

**SECOND AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR LAKESHORE VILLAGE**

THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 3rd day of May 2013, by **LAKESHORE VILLAGE, INC.** (hereinafter referred to as “Association”) and the Owners, whose signatures appear hereon (the Owners of the Association being hereafter referred to collectively as “Declarant”),

**WITNESSETH:**

WHEREAS, Ball Homes, Inc., a Kentucky corporation, has heretofore executed a document entitled “Declaration of Covenants, Conditions and Restrictions” applicable to Lakeshore Village, dated August 1, 1975, and filed for record in the Fayette County Court Clerk’s Office in Deed Book 1128, Page 497, and

WHEREAS, additional lots and property have been annexed to said Declaration by Ball Homes, Inc., by instruments dated and filed for record in the Fayette County Court Clerk’s Office on December 30, 1976, at Deed Book 1167, Page 293, on July 28, 1977, at Deed Book 1176, Page 292, on August 7, 1978, at Deed Book 1205, Page 457, and on August 10, 1979, at Deed Book 1233, Page 614, and

WHEREAS, by a First Amendment, dated November 18, 1981, and of record in Deed Book 1289, Page 305, and by a Second Amendment dated August 31, 1983, and of record in Deed Book 1333, Page 523, and by a Third Amendment dated July 1, 1985, and of record in Deed Book 1382, Page 109, in the Fayette County Court Clerk’s Office, Lexington, Kentucky, were amended, and

WHEREAS, the Lakeshore Village, Inc. and the Owners thereof executed a document entitled **AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKESHORE VILLAGE** dated December 28, 2000, and filed of record in the Fayette County Court Clerk’s Office in Deed Book 2176, Page 251, and

WHEREAS, the **AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKESHORE VILLAGE** were amended by a First Amendment dated January 24, 2001, and of record in Deed Book 2180, Page 672, and by a Second Amendment dated November 3, 2005, and of record in Deed Book 2600, Page 74, in the Fayette County Court Clerk’s Office, Lexington, Kentucky, and

WHEREAS, the Association and the Owners desire to enter into a new Second Amended and Restated Declaration for the purposes of protecting the value and desirability of the Development, simplifying and revising the previous Declaration, and clarifying the rights and obligations of the Owners and the Association, and

WHEREAS, this Second Amended and Restated Declaration (hereinafter “this Declaration” or “the Declaration”), and the power and authority of the Association to enter into same, has been voted upon and approved by the Owners of record of at least two-thirds of the lots authorized to vote upon this amendment as required under the Previous Declaration and the amendments thereto, and whose signatures appear therein on the attached Exhibit A;

NOW THEREFORE, all of the properties described herein shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of subject property and which shall run with the real property subjected to this Declaration, and which shall be binding on all parties having any right, title or interest in and to the described Development or any part, thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof. The properties subject to this Declaration are more particularly described as follows:

Being all of Lots 1 through 23, Unit 2-B, Section 1 of Lakeview Estates Subdivision, of record in Plat Cabinet A, Slide 714;

Being all of Lots 24 through 45, Unit 2-B, Section 2 of Lakeview Estates Subdivision, of record in Plat Cabinet A, Slide 715;

Being all of Lots 46 through 65, and Lots 106 through 109, Unit 2-B, Section 3 of Lakeview Estates Subdivision, of record in Plat Cabinet A, Slide 716;

Being all of Lots 66 through 85, Unit 2-B, Section 4, of Lakeview Estates Subdivision, of record in Plat Cabinet B, Slide 293, and as amended in Plat Cabinet B, Slide 319;

Being all of Lots 86 through 95, and Lots 97 through 105, Unit 2-B, Section 5 of Lakeview Estates Subdivision, of record in Plat Cabinet B, Slide 375;

Being all of Lots 112 through 116, Block K, Unit 2-E, Section 6-A of Lakeview Estates Subdivision, of record in Plat Cabinet B, Slide 545;

Being all of Lots 117 through 121, Block K, Unit 2-E, Section 6-B of Lakeview Estates Subdivision, of record in Plat Cabinet B, Slide 546;

Being all of Lots 122 through 132, Block K, Unit 2-E, Section 7-A of Lakeview Estates Subdivision, of record in Plat Cabinet B, Slide 552;

Being all of Lots 133 through 141, Block K, Unit 2-E, Section 7-B of Lakeview Estates Subdivision, of record in Plat Cabinet B, Slide 693;

Being all of Lots 145 (formerly 111) through 146 (formerly 110), Unit 2-B, Section 3 of Lakeview Estates Subdivision, of record in Plat Cabinet A, Slide 716;

All areas on the above referenced plats designated as H.O.A. areas, and Tract 1 Of Lot 1, Block K, Unit 2-E of Lakeview Estates Subdivision, of record in Plat Cabinet A, Slide 717.

### **ARTICLE I: DEFINITIONS**

Section 1. “Area of Common Responsibility” shall refer to the Common Property together with those areas of Limited Common Properties, if any, which by the terms of this Declaration, or by contract or agreement with any neighboring real property owner shall become the responsibility of the Association.

Section 2. “Articles of Incorporation” or “Articles” shall refer to the Articles of Incorporation of LAKESHORE VILLAGE, INC., and any amendments thereto, as filed with the Secretary of State of the Commonwealth of Kentucky.

Section 3. “Assessments” or “Dues” shall refer to any assessments levied against Owners, Dwelling Units or Lots in accordance with this Declaration.

Section 4. “Association” shall refer to LAKESHORE VILLAGE, INC., a Kentucky non-stock non-profit corporation, its successors and assigns.

