

# NOT AN OFFICIAL DOCUMENT

2024-525682  
 07/26/2024 10:38 AM  
 TOTAL FEES: 25.00  
 BY: MA  
 PG #: 44  
 RECORDED AS PRESENTED

STATE OF INDIANA  
 LAKE COUNTY  
 FILED FOR RECORD  
 GINA PIMENTEL  
 RECORDER

**FILED**  
 Jul 26 2024 BDD  
 PEGGY HOLINGA-KATONA  
 LAKE COUNTY AUDITOR

2024-525682  
 08/02/2024 02:31 PM  
 TOTAL FEES: 25.00  
 BY: JAS  
 PG #: 44  
 RECORDED AS PRESENTED

STATE OF INDIANA  
 LAKE COUNTY  
 FILED FOR RECORD  
 GINA PIMENTEL  
 RECORDER

**DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS  
 FOR SAVANNAH COVE SUBDIVISION**

**THIS DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS** ("Declaration") for the Savannah Cove Subdivision ("Subdivision"), is made this 26<sup>th</sup> day of July, 2024 by Savannah Cove, LLC, an Indiana limited liability company ("Declarant").

**WITNESSETH:**

**WHEREAS**, the Declarant is the owner of and holds legal title to the parcel of real estate situated in the Town of Merrillville, Lake County, Indiana ("Parcel") and legally described in Exhibit A, Legal Description, and shown in Plat of Subdivision, a copy of which is attached hereto as Exhibit B and is incorporated by reference and made a part of this Declaration. Exhibit A is attached hereto and is incorporated by reference and made a part of this Declaration.

**WHEREAS**, the Declarant desires to subdivide the Parcel ("Subdivision") with common areas, as shown in Exhibit B, for the benefit of said subdivision; and,

**WHEREAS**, Declarant desires to provide for the preservation of the attractiveness and desirability of the lots or tracts constituting the Subdivision, Declarant states that all of the Parcel and each part of it will be held, sold, and conveyed only subject to the following easements, covenants, and restrictions, which will constitute covenants running with the land and will be binding on all parties having any right, title, or interest in the Parcel or any part of it, their heirs, successors, and assigns, and will inure to the benefit of each owner; and,

**WHEREAS**, Declarant has deemed it desirable for this efficient preservation of the common areas and maintenance and operation of the Subdivision, to create a Homeowners Association to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, Declarant has incorporated, or will incorporate, under the laws of the State of Indiana, as a nonprofit corporation, Savannah Cove Homeowners Association Inc., for the purpose of exercising the function aforesaid:

**WHEREAS**, the legal description of the real property are as follows:

Legal Description: See Exhibit A  
 Location: Town of Winfield, County of Lake, State of Indiana  
 Merrillville, IN

**NOW, THEREFORE**, Declarant hereby declares that the real property described in Exhibit A of this Declaration is and shall be held, sold, conveyed, hypothecated, encumbered, used, occupied and improved subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as covenants and restrictions) hereinafter set forth.

This document is being re-recorded to correct the location referenced on page 1 and 2

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## ARTICLE I

### **Definitions**

1.1 **Association:** Savannah Cove Homeowners Association Inc., an Indiana nonprofit corporation, its successors and assigns.

1.2 **Architectural Control Committee:** Those individuals who may, from time to time, be serving in such capacity as provided for in Section 6.1 hereof.

1.3 **Board:** The Board of Directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Article III.

1.4 **By-Laws.** The provisions for the administration of the Association, including but not limited to assessment, maintenance, use, occupancy, sale, and alienation, all as hereinafter set forth, or as the same may be from time to time duly amended. See Exhibit C.

1.5 **Common Area:** Those portions of the Parcel and Lots, as denoted in Exhibit B, intended to be devoted to the common use and enjoyment of the Owners and other persons described herein which portions are either owned by the Association or to which easements are reserved for the use and benefit of the Owners.

1.6 **Common Expenses:** shall mean and include the actual and estimated expenses of operating the Association; the cost of owning, maintaining, repairing and replacing the Common Areas, landscaping, and exterior of the Units; and the cost of meeting the obligations of the Association under this Declaration, including any reasonable reserves for performing the obligations, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-laws and the Articles of Incorporation of the Association.

