" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service, if available, or if not available, the best rating reasonably available. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

9.5 Other Association Insurance. In addition, the Board may obtain and maintain (or cause to be obtained and maintained), at the Association's cost and as a common expense, contractual liability insurance, officers and directors liability insurance, and such other insurance as the Board may determine.

9.6 Nominee; Power of Attorney. There may be named, under any policy obtained by the Association, a nominee as an insured on behalf of the Association, who shall have exclusive authority to negotiate losses under any such policy. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or its nominee, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or its nominee, shall receive, hold or otherwise properly dispose of any proceeds of insurance, in trust, for the Association, the Unit Owners and their first mortgage holders, as their interests may appear and as set forth in this Declaration. This power is for the benefit of each and every Unit Owner, and their respective first mortgage holders, the Association, and the Townhome Property, runs with the land, and is coupled with an interest.

9.7 Unit Owners' Insurance. Each Unit Owner of a Completed Unit, at the Unit Owner's expense, shall obtain and maintain at all times insurance against:

(a) liability for events occurring within the Unit in the amount of at least $_____ (or such greater amount as may be specified by the Board); and

(b) losses with respect to personal property and furnishings, and similar matters of the type and nature of coverage commonly referred to as "tenants' improvements and betterments" or an "HO6" policy, with coverage for the dwelling components in a minimum amount of $50,000.00 (or such greater amount as may be specified by the Board) (but in all events for the value of the "betterments and improvements" in the Unit).

Each tenant of a Unit shall obtain and maintain at all times renter's insurance coverage for the tenant's personal property and with at least $_____ amount of liability insurance coverage (or such greater amount as may be specified by the Board).

Upon written request of the Association, each Unit Owner and tenant shall promptly provide written evidence to the Association of the existence and continuance of the foregoing required insurance coverages.

Each Unit Owner or Occupant may carry other insurance, in addition to that provided by the Association pursuant hereto, as that Unit Owner or Occupant may determine. If a Unit Owner or Occupant maintains an individual policy of insurance against loss by fire or other casualty also covered by the blanket insurance carried pursuant hereto by the Association, then the benefits under such individual policy must be payable to the Association or its nominee as insurance trustee for the benefit of the Association and all Unit Owners and their first mortgagees, as their interests may appear. All insurance separately carried by a Unit Owner shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and directors, and all other Unit Owners and Occupants, shall name the Association and (so long as it owns any Lots or Common Area) the Declarant as additional insureds, and shall not be cancellable or subject to reduction in coverage except after thirty (30) days prior written notice to the Association. Upon written request of the Association, each Unit Owner shall promptly provide written evidence to the Association of the existence and continuance of the foregoing insurance coverages.

9.8 Sufficient Insurance. In the event the improvements forming a part of the Townhome Property or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies maintained by the Association (or a Unit Owner) insuring against such loss or damage and payable by reason thereof shall be sufficient (together with the applicable deductible) to pay the cost of repair, restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association, and the insurance proceeds (together with the applicable deductible) shall be used in payment therefor; provided, however, that in the event that within sixty (60) days after such damage or destruction Unit Owners and their first deed of trust holders, if they are entitled to do so pursuant to Section 10.10 below, shall elect not to make the repair, restoration or reconstruction, then such repair, restoration or reconstruction shall not be undertaken.

9.9 Insufficient Insurance. In the event the improvements forming a part of the Townhome Property or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against by the Association, or, if insured against by the Association (or a Unit Owner), the actual insurance proceeds (together with the applicable deductible) shall not be sufficient to pay the cost of repair, restoration or reconstruction, then (unless the Unit Owners and their first deed of trust holders, if they are entitled to do so pursuant to Section 10.10 below, shall elect within sixty (60) days after such damage or destruction not to make such repair, restoration or reconstruction) the Association shall make repairs, restoration or reconstruction of the improvements so damaged or destroyed as a common expense (to the extent not covered by actual insurance proceeds received by the Association or by the Unit Owner and to the extent no specific Unit Owner is liable for the insufficient amount) of all Unit Owners subject to assessment.

9.10 Election Not to Restore. The Association may, with the written consent of all Unit Owners and their first deed of trust holders, both given within sixty (60) days after the applicable damage or destruction, determine not to repair, restore or reconstruct any damage or destruction. In the event of such an election not to repair or restore damage or destruction or reconstruct such Unit or Units, the net proceeds of insurance paid by reason of such damage or destruction shall be distributed among the owners of the damaged Units, and the holders of their respective deed of trust liens, as their interests may appear, and all appropriate amendments to this Declaration shall be made.