Section 5. “Board of Directors” or “Board” shall refer to the board of directors of the Association having its normal meaning under Kentucky corporation law and as set forth in this Declaration and the Bylaws of the Association.

Section 6. “Bylaws” shall refer to the Bylaws of LAKESHORE VILLAGE, INC., and as the same may be amended from time to time.

Section 7. “Common Property” and “Common Area” and “Common Property and Facilities” shall refer to all real property, improvements and facilities in the Development, which are intended for use and enjoyment by all Owners, Tenants and Occupants in the Development, including but not limited to private streets and roadways, recreational facilities, carports and any usage for utilities, such as storm drainage facilities, which are not dedicated to public authorities or utility companies, and shall specifically include but shall not be limited to the following:

Any and all real property designated as H.O.A. areas on the following plats:

Lakeview Estates Subdivision	Unit 2-B, Section	Plat Cabinet A, Slide
Lakeview Estates Subdivision	Unit 2-B, Section	Plat Cabinet A, Slide
Lakeview Estates Subdivision	Unit 2-B, Section	Plat Cabinet A, Slide
Lakeview Estates Subdivision (Tract 1 of Lot 1, Block K)	Unit 2-E	Plat Cabinet A, Slide

Section 8. “Common Expenses” shall refer to and include the actual and estimated expenses incurred by the Association for the general benefit of all Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the Articles of Incorporation.

Section 9. “Community-Wide Standard” shall refer to the standard of conduct, maintenance, appearance or other activity generally prevailing throughout the Development. The Board of Directors may more specifically determine and enforce such standard.

Section 10. “Declaration” shall refer to this Second Amended and Restated Declaration.

Section 11. “Declarant” shall refer to LAKESHORE VILLAGE, INC., a Kentucky non-stock non-profit corporation, its successors and assigns, and the owners whose signatures appear on this document.

Section 12. “Dwelling Unit” shall refer to any building or part thereof in the Development, which is designed, designated and intended for use and occupancy as one residential living unit (including those units with garages and other appurtenant structures).

Section 13. “Leasing” shall refer to the regular, exclusive occupancy of a Dwelling Unit by any Person or Persons other than the Owner from whom the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity or emolument.

Section 14. “Limited Common Property” and “Limited Common Property and Facilities” shall refer to the common property and facilities intended for exclusive limited usage in common by one or more Owners, Tenants or Occupants of Dwelling Units or Lots in the Development, including but not limited to parking and ingress and egress to and from a Lot or group of Lots to a roadway.

Section 15. “Lot” shall refer to any part of the Development delineated by definable boundaries on a plat of subdivision prepared in conformity with, executed and recorded as required by the statutes of the Commonwealth of Kentucky and/or the Lexington-Fayette Urban County Zoning Ordinance Resolution, together with any Dwelling Unit or other buildings and improvements erected thereon.

Section 16. “Member” shall refer to a Person entitled to membership in the Association.

Section 17. “Mortgage” shall refer to a mortgage, deed of trust to secure debt or any other form of security instrument.

Section 18. “Mortgagee” shall refer to a beneficiary or holder of Mortgage.

Section 19. “Mortgagor” shall refer to any Person who gives a Mortgage.

Section 20. “Occupant” shall refer to a Person or Persons, other than an Owner or Tenant, in lawful possession of a Dwelling Unit or Lot.

Section 21. “Owner” shall refer to one (1) or more Persons who hold the record title to any Dwelling Unit or Lot which is part of the Development, but excluding any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded

contract of sale, and the contract specifically provides, then the purchaser, rather than the fee Owner, will be considered the Owner.

Section 22. “Person” shall refer to a natural person, a corporation, a partnership, a trustee or any other legal entity.

Section 23. “Previous Declaration” shall refer to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Lakeshore Village dated December 28, 2000 and of record in Deed Book 2176, Page 251, in the Fayette County Clerk’s Office, together with all amendments thereto.

Section 24. “Principal Office” shall refer to the location where the corporation maintains its permanent business records, which as of the date of this Declaration is 543 Laketower Drive, Lexington, Kentucky 40502.

Section 25. “Quorum” when used in reference to meetings of Members shall refer to 60% of the total number of all Members.

Section 26. “Supplemental Declaration” shall refer to an amendment or supplement to this Declaration executed by or consented to by the Association and the requisite number of owners which imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

Section 27. “Tenant” shall refer to any Person or Persons who occupy any Dwelling Unit pursuant to a lease with the Owner of the Dwelling Unit.

Section 28. “Building” shall refer to a group of contiguous and attached Dwelling Units.

Section 29. “Carport” shall refer to an area in a Carport Structure that is designated for the exclusive use of an Occupant or Owner and which includes a locked storage area.

Section 30. “Carport Structure” shall refer to a structure made up of several Carports.

Section 31. “Patio Fencing” shall refer to all wood fencing associated with a Dwelling Unit which encloses an area for the exclusive use of the occupants of the Dwelling Unit.

Section 32. “Emergency” shall refer to any circumstance deemed by the Board to present an imminent hazard to the safety of persons on Association property or to imminently threaten the integrity of Buildings, Limited Common Areas or Common Areas.

Section 33. “Painting” shall refer to periodic preparation, priming, caulking and painting of a Building.

Section 34. “Siding” shall refer to the exterior panels covering a Building.

Section 35. “Trim” shall refer to flashing, woodwork, window frames and door frames on the exterior of a Building.

Section 36. “Resident” shall refer to any person living in a Dwelling Unit. This includes but is not limited to Owners, Occupants or Tenants.