1.7 **Common Facilities:** All Common Area and all curbs and gutters, lawns, walkways, sewers, traps; catch basins, water lines, street lights, (except those facilities dedicated to the Town) signs, cable television systems (serving more than, one Unit); entry monuments; security systems (serving more than one Unit); privacy fences, roofs, mailboxes, exterior stairways, benches, monuments, and other improvements of all kinds intended to serve more than one Unit.

1.8 **Declarant:** Savannah Cove, LLC, an Indiana limited liability company

1.9 **Unit:** A residential housing unit including an attached garage located on a Lot and intended for use exclusively as residential living quarters.

1.10 **Lot:** Any individual parcel of real estate included within the Parcel upon which a Unit is situated or to be situated and which is or hereafter may be made subject to this Declaration.

1.11 **Member:** Each person who holds membership in the Association.

1.12 **Owner:** The person or persons whose estates or interest, individually or collectively, aggregate fee simple absolute ownership of a Lot. For the purposes hereof; unless otherwise specifically provided herein, the word "Owner" shall include any beneficiary of a trust, shareholders of a corporation or partner of a partnership holding title to a Lot or purchasing a Lot as aforesaid.

1.13 **Parcel:** The real estate legally described in Exhibit A.

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1.14 **Person:** A natural individual, corporation, partnership, trust or other legal entity capable of holding title to real property.

1.15 **Plat:** The recorded Plat of Subdivision, which subdivides the Parcel, a copy of which is attached hereto as Exhibit B, and any subsequently recorded plats of land that is added by subsequent Amendment.

1.16 **Town:** The Town of Merrillville, Indiana, a political subdivision of the state of Indiana located in Lake County.

## ARTICLE II Easements

2.1 **Easement for Encroachments:** In the event that, by reason of construction, design, settlement or shifting any Unit or portion thereof encroaches upon any other Unit, Lot, portion thereof or upon any portion of the Common Area, or if by reason of the design or construction thereof, any pipes, conduits, ducts or other utility facilities serving more than one Unit encroach or shall hereinafter encroach upon any of the Lot or, if by reason of the design or the construction of any Unit it shall be necessary or advantageous for any Owner to occupy or use any portion of the Common Area for any reasonable use appurtenant to said Unit, including but not limited to use for any balcony serving a Unit, valid easements for the maintenance of such encroachment and for such use of the Common Area are hereby established and shall exist for the benefit of the Owner of the Unit so encroaching and the Association, provided, however, that in no event shall a valid easement of any encroachment or use of the Common Area be created in favor of any Owner and/or the Association if such encroachment or use is detrimental to or materially interferes with the reasonable use and enjoyment of the Unit or Common Area burdened thereby and such encroachment results from the willful conduct of the Owner of the Unit so encroaching.

2.2 **Utility Easements:** The Declarant, Association, Town of <sup>Merrillville KH</sup> Winfield, AT&T, Northern Indiana Public Service Company and all other public utilities serving the Parcel (including any utility company providing cable, microwave or other communications service) are hereby granted the right to lay, construct, renew, operate and maintain conduits, cable, pipes, mains, sanitary and storm sewers and services, drainage ways and swales, ducts, wires, street lights and other equipment into and through the areas denoted in Exhibit B as "Public Utility and Drainage Easement" for the purpose of providing the Parcel and Lots with such utilities. In addition, the Association is hereby granted the right to maintain and repair sanitary sewers and/or sanitary service lines outside the areas denoted in Exhibit B as "Public Utility and Drainage Easement", and any Owner whose Unit is serviced by a sanitary sewer and/or sanitary service line outside the areas denoted in Exhibit B as "Public Utility and Drainage Easement" is hereby granted the right to maintain and repair said sanitary sewers and service line.

2.3 **Access Easement over Common Area:** Each Owner of a Lot is hereby granted a perpetual, non-exclusive easement for pedestrian and vehicular ingress and egress over those portions of the Common Area designated for pedestrian or vehicular use provided that no portion of the Common Area shall be used for the parking of motor vehicles. The easements hereinabove granted in this Section 2.3 shall benefit the Owners and other occupants, from time to time, of the Lots and their respective guests and invitees. The Association, through its Board of Directors, shall have the right to establish, and thereafter amend and modify, rules and regulations in respect to the exercise of the easement rights granted in this Section 2.3 by the persons benefited thereby, including, by way of example and not limitation, rules and regulations pertaining to the use of security equipment, towing of illegally parked vehicles and uses other than for pedestrian and vehicular ingress and egress.