ARTICLE X
GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

10.1 Easements of Enjoyment; Limitations. Every Unit Owner shall have a right and easement (i) for ingress to and egress from such Unit Owner's Lot and Unit over and across all of the Private Streets and other applicable portions of the Common Areas, (ii) for use of and enjoyment in, over and upon all portions of any Common Areas on which any sidewalk, driveway, patio, deck, porch or similar improvement serving the Owner's Unit is located, and (iii) for use and enjoyment of all other Common Areas for their intended purposes, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, but shall be subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Areas, including, without limitations, parking rules and regulations. Each Unit Owner shall be deemed to have assigned that Unit Owner's right of enjoyment to the Common Areas and to ingress and egress to the Occupants of that Unit Owner's Unit.

10.2 Right of Entry for Repair, Maintenance and Restoration. Each of the Declarant, and the Association shall have a blanket easement and right of entry and access to, over, under, upon and through all of the Townhome Property, including each Unit (and the interior thereof and the Common Areas), to enable the Declarant and the Association to perform its obligations, rights and duties pursuant hereto with regard to installation, maintenance, repair, replacement, restoration and/or servicing of any and all utilities, improvements, and other items, things or areas of or in the Townhome Property. In the event of an emergency, the Declarant's and the Association's right of entry to a Unit may be exercised forcibly (unless the Association has been provided with a pass key or code to the Unit) and without notice; otherwise, the Declarant or the

Association (as applicable) shall give the Unit Owners or Occupants of a Unit reasonable advance notice (where possible) prior to entering the Unit.

10.3 Easements for Encroachments. Each Unit and the Common Areas shall be subject to and benefited by easements for encroachments on or by any other Unit and upon the Common Areas created or arising by reason of overhangs, by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements, or by reason of errors on the Plat. Valid easements for these encroachments and for the maintenance of same, as long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. will be in substantial accord with the description of those boundaries that appears herein or on the Plat, shall and do exist so long as the encroachments remain.

10.4 Easement for Support and Service. Every portion of a building or utility line or any improvement on any portion of the Townhome Property contributing to the support of or services to another building, utility line or improvement on another portion of the Townhome Property shall be burdened with an easement of support and service for the benefit of all other such buildings, utility lines, improvements and other portions of the Townhome Property. Each of the Declarant, the Association and every Unit Owner shall have a reasonable easement over every applicable Unit for purposes of access to and repair and maintenance of all common utility pipes and lines.

10.5 Easements for Proper Operations. Blanket easements in favor of the Association, the Declarant, all Unit Owners, the City and other appropriate public authorities and/or providing companies, and their contractors are hereby granted and reserved upon, over and under all of the Townhome Property and Units (including, as necessary, the interiors thereof) for ingress to and egress from, and for the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, gas, telephone, electricity, the road system and all walkways, and for all other purposes necessary for the proper operation of the Townhome Property and the adjacent areas. By these easements it shall be expressly permissible for the Declarant and/or the Association to grant to the appropriate public authorities and/or the providing companies and contractors permission to install, construct and maintain the necessary appurtenances and improvements on, above, across and under the Townhome Property. Should any public authority or other company furnishing a service request a specific easement, permit, or license, each of the Declarant and the Association (acting through the Board) shall have the right to grant such easement, permit, or license.

10.6 Easement for Services. Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Association, but not to the public in general, to enter upon the Common Areas and Lots in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish from time to time.

10.7 Easements Reserved to the Declarant. Non-exclusive easements are hereby granted and reserved to the Declarant, its successors and assigns, over, under and upon each Unit and the Common Areas (a) beginning with the recordation of this Declaration and ending ten (10) years after the date of the closing by the Declarant of the first sale of a Completed Unit to a

bona fide purchaser, for access to and for the purpose of completing improvements for which provision is made in this Declaration and for inspecting, modifying or adding to the improvements or utilities within or constituting a part of any Unit for the benefit of any adjacent Unit, (b) for the periods provided for warranties for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made by the Declarant with Unit purchasers, and (c) for the initial sales and leasing period, to maintain and utilize one or more Units and appurtenances thereto, for sales, leasing, construction and management offices and for storage and maintenance, and model Units, parking areas, and advertising signs for sales and leasing purposes.

All rights and easements granted and reserved to the Declarant, its successors and assigns, pursuant to this Section, shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Association and the rights of Unit Owners and Occupants of Units.