## **ARTICLE II: PROPERTY RIGHTS**

Section 1. Ingress and Egress. Every Owner, Occupant or Tenant, as well as the Association, shall have a perpetual nonexclusive easement for pedestrian and vehicular ingress and egress to and from public roads and to and from Lots and Common Property and Limited Common Property which are now or hereafter improved as roadways or pathways for the benefit of the Dwelling Units, Lots and land comprising the Development.

Section 2. Common Property and Limited Common Property. Every Owner, as well as the Association, shall have a perpetual right and non-exclusive easement of use, access and enjoyment in and to the Common Property and, if applicable, the Limited Common Property, which shall be appurtenant to and shall pass with the title to every Lot, subject to: this Declaration and to any restrictions or limitations contained in any deed conveying property to the Association; the right of the Association, acting through the Board to adopt reasonable rules regulating the use and enjoyment of the Common Property and Limited Common Property; the right of the Association to dedicate or transfer all or any part of the Common Property and Limited Common Property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association; the right of the Association to impose reasonable membership requirements and to permit non-member use and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Property; and the right of the Association to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the approval requirements set forth herein.

Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, Tenants, Occupants and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Dwelling Unit or Lot shall be deemed to have delegated all such rights to the Tenant. A Tenant’s violation of the Declaration, rules and/or regulations shall constitute a default under their lease for which the Association, on behalf of the Owner, may seek any remedies available at law or equity, including the eviction of the Tenant. Any Owner leasing any Dwelling Unit shall include such language in the lease agreement.

Section 3. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance, repair and use of any permitted encroachment, between each Lot and such portion or portions of the Common Property and Limited Common Property as are adjacent thereto and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon in accordance with the terms of any restrictions, including walls, foundations, footings, patios, driveways, shrubs, trees, concrete or masonry decks, courtyards, chimneys, roofs, gutters, overhangs, sills and

downspouts, whether such encroachments are intentional or unintentional, and whether such encroachments are upon, across, over or under any adjoining Lot or Common Property and Limited Common Property.

Section 4. Easements for Utilities, Etc. There are hereby reserved unto the Association and its designees (which may include, without limitation, the Lexington-Fayette Urban County Government and any utility) blanket easements upon, across, over and under all of the Development, for ingress, egress, installation, replacing, repairing and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity; provided that the exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry into any lot shall be made only after reasonable notice to the Owner or Occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water and electrical suppliers' easements across all Lots and the Common Property and Limited Common Property for ingress, egress, installation, reading, replacing, repairing and maintaining water and electric meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Development, except as approved by the Board.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board shall have the right to grant such easement over the Development without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Development.

Section 5. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common areas that shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area;
- b. The right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- c. The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility as may be agreed to by the members;
- d. The terms of that certain agreement dated the 1 day of July, 1975, between Ball Homes, Inc., and Lakeview Estates Lakes Association, Inc., which terms include, but are not limited to, the following provisions:

(1) The Association as the successor to Ball Homes shall have seven votes in the Lake Association and shall designate to the Lake Association no more than seven individuals, who must be owners of townhouse units within the project, to cast said votes.

(2) All membership rights and privileges in the Lake Association and social and business functions of the Lake Association shall be open only to those persons so designated by the Association and the mere ownership of a townhouse lot shall not constitute the owner as a member of the Lake Association nor entitle him to rights and privileges other than as specifically set out in the aforementioned agreement.

(3) The covenants and restrictions applicable to Lakeview Estates and of record in Deed Book 900, Page 10, in the Fayette County Clerk's Office except as herein modified.

Section 6: Declaration of Use. Any owner may delegate, in accordance with the Declaration, his/her right of enjoyment of the common areas and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 7: Easements to Run with the Land: All easements and rights described herein are easements appurtenant running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding upon any Owner, Tenant, Purchaser, Mortgagee, or any other Persons having an interest in the Development or any portion thereof, and shall inure to their respective benefits as provided for in this Declaration.

### **ARTICLE III: MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership. Every Owner of a Dwelling Unit shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from the Owner's Dwelling Unit.

The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration. Membership rights of a Dwelling Unit owned by a corporation or partnership shall be exercisable by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, subject to the provisions of this Declaration.

Section 2. Voting. Owners shall be entitled to one (1) vote for each Dwelling Unit owned. No Owner, whether one or more Persons, shall have more than one vote per Dwelling Unit. In the event the Owner of a Dwelling Unit is more than one Person, the vote attributable to that Dwelling Unit shall be exercised as those Persons determine among themselves and as they advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the vote shall be suspended if more than one Person seeks to exercise it.

Section 3. Specific Voting Procedures. The percentages of members necessary for approval of any action requiring membership approval must be announced prior to any vote. At the discretion of the Board, voting may take place by the presence of members at a designated meeting, by proxy or by signed ballot.



Any change or amendment to this Declaration will require the affirmative vote of ninety-three (93) or sixty-seven percent (67%) of all Members. All such votes will be by public methods, shall be cast in person or by proxy, and shall take place at an annual meeting or special meeting called for such purpose. The results of any such vote shall be open and available to all members.

Any action with respect to the levying of a special assessment which requires the approval of the Members may be approved upon the affirmative vote of a simple majority of a Quorum of the Members present, either in person or by proxy, at the meeting at which such vote is taken. Any such proposal for a special assessment may be voted upon by the Members at the annual meeting or at a special meeting called for that purpose.

Any meeting called to amend this Declaration or to approve a special assessment requires a written notice to all Members thirty (30) days prior to the meeting. Any written material pertaining to the vote must be delivered to all Members within seven (7) days prior to the vote.