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2.4 **Easement on Common Areas.** Owners shall have an easement for use and enjoyment on the Common Areas, and Developer, Declarant and the Association grant each Owner an easement for full use and enjoyment, subject to the Association's right to suspend such easement while an Owner is in violation of this Declaration.

2.5 **Right of Entry.** The Association shall have the right and license, but shall not be obligated, to enter into any Unit for emergency, security and safety, which right may be exercised by the Association's Board of Directors, officers, safety, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board. There is hereby granted to the Association, and its agents, employees, managers and independent contractors, a license to enter upon all Units to the extent necessary or appropriate for the conduct of the Association's responsibility under Article VIII.

2.6 **General Provisions:** All easements described in this Declaration are perpetual, non-exclusive easements appurtenant, running with the land. They shall at all times inure to the benefit of and be binding on the undersigned, the Owners and the mortgagees from time to time of any Lot and their respective heirs, administrators, executors, personal representatives, successors and assigns.

2.7 **Obligation to Maintain Easements Reserved to the Association:** Whenever any deed to a Lot reserves or grants an easement over a portion of such Lot to the Association, the Association shall have the sole obligation to maintain and repair such portion and to regulate the use thereof.

## **ARTICLE III** **Administration**

3.1 **Association:** The Association has been, or will be, formed as an Indiana nonprofit corporation under the Indiana Nonprofit Corporation Act of 1991 having the name "Savannah Cove Homeowners Association Inc." (or one similar thereto) and shall, to the extent hereafter provided and subject to the limitations hereafter contained, be the governing body for the use, exterior maintenance and repair of the Units and Lots and the use, maintenance and repair of the Common Facilities and other responsibilities specified under this Declaration.

3.2 **Members:** Every Owner of a Lot shall be a Member of the Association and such membership shall automatically terminate when such owner ceases to be an Owner. Membership is appurtenant to and shall not be separated from ownership of a Lot. Each Owner by acceptance of a deed or other conveyance of a Lot thereby becomes a member, whether or not this Declaration is made a part of, incorporated by reference or expressed in said deed or conveyance. There shall be one person with respect to every Lot who shall be entitled to vote at any meeting of the Members. Such person shall be known as a "voting member." Such voting member may be the Owner or one of the group composed of all the Owners of a Lot or may be some person designated by such Owner or Owners to act as proxy on behalf of such Owner or Owners and who need not be an Owner. Such designation shall be made in writing and shall be revocable at any time by actual notice to the Board by the Owner or Owners.

3.3 **Voting Rights:** The Association shall have two classes of voting members.

Class A: Class A Members shall be all Owners with the exception of the Declarant and each Class A Member shall be entitled to one vote for each Lot owned.

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Class B: The Class B Member shall be the Declarant who shall at any given time be entitled to five (5) times the number of votes to which the Class A Members shall be entitled at any time. The Declarant shall cease to be Class B Member upon the first to occur of any of the following dates:

- (a) The date upon which the Declarant shall no longer own title to any Lot, or
- (b) The date upon which the Declarant voluntarily relinquishes its Class B Membership.

**3.4 Election of Board:** For a period commencing on the date this Declaration is executed and ending upon the election of the directors at the initial meeting of voting members, the Declarant shall have the right to exercise the powers of the Board as provided herein. Except for directors so designated by Declarant, each member of the Board shall be one of the Owners and shall reside in a Unit; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any person designated by such corporation, partnership, trust, or other legal entity, shall be eligible to serve as a member of the Board, so long as any such designee (other than a person designated by Declarant) resides in a Unit.

### **3.5 Election of Directors:**

3.5.1 The initial Board of Directors designated by the Declarant shall consist of three (3) directors who shall serve without compensation. Such initial Board shall serve for a period commencing on a date the Association is formed by the filing of the Articles of Incorporation therefor in the office of the Secretary of State of Indiana and ending upon the qualification of the directors elected at the initial meeting of voting members held as provided in Section 3.6 hereof. At the initial meeting held as provided in Section 3.6 hereof, the voting members shall elect five (5) directors who shall serve until the first annual meeting. In all elections for members of the Board, each voting member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Each voting member shall be entitled to cast the number of votes specified in Section 3.3 hereof. At the first annual meeting five (5) Board members shall be elected. The three (3) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years, and the two (2) persons receiving the next highest number of votes, shall be elected to the Board for a term of one (1) year. The election and term of office as between candidates receiving the same number of votes shall be determined by lot. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the number of Board members at any annual or special meeting, provided that such number shall not be less than three (3). Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board shall be filled by the majority vote of all remaining Board members. The Board shall act by majority vote of those present at its meeting when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt. A majority of the total number of members on the Board shall constitute a quorum.