10.8 Power of Attorney. Each Unit Owner other than the Declarant, by acceptance of a deed to a Unit, appoints the Association or its designated representative, as his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Unit Owner, such easements, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements and rights. This power is for the benefit of each and every Unit Owner, the Association, and the Townhome Property, runs with the land, is coupled with an interest, and is irrevocable.

10.9 General. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements, but the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

10.10 Keys to Units and Contact Information. Each Unit Owner shall at all times provide the Association or its property manager with a current set of keys and access codes to the owner's Unit, except as may be expressly waived by the Board, and all updated contact information (telephone number and e-mail addresses) for each Unit Owner and any tenant.

ARTICLE XI
ASSESSMENTS AND ASSESSMENT LIENS

11.1 Types of Assessments. Assessments shall be determined and assessed against the Units by the Board, in its discretion, subject to the requirements and procedures set forth in this Declaration and the Bylaws. Each Unit Owner shall be obligated, and by acceptance of a deed to a Unit (whether or not it be so expressed in such deed) is deemed to covenant and agree, to pay to the Association: (a) annual operating assessments (payable monthly) to pay common expenses, (b) special assessments to pay common expenses and for capital improvements, and (c) Special Unit Expenses, all of which Assessments shall be established and collected as provided in this Declaration.

11.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote and provide for the health, safety and welfare of Unit Owners and Occupants and the best interests of the Townhome Property.

11.3 Elements-Apportionments; Due Dates.

(a) Annual Operating Assessments Payable Monthly.

(i) Beginning with the closing of the first sale of a Completed Unit by the Declarant, annual operating assessments to pay common expenses shall be payable in monthly installments and shall be assessed against (i) all Completed Units owned by parties other than the Declarant or Builder, and (ii) all Completed Units rented or for rent by the Declarant or Builder to third parties. The first annual operating assessment for each such Completed Unit shall be prorated based upon when it became a Completed Unit during the year.

(ii) In addition, Declarant (or Builder) shall be responsible for directly paying or reimbursing the Association for (A) actual common expenses incurred by the Association for providing casualty insurance under Section 10.1 above for any Units in buildings that have not become assessable Completed Units and (B) a reasonable share of other insurance expenses incurred by the Association (as determined by the Declarant) with respect to Declarant's (or Builder's) Units that have not become assessable Completed Units.

(iii) Annually, in advance where practical, the Board shall estimate, and allocate among all Completed Units subject to assessment and their Unit Owners on [an equal amount per Unit basis] [the basis of their relative percentage undivided interests in the Common Areas and common expenses as set forth on Exhibit B], "common expenses" of the Association, consisting of the following:

(1) the estimated fiscal year's cost of the maintenance, repair, and other services to be provided or paid for by the Association (in excess of the applicable reserves to be expended therefor);

(2) the estimated fiscal year's costs of management and professional services to be paid by the Association;

(3) the estimated fiscal year's costs for insurance premiums to be provided and paid for by the Association;

(4) the estimated fiscal year's costs for utility services not separately metered or charged to Unit Owners;

(5) an amount deemed adequate by the Board to fund a reserve for future painting of Completed Units, and a reserve for future repairs and replacement of the Completed Units' roofs, gutters and downspouts; and

(6) the estimated fiscal year's costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services, any additions to reserves, and any other costs constituting common expenses not otherwise herein specifically excluded.

(iv) The Board shall thereupon allocate to each Completed Unit subject to assessment that Unit's [equal] [percentage] share of the total estimated common expenses, and thereby establish the annual operating assessment for each such separate Completed Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.

(v) The annual operating assessment for each Unit subject to assessment shall be payable in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments without a discount for prepayment. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly pro rata share of the annual operating assessment for a Unit shall be due the first day of each month.

(vi) If the amounts so collected (together with any voluntary contributions or loans by or from the Declarant) are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board as a special operating assessment among the Completed Units subject to assessment [on an equal amount per Unit basis] [in proportion to their relative percentage undivided interests in the Common Areas as set forth on Exhibit C] and shall become due and payable on such date or dates as the Board determines. The Declarant shall have no obligation to contribute or loan any funds to the Association.

(vii) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, or as reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Unit Owners.