#### **ARTICLE IV: MANAGEMENT OF THE ASSOCIATION**

Section 1. Board of Directors. A Board of Directors of nine (9) dwelling unit Owners who reside in Lakeshore Village shall manage the affairs of the Village. All Directors shall be elected for three-year terms in a manner that the term of office for three members shall end each year and three new members with the highest number of member votes at the annual Meeting shall be elected to take their place. The next three vote getters among those additional candidates for office will be appointed as Alternates. In the event that there are not a sufficient number of Alternates, the Chair, with the approval of the Board, may appoint any member of the Association to serve in this capacity. Alternates will vote when necessary to constitute a quorum. The Association shall have as officers a Chair, Vice-Chair, Secretary, and a Treasurer. Further, the Association may appoint an Executive Secretary or such other officers or agents as may be necessary to properly conduct its business. The powers and duties of the directors and officers are such as may be prescribed by this declaration or proper corporate practice.

Section 2. Nomination. Nominations also may be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chair, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the members to serve from the close of that meeting until the close of the next annual Meeting and such appointments shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among unit owners. A Nominating Committee shall make nominations for election to the Board of Directors.

Section 3. Election. Election to the Board of Directors shall be by secret, written Ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons

receiving the largest number of votes shall be elected. Cumulative voting is not permitted. If there are only three nominations for the Board of Directors, the Chair of the Board may ask for election by acclamation.

Section 4. Removal of a Board Member. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a Director, his/her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 5. Compensation. No Director shall receive compensation for any service he/she may render to the Association. However, any Director may be reimbursed for his/her expenses incurred in the performance of his/her duties.

Section 6. Action Taken without a Meeting. The Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining written approval of all the Directors. Any action so approved shall have the same effect as that taken at a meeting of the Directors.

Section 7. Action Taking During a Meeting. No action can be taken without a quorum of the Board. A “quorum” of the Board consists of six (6) members. Motions passed by the Board require at least a majority of affirmative votes. The meetings will be conducted on a basis consistent with Robert’s Rules of Order.

Section 8. Openness of Meetings. All meetings of the Board of Directors will be open to the general membership of the Association with the exception of executive sessions. Special meetings of the members may be called at any time by the Chair or by the Board of Directors. Along with notifying homeowners of the time and place and agenda for each regularly scheduled, monthly meeting, the Board will provide ample notification for all additional special meetings called involving the business of the Association.

If this notification cannot be provided because of the urgency of the issues, the Board will be responsible for taking clear notes of all the matters discussed and the decisions reached. The Board may elect to meet in executive session without homeowners present for dealing with certain personnel matters or sensitive topics or potential legal concerns. The Board also may call “working sessions” without notification to homeowners provided that no formal decisions or policies are established at those times.

## **ARTICLE V: MAINTENANCE**

Section 1. Association’s Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping, other flora, structures and improvements, including all private streets, situated upon the Common Property and Limited Common Property and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for

maintenance thereof by the Association. Said maintenance may further include snow removal from the Common Property and Limited Common Property, garbage and debris removal if necessary, and mowing of Lots of the Owners.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Property and Limited Common Property shall be a Common Expense, to be allocated equally among all Dwelling Units and Lots as part of the Owners' Assessments.

The Association may maintain other property, which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall be deemed the agent of the Owners for the purposes of prosecuting or defending lawsuits involving the Area of Common Responsibility and the sale, condemnation, liquidation, termination or any other action affecting the Area of Common Responsibility.

Section 2. Owner's Responsibility. Each Owner shall maintain his or her Lot and all Dwelling Units, driveways, porches, patios and other appurtenant structures and improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants. If any Owner fails to perform his or her maintenance responsibility properly, the Association may perform such maintenance responsibilities and assess the costs incurred against such Owner in accordance with the assessment provisions contained in the Declaration, provided, however, that the Association shall afford the Owner reasonable notice and an opportunity to correct the problem prior to entry and performance of any such maintenance responsibilities.

Section 3. Painting. In order to assure architectural and aesthetic uniformity and quality, each of the forty-five (45) separate buildings' exteriors must be painted as a whole. The Association shall be responsible for determining when the exterior surfaces of a building must be painted. Because of their differing locations and exposure to the elements, some buildings may require less frequent painting.

It is the intent of this Declaration that the Homeowner(s) of each unit in a building shall be responsible only for the cost of painting her or his unit as determined by the estimate of the painting contractor, who shall be selected and hired by the Homeowner, when the building is painted. Therefore, one hundred thirty-eight separate painting funds shall be established by and managed by the Board. These funds will be used to pay for the painting of each unit within a building at the time of painting.

The Homeowner(s) of each unit in a building shall be assessed a monthly amount based on the exterior square footage of the unit. The total amount per month to be collected for the Painting Fund for each unit shall be based on the estimated recurring cost and a five-year frequency of painting the building. This estimate shall be established by the Board and may be revised from time to time based on the Board's revised estimate of the then current cost for such work. This monthly assessment shall be in addition to the assessment for common areas. Each

of the separate Painting Funds shall be used only for the purpose of painting the units in the building for which the funds are designated. No other funds of the Association may be used for this purpose.

Painting must occur as needed at the recommendation of the Property Advisory Committee members based on their biannual assessment of the condition of each building. Homeowners of a building may, however, request by consensus that their building be painted. The painting will be paid for out of the existing Painting Funds associated with each of their units in their building. Painting will conform to standards established by the Board as regards paint quality, color and other technical matters. Before painting, the painter of each unit must first give the Board a written estimate for the cost of painting. The Board will be responsible for the selection of the paint and materials, which shall be paid on a pro-rata basis from each painting fund, in order to maintain quality and consistency of color.