3.5.2 The Board shall elect from among its members a President who shall preside over both its meetings and those of the voting members and who shall be the chief executive officer of the Association, a Secretary who shall keep minutes of all meetings, a Treasurer and such other officers as the Board shall see fit. Except for Directors designated by the Declarant any Board member may be removed from office by the affirmative vote of voting members holding

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two-thirds (2/3) of the total votes.

### 3.6 Meetings of Voting Members:

3.6.1 Meetings of the voting members shall be held at such places and times as shall be designated in any notice of a meeting by the Board. The presence in person or by proxy at any meeting of the voting members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting. In the event that a quorum is not present at any meeting of the voting members, another meeting may be called by notice from the Board and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting; provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

3.6.2 The initial meeting of voting members shall be held upon not less than ten (10) days written notice from the Declarant. Such notice must be given no later than the earlier of (i) thirty (30) days after the sale and conveyance of title to all Lots owned by Declarant, or (ii) thirty (30) days after Declarant voluntarily relinquishes its Class B Membership, but such notice may, at the discretion of the Declarant, be given earlier. Thereafter, there shall be an annual meeting of the voting members on or about the second Tuesday of October following such initial meeting and on or about the second Tuesday of October of each succeeding year thereafter, or at such other reasonable date and at such time, and at such place, as may be designated by written notice from the Board, provided however that no meeting may be held outside the Lake County, Indiana.

3.6.3 Special meetings of the voting members may be called at any time for any reasonable purpose on not less than ten (10) days notice from a majority of the Board or the voting members holding at least one-third (1/3) of the total votes.

3.6.4 Notices of meetings may be delivered personally or by mail to the voting members, addressed to each such voting member at the address given by such voting member to the Board, or if no address shall be given, addressed to such voting member to the address of the Unit owned by such voting member.

### 3.7 General Powers of the Board: The Board shall have the following powers:

(a) To adopt rules and regulations governing the use, maintenance and administration of the Lots, Common Facilities and Units for the health, comfort, safety and general welfare of the Owners and occupants thereof.

(b) To provide for maintenance, repair and replacement with respect to the Lots, Units and Common Facilities as required by the provisions provided for in Article VIII hereof.

(c) To enter into contracts on behalf of, and to purchase or secure in the name of, the Association any materials, supplies, insurance (including directors and officers liability insurance), equipment, fixtures, labor, services (including the services of accountants and attorneys) required by the terms of this Declaration or the bylaws of the Association, or which in its reasonable opinion shall be necessary or proper for the operation or protection of the Association and its members and for the enforcement of the provisions of this Declaration.

(d) To enter upon, and to have its contractors, subcontractors and agents enter upon,

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any Lot and the exterior of any Unit as may be required to exercise any of the rights and obligations granted to or imposed upon it pursuant to this Declaration or to correct any condition that in the Board's judgment is a nuisance or is damaging to any Owner or occupant.

(e) To enter into contracts, maintain one or more bank accounts (granting authority as the Board shall desire to one or more persons to draw upon such accounts), and generally, to have all the powers necessary and incidental to the operation and management of the Association.

(f) To adjust the amount, collect and use any insurance proceeds to repair damaged or replace lost property, and if proceeds are insufficient to repair damaged or replace lost property, to assess the appropriate Members in proportionate amounts to cover the deficiency.

(g) To take such action as may be required to enforce the provisions of this Declaration and the rules and regulations made hereunder.

(h) To grant non-exclusive easements in respect to, and to dedicate to or as directed by governmental authorities, portions of the Common Facilities and to execute and cause to be recorded such instruments as may be required in respect thereto.