(viii) The rate of annual assessment per Completed Unit shall be in addition to any other assessments chargeable to a particular Completed Unit and in addition to the initiation fee described in Section 12.8 and any initial casualty insurance premium described in Section 12.9. The rate of annual assessment per Completed Unit for year 2024 shall be set by the Board. Thereafter, the rate of annual assessment upon each Completed Unit may be increased (A) by the Board from time to time, without a vote of the members, by up to 15% over the rate of annual assessment in effect for the preceding year (plus any actual increase in

insurance premiums), or (B) at any time by any amount by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the members present (in person, by proxy, or (if applicable) absentee ballot) at such meeting and entitled to vote thereon authorize such increase by an affirmative vote for the proposed increase. Notwithstanding the foregoing limits on annual assessments, the Board, without a vote of the members, shall always have the power to set, and shall set, the rate of annual assessment at an amount that will permit the Association to perform its duties as specified in this Declaration.

(b) Special Assessments for Capital Improvements.

(i) In addition to the annual operating assessments and any special operating assessments, the Board may levy, at any time, special assessments to construct, reconstruct or replace capital improvements to the extent that reserves therefor and any applicable insurance proceeds with respect thereto are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply with applicable law or governmental regulation or to correct any deficiency or defect creating a safety or health hazard to Occupants) shall not be constructed, nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to ten percent (10%) or more of that fiscal year's budget, without the prior consent of Unit Owners owning at least sixty percent (60%) of the votes of the existing Units.

(ii) Any such special assessment shall be prorated among all Completed Units on [an equal amount per Unit basis] [in proportion to their relative undivided percentage interests in the Common Areas as set forth on Exhibit B], and shall become due and payable on such date or dates as the Board determines.

(c) Special Unit Expenses. In addition to their liability for common expenses, Unit Owners shall also pay any and all assessments by the Association for Special Unit Expenses in the amount attributable to their respective Units as determined by the Board of Directors in its reasonable discretion. Special Unit Expenses may be based upon actual or estimated costs to the Association attributable to a Unit Owner, independent billings of respective creditors, usage, estimated insurable values, insurance risks, or any other reasonable basis. Except as provided in Section 8.1, in the event the Association incurs any special or unusual expense that does not benefit all of the Unit Owners, then those Unit Owners benefiting from such expense shall solely be responsible to pay for that expense. In this regard, the Board in good faith shall decide whether any such expense is of a nature that it does not benefit all of the Unit Owners and whether certain Unit Owners are benefiting Unit Owners and, if so, the appropriate amount of such cost to be assessed to each of the benefiting Unit Owners as a Special Unit Expense. The Board's decisions relating to Special Unit Expenses shall be made in good faith and shall be final and binding.

(d) Defense of Claims. If any Unit Owner commences a lawsuit or files a counterclaim or crossclaim against the Association, the Board, or any committee, or any individual director, officer or committee member of the Association, and such Unit Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Association, Board, or individual director, officer or committee member sued by such Unit Owner shall be entitled to recover from such Unit Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees. Such recovery right shall constitute Special Unit Expense against such Unit Owner and shall be enforceable against such Unit as provided herein.

11.4 Effective Date of Assessment. Any Assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Association to the Unit Owner subject thereto. Written notice mailed or delivered to a Unit Owner's Unit shall constitute notice to that Unit Owner, unless the Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit Owner.

11.5 Effect of Nonpayment of Assessment; Remedies of the Association.

(a) If any installment of an Assessment is not paid within ten (10) days after the same is due, the entire unpaid balance of the Assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installments.

(b) If any installment of an Assessment is not paid within ten (10) days after the same is due, (i) interest shall accrue on the entire unpaid balance (including the accelerated portion thereof) at 10% per annum, compounded monthly (or at such other rate as the Board may establish from time to time by rule) (or, if lower, the maximum rate permitted by law), (ii) a late fee shall be charged in the amount of 5% of the delinquent amount (or such other reasonable, uniform, late fee, as the Board may establish from time to time by rule), (iii) the cost of collection, including attorney fees and other out-of-pocket expenses shall be charged, and (iv) at the option of the Board and to the extent allowed by law, the Board may cut-off or restrict the services to be provided to the Unit by the Association and the use of the Common Areas (other than the Private Streets).

(c) All Assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge and lien in favor of the Association upon the Unit against which each such Assessment is made.

(d) At any time after any Assessment or an installment of an Assessment levied pursuant hereto remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that Assessment, including all future installments thereof, interest, late fees, and costs, including attorney fees, may be filed with the Recording Office pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, and the amount of the unpaid portion of the Assessments and charges, and shall be signed by an officer or other agent of the

Association. For each certificate so filed, the Association shall be entitled to collect from the Unit Owner of the Unit described therein a fee of $250.00, which fee shall be added to the amount of the delinquent Assessment and the lien on the Unit and which fee amount may be increased by the Board from time to time to reflect cumulative increases in an appropriate consumer price index (as selected by the Board) after December 31, 2019.