In the event the Painting Fund balance for a unit exceeds the amount required after the unit has just been painted and final costs related to the painting have been determined, the Homeowner may request the balance be refunded. In such cases, the Board will establish a new monthly amount for that unit's Painting Fund. However, the Homeowner may desire to have the excess amount in the fund brought forward for the next painting cycle, in which case the Board may reduce the ongoing monthly assessment for the Painting Fund associated with that unit.

If at the time of painting, there are insufficient funds available in a particular unit's Painting Fund, an automatic additional assessment will be levied by the Board against that particular unit, which shall be charged to the Lot Owner and treated as a separate assessment. Any such assessment shall be paid in thirty (30) days after the due date as determined by the Association. Each such assessment, together with interest, cost and reasonable attorney's fees shall be the personal obligation of the person who was the Owner of the Lot at the time when the assessment was levied. The personal obligation for delinquent painting assessments shall pass to the successors in title of the purchasers of the Lot and shall be a lien thereon. The Association may bring any action at law against the Owner personally obligated to pay same, or include the bringing of an action to enforce the lien on the property.

Section 4. Roofing. For purposes of maintenance, repair and replacement of roofs, two classes of Units are defined in Attachment 1. Type A Units are those that are so constructed that the roof of the unit is not continuous with the adjacent roof. Type B Units are those that are constructed such that the unit and one or more adjacent units share a continuous roof segment. The Type B continuous roofs in a building must all be replaced at the same time.

Owners of Type A Units shall be responsible for the maintenance, repair and replacement, and costs of roofing. Owners of Type B Units shall contribute to a Roofing Fund, with a separate Roofing Fund established for each unit in a building that contains one or more Type B Units. The owners of Type B Units will pay in addition to their monthly assessment for Common Expenses, and in addition to any Painting Fund assessment, an assessment for roof repair and replacement which shall be based on the estimate of the recurring cost of maintaining and replacing the roof as determined by the Board. The amount which each owner shall be required to pay shall be based on each Type B roof's square footage. The Board may revise the

amount of said assessment from time to time, based on its determination of the reasonable and expected costs of such work. In the event a Type B Unit's Roofing Fund balance exceeds the amount required just after the Unit's roof has been replaced, the Homeowner may request that the excess balance be refunded. The monthly roofing assessment shall continue, however, for the next roofing cycle.

Roofing Funds shall be used only for the purpose of maintenance, repair and replacement of the roofs of those Type B dwelling units located in the building with which those funds are associated. Similarly, no other Association funds or assessments may be used for this purpose. In the event a Type B fund proves to be inadequate at the time of roof repair, maintenance or replacement, the owner of such a unit will be assessed an amount based on the roof's square footage in order to cover any such deficit. The necessity of replacing the roof of any unit shall be determined by the Property Advisory Committee. The Board of Directors shall be responsible for the color and type of roofs selected. All units are specifically identified as either Type A or Type B Units in Attachment 1.

#### Section 5. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence which is built as part of the original construction on the Lots, and which is placed on the dividing line between Dwelling Units or Lots and used in common with an adjoining Dwelling Unit or Lot, shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty then, to the extent that such damage is not covered by Insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it. If the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) Right to Contribution Runs with Land. The right of any Owner to contribution from any other owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

#### **ARTICLE VI: INSURANCE, REPAIR AND RECONSTRUCTION**

(a) Common Insurance. The Association shall affect and maintain replacement cost/agreed amount physical damage insurance to the Common Area Property including appurtenant structures under an “all risk” contract (subject to customary exclusions) in an amount of the improvements’ maximum highest insurable value (i.e., 100% replacement cost exclusive of excavating) with a loss clause made payable to the Association.

In addition to the Common Area Property the Association shall affect and maintain replacement cost/agreed physical damage insurance (subject to customary exclusions) to Homeowner Units covering patio fencing, the units’ roofs, rafters or roof supports, sub-flooring, common-wall studs and insulation plus drywall up to interior paint or paper and exterior of each unit up to the interior paint or paper on the drywall or paneling including the improvements on each respective Lot and Unit with a loss clause made payable to the Owners, the Association and any bona fide Mortgagee, as their interests may appear. Such insurance coverage shall provide for the issuance of certificates of insurance and mortgage endorsements to all Mortgagees of the improvements on each respective Lot and to all Owners of each Lot. Liability, Directors and Officers Liability, Employee Dishonesty, and Umbrella coverage shall be included in the Common Insurance.

The premiums charged for the insurance purchased by the Association shall be charged to each Lot Owner on a square footage basis to be included in and added to the Owner’s periodic maintenance fee. Each Lot Owner’s share for insurance shall be treated as a separate assessment, which shall be paid within thirty (30) days after the due date as determined by the Association. Each such determined amount, together with interest, cost and reasonable attorneys’ fees shall be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent insurance assessments shall pass to the successors in title of the purchasers of that Lot and shall be a lien thereon. The Association may bring any action at law against the Owner personally obligated to pay same, or include the bringing of an action to enforce the lien on the property.