(i) To borrow money in the name of the Association to provide for the maintenance, repair or replacement of the Common Facilities; provided, however, that the Board shall not secure any such borrowings by encumbering the Common Facilities for a mortgage or trust deed. The Board shall, however, have the power to secure such borrowings by pledging and granting a security interest in the assessments due the Association hereunder.

(j) To enter into a contract for the management of the Parcel with a professional manager or management company on such reasonable terms as the Board shall determine; provided that, any such contract shall be cancelable by the Association at the end of three (3) years from the date of recording of this Declaration.

(k) To exercise any and all powers, rights and authorities provided in the Indiana Nonprofit Corporation Act, as amended from time to time.

(l) To enter into covenant agreements with third party landowners, whereby the covenants contained in said covenant agreements benefit both the Association and the third-party landowner. Said covenants contained in such agreements shall run with the land owned by the Association and the third-party landowner.

Notwithstanding anything aforesaid to the contrary subject to the initial meeting of Members, except for (i) litigation seeking to enforce any remedy available to the Association at law or in equity in the case of a violation of any provision of this Declaration or the rules and regulations of the Association, including by way of example and not limitation, failure by a Member to pay their assessments; (ii) litigation in connection with real estate tax assessments on the Lots; (iii) litigation against a contractor by reason of the claimed breach of a contract entered into by the Board, or (iv) litigation against an insurance carrier arising out of a claim of the Association under any policy of insurance wherein the Association is a named insured, the Board shall have no authority to commence any litigation without the prior consent of not less than three-fourths (3/4) of the voting members.

**3.8 Insurance on Common Facilities:** The Board shall have the authority to and shall obtain insurance for the Common Facilities as follows:

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(a) Comprehensive General Liability insurance covering bodily injury and property damage insuring against hazards of premises/operation, death, personal injury liability (with exclusions (a) and (c) deleted), independent contractors and other extensions as deemed necessary by the Board. Such insurance shall name the Association and managing agent as insured, provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000.00) with respect to each occurrence. Such policy shall be endorsed to cover cross-liability claims of one insured against the other;

(b) Worker's Compensation and Employer Liability (minimum amount \$100,000.00) as necessary to comply with applicable laws.

(c) Fidelity bond insurance covering any officer, director, managing agent or other person who handles or are responsible for funds of the Association, in an amount necessary to comply with the insurance requirements of the Federal National Mortgage Association; and

(d) Such other insurance, which may include, without limitation, any or all of the following, in such amount as the Board shall deem desirable: directors and officers liability insurance for the officers and members of the Board; and medical payments coverage for members of the public (not Owners) injured on the Common Facilities, without regard to liability of the Board or the Association.

The premium for the above-described insurance shall be paid from the assessments described in Article IV.

All insurance provided for in this Section 3.8 shall be affected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Indiana. If possible, all such policies shall provide a minimum of thirty (30) days advance notice of cancellation in writing to the insureds thereunder and the holder of each first mortgage on a Unit if requested in writing by such mortgagee unless such cancellation is for non-payment of premium in which case ten-day (10) advance written notice shall be sufficient.

**3.9 Liability of the Board:** Neither members of the Board nor the officers of the Association shall be liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Owners or arising out of their status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement), reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such member or officer, or (b) any matters settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for gross negligence or fraud in the performance of his duties as such member or officer.



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3.10 **Books and Records:** The books and records of the Association may be examined by any Owner and any holder of a first mortgage on a Lot at the office where such books and records are maintained, during normal business hours for any proper purpose upon prior, written notice to the Board.

## ARTICLE IV

### **Assessments**

4.1 **Personal Obligation:** Each Owner (except for the Declarant) by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed, or other conveyance for such Lot, does hereby covenant and agrees to pay to the Association such assessments and fees as are levied pursuant to the provisions of this Declaration and the bylaws of the Association. Such assessments and fees, whether special or otherwise, not paid when due, together with interest thereon at the rate of ten percent (10%) per annum, late fees of \$25.00 per month (or such other amount as the Board shall from time to time determine) and costs of collection, including attorneys fees incurred in respect thereto whether or not suit shall be instituted, shall be a charge and a continuing lien upon the Lot against which such assessment is made. Furthermore, each such assessment, together with such interest, costs, late fees and other fees, shall be the personal obligation of each person who was an Owner of such Lot on the date upon which such assessment became due. Except as provided in the preceding sentence, the Declarant shall not be liable for the payment of assessments hereunder and portions of the Parcel owned by the Declarant shall not be subject to liens hereunder; provided, however, that the Declarant shall pay the actual costs incurred by the Association attributable to the maintenance and repair of those portions of the Parcel owned by the Declarant.