(e) The lien provided for herein shall become effective from the time a certificate of lien is duly filed therefor, and shall continue for a period of five (5) years unless sooner released or satisfied in the same manner provided by law in the State of Missouri for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(f) Each Assessment together with interest, late fees, and costs, including attorney fees, shall be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the Assessment became due and all subsequent Unit Owners of the Unit.

(g) In addition to the other remedies available to it, the Association, as authorized by the Board, may bring or join in an action at law against the Unit Owner(s) personally obligated to pay the same, and/or an action to foreclose a lien. The Association in any foreclosure action involving a Unit or Units shall be entitled to become a purchaser at the foreclosure sale. In any such action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such Assessment, to the extent permitted by Missouri law.

(h) In the event that a Unit Owner has twice been delinquent for at least thirty (30) days in the payment of Assessments due to the Association, the Unit Owner may be required by the Board, in the discretion of the Board, to make and maintain a security deposit with the Association not in excess of twice the amount of monthly Assessment then in effect, which security deposit may be collected as are other Assessments. Such a security deposit shall be held by the Association as part of its general funds, and no interest shall be due and payable or credited thereto. The Association may apply the security deposit to the Unit Owner's obligations at any time when such Unit Owner is ten (10) or more days delinquent in paying his or her Assessments. Upon the sale of the Unit by such Unit Owner, any amount of the security deposit that is remaining after satisfaction of all amounts owed with respect to the Unit at the time of such sale shall be refunded to the former Unit Owner.

(i) No claim of the Association for Assessments and charges shall be subject to setoffs or counterclaims. To the extent permitted by law, each Unit Owner hereby waives the benefit of any redemption, homestead and exemption laws now or hereafter in effect, with respect to the liens created pursuant to this Declaration.

(j) No Unit Owner may waive or otherwise avoid liability for the Assessments provided for in this Declaration by non-use or by waiving use or enjoyment of the Common Areas or the services provided by the Association, or any part thereof, or

by abandonment of his, her or its Unit. No Unit Owner shall be entitled to a reduction or abatement of any Assessment as a result of any failure or interruption of any utility or other service or any damage to or destruction of or the making of any repairs or replacements to any Common Area or to any Unit.

(k) Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Units and their interests in the Townhome Property, and are necessary to continue to provide services, and, accordingly, Assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

11.6 Subordination of the Lien to Purchase Money Deeds of Trust. The lien of the Assessments and charges provided for herein (except any utility-related charges properly chargeable by the terms hereof to a particular Unit and any Special Unit Expenses) shall be subject and subordinate to the lien of any duly executed purchase money first deed of trust on a Unit recorded prior to the date on which such lien of the Association arises, and any purchaser at a foreclosure sale shall take the property free of any claims for any such unpaid installments of Assessments and charges against the mortgaged Unit to the extent relating to periods prior to the date of the foreclosure deed vesting legal title in the successor owner. The foregoing will not relieve any successor owner from the obligation for Assessments accruing thereafter or the prior Unit Owner from the personal obligation for Assessments accruing before the date of such deed. If the Unit Owner subsequently redeems the Unit from the foreclosure sale, the lien hereunder shall automatically be reinstated retroactively in full.

11.7 Certificate Regarding Assessments. Upon request from the Unit Owner, the Board shall, for a reasonable charge, furnish a certificate, signed by the president, treasurer, secretary or other designated representative of the Association, setting forth whether the Assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

11.8 Initial Property Insurance Premium. Upon closing of the initial sale of each Completed Unit by the Declarant, the buyer shall pay to the Association a one-time initial property insurance premium Assessment for the Unit in an amount specified by the Declarant. If the Declarant prepays to the Association the initial property insurance premium for a Unit upon the conveyance of the other Unit in the building, the payment received by the Association under this Section upon the closing of the sale of such Unit so prepaid by the Declarant shall be then paid by the Association to the Declarant or Builder, as applicable.

11.9 Sale. Except as otherwise expressly provided in Section 12.6 above, upon sale or other conveyance of his or her Unit to a new owner, all Assessments and other amounts owed by the transferring Unit Owner must be paid in full and will be the joint and several liability of both the transferring Unit Owner and the new Unit Owner. The transferring Unit Owner and will have no liability for any Assessments accruing on such Unit and levied by the Association after the closing date of such sale or conveyance.