(b) Individual Policies. All Owners and Mortgagees must obtain additional insurance at their own expense. Said insurance will be required to cover the Unit beginning with the drywall, paint, or paper and inward of the Unit, and if desired, personal property and that used incidental to the occupancy of the Unit, additional living expenses, vandalism or malicious mischief, theft, and personal liability. When an Owner’s separate insurance coverage also covers that provided by the Association, then the Association’s insurance shall be considered primary. The Association shall require that each Owner or Mortgagee file with the Association a copy of proof of insurance within thirty (30) days after its purchase. In the event an Owner fails to comply with this provision, then the Association shall have the right, but not the obligation, to purchase such minimal insurance<sup>14</sup> as the Association, in its absolute and sole discretion, may deem necessary, to protect the interests of the Association and Owners. The premium for any such



insurance shall be charged to the Lot Owner and shall be treated as a separate assessment, which shall be paid within thirty (30) days after the due date as determined by the Association. Each such assessment, together with interest, cost and reasonable attorneys' fees shall be the personal obligation of the person who was the Owner of the Lot at the time when the assessment was levied. The personal obligation for delinquent insurance assessments shall pass to the successors in title of the purchasers of that Lot and shall be a lien thereon. The Association may bring any action at law against the Owner personally obligated to pay same, or include the bringing of an action to enforce the lien on the property.

## **ARTICLE VII: CONDEMNATION**

Whenever all or any part of the Common Property and Limited Common Property shall be taken by any authority having the power of condemnation or eminent domain, or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least ninety-three (93) or sixty-seven percent (67%) of Owners, the award for such taking shall be payable to the Association as trustee for all Owners, to be disbursed as follows:

If the taking involves any portion of the Common Property and Limited Common Property on which improvements have been constructed, then the proceeds of the condemnation or casualty insurance shall be used to restore the Common Property and Limited Common Property to as nearly as possible the condition which existed immediately prior to condemnation. To the extent such restoration cannot be accomplished and there remain proceeds of condemnation, said proceeds shall be distributed by the Association equally to all Owners, based upon their voting rights; provided that if the Dwelling Unit or Lot of an Owner is subject to a first mortgage, such proceeds shall first be paid to the Mortgagee in reduction of the outstanding balance due under the mortgage unless the Mortgagee waives in writing its right to receive such proceeds.

If the taking does not involve any improvements on the Common Property and Limited Common Property, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed and all Mortgagees have been satisfied, then such award or net funds shall be retained by and for the benefit of the Association, placed in a capital improvements account and thereafter disbursed only for capital improvements.

## **ARTICLE VIII: ASSESSMENTS AND MAINTENANCE FUND**

Section 1. Creation of Lien and Personal Obligation of Assessments. The Association has created assessments for Association expenses, which shall be used to promote the recreation, health, safety and welfare of the Owners, Occupants and Tenants in the Development and for the improvement, operation, repair, replacement and maintenance of the Common Property and Limited Common Property, and for such other purposes as may be provided in this Declaration. The term "general monthly assessment" refers to the amount of monthly dues deemed necessary by the Board to meet the obligations of the Association (i.e., operating expenses and the maintenance of a specified Reserve Account) and/or the amount of money levied to be paid for



any unexpected disasters or emergency conditions that would seriously hamper the functioning of Association and enjoyment of the property by its Owners, but with the following provisions:

a. Monthly Dues. The Board will set the rate of general monthly assessments for Members, which are necessary to meet ongoing operating expenses and upkeep/renovation of common areas plus a minimum Reserve Account. All homeowners will pay the same general monthly assessment (e.g., for management, grounds, landscaping, snow removal, driveways, railroad ties and retaining walls, sidewalks, swimming pool, clubhouse, tennis court, and dumpsters). In addition to the general monthly assessment, all homeowners will be required to pay an additional assessment for the painting fund, and if applicable, the roofing fund, as set forth in Article V, Sections 3 and 4. The Board will determine the formula for the allocation of painting and roofing costs to the individual units and the frequency of repairs. All money derived from the general monthly assessments which may be in excess of the established Reserve Account will be used for needed repairs to communal areas, with the priorities established by the Board.

b. Additional Assessments: The Board will have the ability to levy assessments for the communal fund to cover unforeseen emergencies without a homeowner vote when the total amount does not exceed \$25,000. A simple majority of a Quorum of Members will be required to approve extraordinary expenditures greater than \$25,000.

Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Development, is deemed to covenant and agree to pay said assessments as noted above. All such assessments which are due and unpaid, together with late charges, costs and reasonable attorneys' fees actually incurred, shall be a charge on the property and shall be secured by a continuing lien upon the Dwelling Unit against which the assessment is made, which lien shall be subordinate to the lien of any first Mortgage upon any Dwelling Unit. The sale or transfer of any Dwelling Unit shall not affect the assessment lien. However, the sale or transfer of any Dwelling Unit pursuant to judicial or non-judicial foreclosure, or deed in lieu of foreclosure, of a first Mortgage shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. No such sale or transfer shall relieve such Dwelling Unit from lien rights for any assessments thereafter becoming due. The Association, upon written request, shall confirm the extinguishment of the lien referred to in this Section.

Except as otherwise provided in this Declaration with respect to holders of first mortgages and purchasers acquiring record title through a foreclosure or deed in lieu of foreclosure pursuant to such first Mortgage, each such assessment, together with costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who owned such Dwelling Unit or Dwelling Units at the time when the assessment was due, but shall not become the personal obligation of the successors in title of Owner unless such successor agrees to assume the obligation. In the event there is more than one Owner of any particular Dwelling Unit, all such Owners shall be jointly and severally liable for the entire amount.

Section 2. Association Procedures. In addition to and in keeping with the power and authority of the Board of Directors as set forth <sup>17</sup>in the By-Laws and elsewhere in this Declaration, the Board of Directors shall be authorized to adopt, and when necessary, to adapt specific

provisions and procedures, and rules and regulations with regard to preparation of budgets, allocation of payment of assessments, funds for assessments and reserves, accounting, reporting and record-keeping, and all other provisions regarding the collection and expenditures of assessments.