4.2 **Purpose of Assessments:** The assessments and fees levied by the Association shall be used for the purpose of promoting the health, safety and welfare of the Members and, in particular, or (a) paying the cost of maintenance and repair of the Common Facilities, including the cost of labor, equipment, services (including utilities and security services, accountants', attorneys' and other professional fees, licenses and permits); and the materials in connection therewith; (b) the establishment of such reasonable reserves, if any, as the Board deems appropriate, (c) the performance of the duties of the Board as set forth in this Declaration and the bylaws of the Association, including the enforcement of the provisions thereof, (d) paying the cost of any maintenance and repair of the exterior of the Units and Lots to the extent that such costs are not assessed against the particular Owners benefited by such services pursuant to Section 8.3 and (e) in general, carrying out the purposes of the Association as stated herein and in the Articles of Incorporation of the Association.

4.3 **Annual Assessments:** Each year on or before December 1, the Board shall estimate the total amount (the "Aggregate Annual Assessment") necessary to provide the materials and services which will be required for the ensuing calendar year in the operation of the Association (which estimate shall include a reasonable amount considered by the Board to be desirable for contingencies and reserves and may also include any amounts to be received by third parties) and shall notify each Owner in writing as to the amount of the Aggregate Annual Assessment, with a reasonable itemization thereof and of the amount thereof allocable to such Owner. Each Owner (with the exception of the Declarant except as otherwise hereunder provided) shall be allocated that portion of the Aggregate Annual Assessment as shall be determined by dividing the Aggregate Annual Assessment by the total number of Units on Lots. On or before January 1 of the ensuing year, and on the first day of each and every month of said year, each Owner, jointly and severally, shall be personally liable for and obligated to pay one-twelfth (1/12) of the portion of the Aggregate Annual Assessment allocated to such Owner. On or before April of each calendar year following the initial meeting of voting members, the Board shall furnish each Owner with an itemized accounting of the expenses for the preceding calendar year and the amount collected from the Owners.

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4.4 **Special Assessments:** In addition to the annual assessments authorized pursuant to Section 4.3, the Board may at any time or from time-to-time levy special assessments. Special assessments shall be levied for the purpose of defraying, in whole or in part, the cost incurred by the Association for any repair, replacement, maintenance, service, labor or materials not provided for in the Aggregate Annual Assessment for the then current calendar year. Except for special assessments which shall not exceed in any one twelve-month period the sum \$500 per assessed Lot, any such special assessment shall first be approved by the affirmative votes of not less than one-half (1/2) of the votes cast at the annual or a special meeting of the Members called and held in accordance with the provisions of Section 4.5 hereof. Special assessments shall be allocated to each Owner in the same manner as such Owner's respective share of the Aggregate Annual Assessment. The Declarant shall be liable for the payment of special assessments on only those Lots for which the Declarant is obligated to pay a regular assessment.

4.5 **Notice and Quorum:** Written notice of any meeting called for the purpose of authorizing any special assessment requiring approval pursuant to Section 4.4 hereof shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At such meeting, the presence in person or by proxy of Members entitled to cast one-half (1/2) of all votes shall constitute a quorum.

4.6 **Proof of Payment:** Upon written demand of an Owners or mortgagee at any time, the Association shall furnish such Owner or mortgagee a written certificate signed by an officer of the Association setting forth whether there are any unpaid special assessments levied against such Owner's Lot. Such certificate shall be conclusive evidence of payment of any annual or special assessments not stated therein as unpaid.