ARTICLE XII
CONDEMNATION

In the event that any Unit is taken by condemnation or the exercise of the power of eminent domain, each Unit Owner of and the holder of mortgages on the Unit shall be entitled to seek and have their just damages for the taking of the Unit, as allowed by law, including severance damage, if any. No provision herein shall be deemed to give any Unit Owner or any other party priority over the rights of the holder of any first mortgage on any Unit in the case of a distribution of condemnation awards for losses to or a taking of the mortgaged Unit.

ARTICLE XIII
TOWNHOME INSTRUMENT REQUIREMENTS

13.1 The Declarant's Rights and Obligations. Subject to the provisions of and except as otherwise provided in this Declaration, the Declarant (including Builder), in its capacity as an owner of unsold Units, will be vested with the rights and be subject to the duties of a Unit Owner set forth herein, or in any other Townhome Instrument, or established by law.

13.2 Unit Owners' Rights and Obligations. Each Unit Owner will be vested with the rights and be personally liable for and subject to the duties of a Unit Owner set forth herein, or in any other Townhome Instrument, or established by law, during the time of that owner's ownership of a fee simple interest in a Unit. If there are multiple owners of a Unit, the liabilities and obligations of such Unit Owners shall be joint and several with respect to that Unit.

13.3 Compliance with Declaration, Bylaws, Rules and Regulations. Each Unit Owner shall comply strictly with the provisions of this Declaration, the Articles, the Bylaws and any rules and regulations of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover damages or for injunctive relief, or both, maintainable by the Declarant, the Association and/or, to the extent permitted by law, by an aggrieved Unit Owner.

ARTICLE XIV
NOTICES

14.1 Association Address. The Association shall designate from time to time the place where payment of Assessments shall be made and other business in connection with the Association may be transacted.

14.2 Notices to Unit Owners. All notices required or permitted under this Declaration shall be deemed given if (i) deposited in the United States Mail, postage prepaid, and addressed to the Unit Owner at the address of the Unit or other address provided by the Unit Owner to the Association in writing, or (ii) sent by electronic mail to the Unit Owner at the electronic mail address last provided by the Unit Owner to the Association. Notice to one co-Unit Owner shall constitute notice to all co-Unit Owners.

ARTICLE XV
AMENDMENTS

15.1 Power to Amend. Except as otherwise specifically provided in this Declaration, additions to, changes in, or amendment of this Declaration shall require the consent of both (i) Unit Owners owning at least 60% of the Units, and (ii) until the sale by the Declarant of the last contemplated Unit and the construction of a Completed Unit thereon, the Declarant. Notwithstanding the foregoing:

(a) The consent of Unit Owners and holders of first mortgages of at least eighty percent (80%) of the Units and the written consent of the City shall be required to terminate this Declaration.

(b) The Declarant reserves and shall have the absolute unilateral right and power to amend this Declaration to the extent necessary to (i) cause the Townhome Instruments to comply with the Townhome Act or any other applicable law or conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on a Unit, (ii) update any of the exhibits of this Declaration, (iii) comply with any requirement the City makes as a condition to approval by the City of some matter relating to the development or operation of the Townhome Property, (iv) correct any typographical error, or factual error or omission that needs to be corrected in the opinion of the Declarant, (v) exercise its rights under Section _____, or (vi) until December 31, 2030, make any other amendment that the Declarant determines to be necessary or appropriate. No such amendment by the Declarant shall require the consent of any Unit Owner or the Association.

15.2 Method to Amend. An amendment to this Declaration, adopted with the consents of Unit Owners, shall be executed with the same formalities as to execution as this Declaration by two officers of the Association and shall contain their certification that such amendment was duly adopted in accordance with the provisions of this Article XV. Any amendment adopted by the Declarant pursuant to authority granted it pursuant to this Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in the Declarant by this Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Recording Office.

15.3 Form of Consent of Unit Owners. The consent of Unit Owners to any amendment of this Declaration may be obtained in the form of written consent(s) executed by the Unit Owners of at least the specified percentage of Units or in the form of a formal resolution approved by the Unit Owners of at least the specified percentage of Units at a duly held meeting of the members.