## **ARTICLE IX: USE RESTRICTIONS**

Section 1. Authority to Impose Restrictions. The Development is zoned as single family residential and each Dwelling Unit shall be used only for residential purposes as may be more particularly set forth in this Declaration and amendments hereto. The Association, acting through the Board, shall have the authority to impose and enforce reasonable standards and regulations governing the use of the Development, in addition to or in substitution of those contained herein, and to impose reasonable user fees for use of Common Property and Limited Common Property facilities. Such regulations and use restrictions shall be binding upon all Owners, Occupants, Tenants, invitees and licensees. The Dwelling Units may not be used for any commercial enterprises including but not limited to: Bed and Breakfasts, Rooming Houses, Pet Breeding, Day Care or Retail Businesses.

Section 2. Maintenance of Property. All Dwelling Units and improvements on each Lot shall be kept and maintained in a clean, safe, attractive and slightly condition and in good repair, and, unless maintenance is provided by the Association pursuant to the provisions of this Declaration, all maintenance shall be furnished at the sole cost and expense of the Owner.

Section 3. Parking. Parking of motor vehicles within the Common Property and Limited Common Property shall be only in areas designated by the Association, and shall be only for parking by Owners, Occupants and Tenants, and their families, guests and invitees. The Association may formulate additional rules pertaining to parking and may limit or prohibit the parking in Common Property and Limited Common Property of certain vehicles, including but not limited to tractors, trailers, boats and inoperable vehicles.

Section 4. Hazardous Activities. No activities shall be conducted on any part of the Development that might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any part of the Development, no hazardous chemicals may be stored in a Dwelling Unit and no open fires shall be permitted on any part of the Development except in barbecue grills or other approved exterior devices or within interior fireplaces.

Section 5. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any portion of the Development; except that dogs, cats and other common household pets may be permitted within the Dwelling Units. Pets which are permitted to roam free or, in the sole discretion of the Board, endanger the health, make objectionable noises or constitute a nuisance or inconvenience to the Owners of other Dwelling Units, shall be removed upon request of the Board. If an Owner does not remove the pet, the Board may take such legal or other action as may be necessary to have the pet removed. The Board may from time to time impose reasonable rules and regulations concerning the size, breed and number of pets allowed per Dwelling Unit.

Section 6. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 7. Alterations, Additions and Subdivision. No building, fence, wall or other structure shall, without the prior written approval of the Board, be constructed on a Dwelling Unit, other than to rebuild in a substantially similar manner a structure originally built on a Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board, and any such division, boundary line change or re-platting shall conform to applicable subdivision and zoning regulations. No excavation, cleaning, grading or other site work shall take place on a Lot without Board approval.

Section 8. Quiet Enjoyment. No noxious, illegal or offensive activity shall be carried out upon any portion of the Development, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any portion of the Development. There shall not be maintained any plants, animals or devices of any sort whose activities or existence is in any way noxious, dangerous, unsightly, and unpleasant or of a nature as may diminish or destroy the peace, quiet, safety, comfort or enjoyment of the Development. Notwithstanding the foregoing, however, reasonable alarm or security systems shall be permitted.

Section 9. Leasing/Renting of Dwelling Units. All leases and rental agreements, including Roommate Agreements, for Dwelling Units shall be in writing. A copy of the leasing agreement must be filed at the Lakeshore Village Office, 543 Laketower Drive, Lexington, KY 40502.

It shall be the responsibility of the Owner whose Dwelling Unit is in lawful possession by a Tenant or Occupant to make available to said Tenant or Occupant copies of the Declaration and current rules and regulations and to cause such Tenants and Occupants to comply with the same. Owners shall be responsible for all violations and losses to the Common Property and Limited Common Property caused by their Tenants and Occupants, notwithstanding the fact that such Tenants and Occupants are also fully liable and may be sanctioned for any such violations.

Any person acquiring title to a Dwelling Unit after January 1, 2001, shall use such unit primarily as owner occupied personal residence and shall be prohibited from leasing such unit, except for temporary leases such as during extended vacations or sabbaticals, at the conclusion of which, the Owner will reoccupy the Dwelling Unit.

## **ARTICLE X: MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders of first Mortgages on Dwelling Units in the Development. The provisions of this Article apply to this Declaration, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and address or number of the Dwelling Unit, therefore becoming an “eligible holder”), will be entitled to timely written notice of:

- a. any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Dwelling Unit on which there is a first Mortgage held, insured or guaranteed by such eligible holder;
- b. any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 2. Right to Make Payments. The holders of first Mortgages on Dwelling Units may (1) jointly or singly pay taxes or other charges that are in default because of non-payment by the Association and that may or have become charges against any portion of the Common Property and Limited Common Property, and (2) pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Property and Limited Common Property or any portion thereof in case of a policy lapse. Holders, which make the payments described in this Section, are due immediate reimbursement from the Association. Entitlement to such reimbursement shall be further reflected from time to time in an agreement or agreements duly executed and delivered by the Association in favor of the holders of all first Mortgages of Dwelling Units.

Section 3. Condemnation, Destruction and Liquidation. If all or any portion of the Common Property and Limited Common Property is condemned or damaged by casualty, the proceeds of the condemnation or the casualty insurance shall be used to restore the Common Property and Limited Common Property to as nearly as possible the condition that existed immediately prior to such condemnation or casualty. To the extent such restoration cannot be accomplished and there exist proceeds of condemnation or of casualty insurance, the same shall be distributed by the Association equally to all Owners, provided that if the Dwelling Unit of an Owner is subject to a first Mortgage, the proceeds shall be first paid to such Mortgagee in reduction of the outstanding balance due under the mortgage unless the Mortgagee waives in writing its right to receive such proceeds.