4.7 **Nonpayment of Assessments:** Any assessment which is not paid when due shall be deemed delinquent. If an assessment is not paid within ten (10) days after the delinquency date, such assessment shall bear interest at the rate provided in Section 4.1 from the delinquency date and the Board may impose a late fee as provided in Section 4.1. In the event of the failure of any Owner to pay any assessment, maintenance charge, interest charge, late fee or other fees or costs of collection, when due, the amount thereof shall constitute a lien on the Lot of such Owner. In the event such Owner fails to pay such assessment within thirty (30) days after notice from the Board of such default, the Board may accelerate the maturity of the remainder of the installments of assessments due from such Owner for the balance of the calendar year and may enforce collection thereof. The Board shall, in the name of and on behalf of the Association, have all rights and remedies to enforce such collections as shall from time to time be permitted by law, including bringing an action at law or in equity against such Owner and foreclosing the aforesaid lien. All expenses of the Association in connection with such action or proceedings, whether or not suit shall be instituted, including attorneys' fees and court costs and other fees and expenses shall be charged to and assessed against such Owner (and shall constitute a personal liability of Such Officer) and shall be added to and deemed part of the assessment attributable to the Lot of such Owner and the Association shall have a lien for all of the same upon the Lot of such Owner.

4.8 **Subordination of Lien to Mortgage:** The lien of the assessments provided for herein shall be subordinate to the lien of any prior, recorded first mortgage or trust deed on a Lot made to any bank, savings and loan association or other institutional lender except for the amount of any assessment which becomes due and payable from and after the date such lender obtains title to such Lot pursuant to a judgment of foreclosure of any other proceeding in lieu of foreclosure. Such transfer of title shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

4.9 **Exemption from Assessment on Lots Owned by Declarant:** In order that those Lots

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which are improved with Units and conveyed by Declarant may, with reasonable promptness, receive the benefits of maintenance by the Association for the enjoyment of the residents of the Parcel, and also be subject to assessments therefor, and so as not to discourage the Declarant from voting for such assessments at such times as the Declarant may still own a substantially number of unoccupied Lots, and inasmuch as assessments levied against such Lots impose a burden on the Declarant without the Declarant desiring, or receiving the benefits of maintenance upon such Lots as may from time to time be provided by the Association, it is therefore expressly provided that no Lot owned by the Declarant shall be subject to the assessments, charges and liens provided for herein until the date upon which such Lot shall be conveyed to a bona fide purchaser or sold pursuant to installment contract or articles of agreement for deed; provided, however, that each year, until the initial meeting of the Board of Directors pursuant to Section 3.5, the Declarant shall contribute to the Association the amount, if any, by which the operating expenses of the Association incurred or paid during such year (exclusive of any amounts allocated to reserves) exceed the gross revenues of the Association during such year. Upon the conveyance by Declarant of a Lot which was theretofore entitled to the foregoing exemption from assessments, such Lot and the Owner thereof shall immediately become subject to the payment of all assessments and other charges and the liens provided for herein.

**4.10 Initial Assessments:** The Declarant shall, on behalf of the Association, collect from each purchaser of a Unit, at the time of closing of the purchase thereof, an amount equal to three times the monthly assessment initially allocable to such Unit by the Declarant. The amounts collected shall be utilized to fund an operating reserve for the Association and shall not be refundable or applied as a credit against the Owners monthly assessment. The initial monthly assessment of a Unit, from the time of conveyance from or leasing by the Declarant to an Owner and until said monthly assessment of a Unit is increased or decreased as provided for herein, shall be One Hundred Twenty Five and 00/100 Dollars (\$125.00). Owner shall pay said initial monthly assessment as provided for herein.

## ARTICLE V

### **Covenants and Restrictions as to Use and Occupancy**

**5.1 Residential Use:** Each Unit shall be used for private, residential purposes and no other purposes. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, conducted for profit, altruism or otherwise shall be conducted, maintained or permitted in a Unit or on a Lot provided, however, that nothing contained in this section shall be construed in such a manner as to prohibit an Owner from: (i) maintaining a personal professional library; (ii) keeping personal business or professional records or accounts; (iii) handling personal business or professional telephone calls and correspondence; (iv) maintaining a computer or other office equipment and working remote for an employer or principal; or (v) having occasional business visitors. Such uses are expressly declared customarily incident to the principal resident use and not in violation of this Section 5.1. Notwithstanding the foregoing, no Owner shall suffer or permit the regular or consistent entry of customers or clients.

**5.2 Leasing:** Notwithstanding anything to the contrary herein, at least sixty-seven (67%) of the Units shall be Owner occupied. Owner occupancy includes ownership by an immediate family member of at least one person residing in the Unit or a trust of which the occupant is settlor, grantor, trustee or beneficiary. As long as one Unit satisfies the definition of Owner occupancy, the adjacent Unit may be used to support independent living arrangements for the residents in the one Unit. The Association shall maintain a list of all leased Units, and in the event thirty three percent (33%) of Units are leased, the Association shall have a waiting list. When a lease is terminated, the next Owner on the waiting list may lease his or her Unit, and so forth.