ARTICLE XVI
GENERAL PROVISIONS

16.1 Security. **THE ASSOCIATION, [THE MASTER ASSOCIATION,] THE DECLARANT, BUILDER, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, REPRESENTATIVES AND AGENTS SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE TOWNHOME PROPERTY. NEITHER THE ASSOCIATION, [THE MASTER ASSOCIATION,] THE DECLARANT, BUILDER, NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, REPRESENTATIVES OR AGENTS SHALL BE HELD LIABLE FOR ANY LOSS, DAMAGE, INJURY OR DEATH BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH UNIT OWNER, OCCUPANT, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS, DAMAGE, INJURY OR DEATH TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE DECLARANT, BUILDER, THE ASSOCIATION, [THE MASTER ASSOCIATION,] AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, REPRESENTATIVES AND AGENTS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY UNIT OWNER, OCCUPANT, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN OR NOT UNDERTAKEN.**

16.2 No Liability for Utility Failure and Certain Personal and Real Property Damage. **Except to the extent covered by insurance maintained by the party to be charged, neither the Declarant, the Board, the Association, nor the Unit Owners shall be liable for injury or damage to persons or property caused by the elements or other events of nature, or resulting from utility failure or from water, rain, dust or sand which may leak or flow from outside of the building, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of assessments shall be claimed or allowed for such injury or damage or for such inconvenience or discomfort.**

16.3 No Liability for Use of Swimming Pool or Equipment. **By acceptance of a deed to a Lot, all Unit Owners acknowledge and accept the inherent risks and hazards (whether foreseeable or not) associated with use of any swimming pool and any diving board and/or slide and any playground or exercise equipment that may be installed as part of the Common Areas. The Declarant, the Association, and their respective officers, directors, managers, representatives and agents shall have no liability or responsibility to any Unit Owner, Occupant or other party with respect to such inherent risks and hazards. Each Unit Owner, for himself, his Occupants, the members of his family, his guests and invitees, shall be deemed to have released and agreed never to make a claim against the Declarant, the Association or any of their respective officers, directors, managers, representatives or agents for any personal injury or death that may be suffered or incurred by any of such releasing parties in connection with use of the swimming pool area or any playground or exercise equipment, and each of them shall be deemed to have waived any**

and all claims and causes of action that any of them may ever have against any of such released parties with respect thereto.

16.4 Covenants Running With the Land. The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Townhome Property, and the Association, and their respective heirs, executors, administrators, successors and assigns.

16.5 Enforcement. In addition to any other remedies provided in this Declaration, the Declarant (only with respect to those rights directly benefiting the Declarant), the Association, and each Unit Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the Bylaws or now or hereafter imposed by or through the Association's rules and regulations. Failure by the Declarant, the Association, or any Unit Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge.

Whenever the Declarant or the Board determines that a violation of this Declaration has occurred and is continuing with respect to a Lot, the Declarant or the Association may file with the Recording Office a certificate setting forth public notice of the nature of the breach and the Lot involved.

To the maximum extent permitted by law, if the Declarant or the Association shall be successful in obtaining a judgment or consent decree in any court action or otherwise obtaining compliance by a breaching party, the Declarant and/or the Association shall be entitled to receive from the party breaching this Declaration, as part of the judgment or decree or any dismissal or settlement, the reasonable legal fees and expenses incurred by the Declarant and/or the Association with respect to such action.

16.6 Severability. Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Townhome Act, the latter's requirements shall prevail, and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no wise affect any other provisions of this Declaration, which provisions shall remain in full force and effect. This Declaration shall be and remain in full force and effect even if the Townhome Property (or any part thereof) has not been properly submitted to the provisions of the Townhome Act or the formalities of the Townhome Act have not been completely followed.

16.7 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply to entities, men or women shall in all cases be assumed as though in such case fully expressed.

16.8 Captions. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

16.9 Assignment of Declarant's Rights. The Declarant shall have the right and authority, by written agreement made expressly for that purpose, to assign, convey and transfer to any person(s) or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties and responsibilities herein reserved by or granted to the Declarant, and upon such assignment the assignee shall then for all purposes be the Declarant hereunder with respect to the assigned rights, benefits, powers, reservations, privileges, duties and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties, and responsibilities of the Declarant hereunder.

16.10 Expansion. The Declarant shall have, and expressly reserves, the right, at any time, to add to the existing Townhome Property and to the operation of the provisions of this Declaration other adjacent or nearby lands (without reference to any tract, street, park or right-of-way) by executing, acknowledging and recording in the Recording Office a written instrument subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Declarant in its discretion.

ARTICLE XVII
LEE'S SUMMIT COMMON AREA MAINTENANCE PROVISIONS

17.1 Common Area. The common area property described herein (the "**Common Area**") is legally described in the Declaration.