If this Declaration is terminated, the Common Property and Limited Common Property shall be liquidated by the Association as trustee for all owners, and the proceeds of such liquidation shall be distributed by the Association equally to all Owners, provided that if the Dwelling Unit of an Owner is subject to a first Mortgage, the proceeds shall first be paid to such Mortgagee in reduction of the outstanding balance due under the mortgage unless the Mortgagee waives in writing its right to receive such proceeds.

All proceeds of condemnation, casualty insurance and liquidation shall be initially payable to the Association for the benefit of the Owners and the holders of first Mortgages on the Dwelling Units. Each Owner hereby irrevocably appoints the Association as attorney-in-fact to represent each Owner in any proceedings, negotiations, settlements or agreements related to condemnation, casualty or liquidation and the proceeds thereof.

## **ARTICLE XI: GENERAL PROVISIONS**

Section 1. Duration. This Declaration shall remain in effect for thirty (30) years from the date this Declaration is recorded, unless sooner terminated as hereinafter provided. At the expiration of such thirty-year (30) period this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing signed by a majority of the then Owners, agreeing to change said covenants and restrictions, in whole or part, or to terminate the same, has been recorded within the year preceding the beginning of each successive period of ten (10) years, in which case this Declaration shall be modified or terminated as specified therein.

The covenants and restrictions of this Declaration may be terminated by an instrument which is signed by the Owners of ninety percent (90%) of the aggregate Dwelling Units in the Development and which is approved by Mortgagees whose Mortgages cover, in the aggregate, ninety-three (93) or sixty-seven percent (67%) of the aggregate Lots containing Dwelling Units. Any such termination shall not become effective until recorded in the Office of the Fayette County Clerk, Lexington, Kentucky.

Section 2. Rules and Regulations. The Board may from time to time adopt reasonable rules and regulations to govern the use of the Development and to facilitate the Association's performance of its functions, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board shall give written notice of all such rules and regulations to all Owners. The Board shall have the right to enforce said rules and regulations in any reasonable and lawful manner, including but not limited to, the assessment of civil fines, suspension of the right to use common facilities, and all other remedies afforded by law, including the right to seek an injunction or to seek damages.

Section 3. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, and every other right or privilege reasonably to be implied from the existence of any right or privilege given herein or reasonably necessary to effectuate any such right or privilege.

Section 4. Severability. Invalidation of any one of the covenants or restrictions of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Dwelling Unit for emergency security and safety reasons and to perform its obligations under this Declaration of the Association. Such right shall be exercised only at reasonable times and upon prior notice to the Owner, except in the case of emergencies. The right of entry may be exercised by the Board and by the Association's other officers, agents, employees and managers, and also by policemen, firemen, emergency medical technicians and similar emergency personnel in the performance of their duties.

Section 6. Notices and Writings. All notices, demands, statements or other communications under this Declaration to an Owner shall be in writing and shall be deemed to

have been duly given if (a) delivered personally; (b) deposited in the United States mail with first class postage, or certified mail, return receipt requested, postage prepaid, to the address which the Owner has designated in writing and filed with the Association or, if no such address has been designated, to the address of the Dwelling Unit owned by such Owner; or (c) sent via electronic mail to the address designated by the Owner.

Unless otherwise explicitly set forth herein, each provision of this Declaration requiring written communication, notice, or approval shall be satisfied when the communication, notice, or approval is given via electronic mail.

Section 7. Professional Management. The Association shall have the specific right, but not the obligation, to enter into professional management contracts related to the performance of the functions under the Declaration of Covenants, Conditions and Restrictions of the Association. No professional management contract shall exceed two (2) years in term and shall contain a provision permitting termination by the Association during the term without cause and without penalty, upon sixty (60) days' written notice.

Section 8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to make the Development safer than it otherwise might be. However, neither the Association nor any successor shall in any way be considered insurers or guarantors of security within the development, and neither the Association nor its Board, committees, agents, successors and assigns, shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All owners, occupants, tenants, guests and invitees acknowledge that the association, its board committees, agents, successors and assigns, do not represent or warrant that any fire protection burglar alarm or other security or protection system recommended or installed in the development is immune from compromise or circumvention, or that any such security system will prevent any anticipated or unanticipated losses, or that any such system will in all cases provide the detection or protection for which the system is designed or intended. Each owner, occupant, tenant, guest and invitee acknowledges and understands that the Association, its Board, committees, agents, successors and assigns, are not insurers and that each owner, occupant, tenant, guest and invitee assumes all risks for loss or damage to persons and property and further acknowledges that the Association, its Board, committees, agents, successors and assigns, have made no representations or warranties, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security systems recommended or installed or any security measures undertaken within the development.

Section 9. Material Amendment of Declaration. Except as otherwise specifically provided herein, any material amendment of the provisions of this Declaration shall require the affirmative vote or written consent, or any combination thereof, of at least ninety-three (93) or sixty-seven percent (67%) of Owners having the total outstanding voting rights.

Section 10. Amendment of Declaration by Board. The Board may unilaterally amend this Declaration at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rules, regulations or judicial determination; (b) necessary to enable any reputable title insurance

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company to issue title insurance coverage on the Dwelling Units; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Dwelling Units; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Dwelling Units; provided, however, any such amendment shall not adversely affect the title to any Dwelling Unit unless the Owner and Mortgagee, if any, shall consent thereto in writing.

Section 11. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Dwelling Unit, such Owner shall give the Board at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Until the Board receives such written notice, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Dwelling Unit, including payment of assessments, notwithstanding the transfer of title to the Lot.