17.2 Owners' Association. A property owners' association known as the Village at New Longview Association, Inc. ("**Association**") has been established prior to the recording of the final plat or sale of any part of the property in the Townhome Property.

17.3 Common Area Ownership. The Common Area shall be owned by the Association.

17.4 Lot Ownership. Ownership of any lot in the Townhome Property shall not occur until ownership of all of the Common Area has been transferred to the Association.

17.5 Association Obligations. The Association shall own, manage, repair, maintain, replace, improve, and operate the Common Area and keep it, and all improvements thereon, in good condition.

17.6 Permanent Declaration. This Declaration pertaining to the Common Area shall be permanent.

17.7 Common Area Maintenance. The Unit Owners within the Townhome Property are liable for the costs of maintenance of the Common Area and the costs of such maintenance

shall be assessed proportionally against the Unit Owners in accordance with the rules of the Association.

17.8 Common Area Liability Insurance. The Association shall provide liability insurance for the Common Area, shall pay all taxes for the Common Area, and shall be responsible for perpetual maintenance of the Common Area.

17.9 Association Membership. Membership in the Association shall be mandatory for each Unit Owner in the Townhome Property and any successive buyer.

17.10 Copy of Declaration. Each Unit Owner, at the time of purchase, shall be furnished with a copy of this Declaration.

17.11 Dissolution. The Association shall not be dissolved without the consent of the City, unless the maintenance responsibilities set forth herein are assigned, with the consent of the City, to a person or entity with the financial, legal, and administrative ability to perform such obligations.

17.12 City Assessments. In the event that any condition of the Common Area is determined to be a nuisance or in disrepair in violation of any provision of the Lee's Summit Property Maintenance Code, and such disrepair or nuisance is abated pursuant to procedures otherwise provided in the Property Maintenance Code, the costs to abate the nuisance created by the failure to maintain the Common Property shall be assessed proportionally against the individual Lots within the Townhome Property, in an equal amount per individual Lot, pursuant to the tax bill provisions of the Property Maintenance Code, and the amount caused by the Finance Director to be assessed annually by tax bill shall not exceed five percent (5%) of assessed valuation per individual Unit.

17.13 Stormwater Facility. In the event it is determined that the maintenance of any storm water conveyance, retention or detention facility located on the Common Area fails to meet any standard set forth in the final development plan, or final plat if no final development plan is required, and such failure is abated by the City pursuant to the procedures of this Section, upon completion of the work and certification by the Director of Public Works of the City that the deficiency has been abated, the Director of Public Works shall certify all costs of such abatement, including enforcement costs and expenses of staff time incurred in the remediation of the deficiency, to the City's Director of Finance who shall cause a special tax bill therefore, or add the costs thereof to the annual real estate tax bill, at the Finance Director's option, proportionally against the individual Lots within the Townhome Property, in an equal amount per individual Unit, the amount caused by the Finance Director to be assessed annually by tax bill shall not exceed five percent (5%) of assessed valuation per individual Unit, the tax bill from the date of its issuance shall be a first lien on the Unit until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance shall be a defense thereto, each special tax bill shall be issued by the City Clerk and delivered to the City Finance Director on or before the first day of June of each year, and such tax bill, if not paid when due, shall bear interest at the rate of eight (8) percent.

17.14 City as Beneficiary. The City shall be a third party beneficiary of all provisions herein pertaining to the assessment of costs for maintenance of storm water conveyance, retention, or detention facilities on the Common Area, and such provisions shall not be modified or amended without the written consent of the City.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the date first above written.

_____, LLC

By:_____

Name:_____

Title:_____

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this _____ day of _____, 2023, before me, _____, a Notary Public in and for said State, personally appeared _____, to me personally known, who being by me duly sworn (or affirmed), did say that such individual is a member of _____, LLC, a Missouri limited liability company, and that said instrument was signed and delivered in behalf of said limited liability company by authority of its members and said person acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

My Commission Expires: _____

_____
Signature of Notary Public in and for said County and State

Print Name:_____

[SEAL]

EXHIBIT A

LEGAL DESCRIPTION OF TOWNHOME PROPERTY

Lots _____ and Tracts _____, _____, a subdivision in City of Lee's Summit, Jackson County, Missouri.

Tracts _____ are the Common Areas.

EXHIBIT B

LEGAL DESCRIPTION AND PERCENTAGE OF COMMON EXPENSES OF EACH UNIT BUILT
(as of _____/_____/_____)

Lot No.	Percentage of Common Expenses