Leases of Units not exceeding thirty three percent (33%) of the Units shall be permitted provided

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the Owner complies with the following: (i) the original lease governing possession of the Unit is for a period of no less than one (1) year; (ii) the lease is in written form and within the lease the parties acknowledge that the Owner and tenant are both responsible for compliance with the Declaration, jointly and severally; (iii) no more than ten percent (10%) are owned by any one person and (iv) the Owner provides to the Association a copy of the lease within seven (7) days of execution of same. If a tenant violates any of the provisions of this Declaration, the Owner and tenant agree that the Association is entitled to commence eviction proceedings to evict such tenant from the Unit, and the Owner shall be responsible for all of the costs and expenses incurred by the Association in commencing and completing such eviction proceedings. The Owners agree to indemnify and hold harmless the Association for all claims, losses, costs and expenses (including reasonable attorneys' fees) and damages in any form or nature that the Association incurs as a result of an Owner's lease of a Unit.

Further, renting or leasing of the Units to a third party for income shall be permitted in excess of the 33% limitation in the case of (i) hardship as defined in this paragraph and (ii) acquisition of a Unit by a lender through foreclosure, deed in lieu of foreclosure or similar proceedings, which in both cases the Owner shall be entitled to lease the Unit for residential purposes. Hardship is defined as a personal or financial situation that without allowing renting or leasing of a Unit significant financial harm shall occur to the Owner, to be decided in the sole discretion of the Association. The Owner must inform the Association of the specific circumstances of the hardship, and provide the Association with a copy of the lease and documentation to support the hardship.

The provisions with respect to leasing or renting may not be changed without one hundred percent (100%) of the approval of Owners of Units that are owned for leasing or renting purposes at the time of the proposed amendment.

### 5.3 **Restrictions:** Except for activities of the Declarant during original construction:

(a) No animals, reptiles, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Areas, except that dogs, cats or other usual household pets may be kept in units, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purpose; provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days written notice from the Board; after a majority vote for said action, provided further that the Board may restrict pets from access to any portion of the Common Areas, and may designate other portions of the Common Areas to accommodate the reasonable requirements of owners who keep pets.

(b) No noxious, offensive or illegal activity shall be carried on in or on any Unit or Lot, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants.

(c) No campers, trucks larger than Class 2, mobile homes, snowmobiles, buses, vehicles not bearing a current license, inoperable vehicles, boats, motorcycles, bicycles, sleds or other recreational vehicles shall be parked on any Lot except inside the garage of a Lot, provided recreational vehicles ( including boats ) and campers may be parked on the Lot no more than seven (7) consecutive days and no more than twenty (20) days in any year period. No repairs of any vehicle shall be performed on a Lot, except inside the garage of a Lot. No vehicle shall be parked on any portion of the Common Area. The foregoing restriction shall not apply to any trucks or other vehicles owned by the Declarant, its contractors, subcontractors, material suppliers, agents and employees which may be parked on any portion of the Lot or owned by the Declarant during the construction and marketing of Residences by the Declarant or necessary to

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make service calls.

(d) No clotheslines, clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of a Lot. All rubbish, trash and garbage shall be placed in closed, plastic bags, deposited in closed trash receptacles and regularly removed from each Lot. No trash receptacles shall be kept outside a Unit and no burning of trash shall be permitted.

(e) With the exception of machinery, equipment, building materials and supplies and similar items which the Declarant may store or permit to be stored upon any portion of the Property owned by the Declarant during construction and marketing of Residences, no machinery, equipment, building materials and supplies or similar items may be stored, kept or maintained on any part of a Lot. No garden, lawn furniture, swing sets or other recreational or playground equipment or barbecues may be placed or used on any part of the Common Area and shall only be allowed within a Lot in a permitted area, specifically in the rear yard of the Lot, designated by Declarant and after the Declarant, the Architectural Control Committee.

(f) All exterior lighting and seasonal lighting and decorating shall be subject to rules, regulations and limitations of the Board and all seasonal lighting and decorating shall be removed no later than thirty (30) days after the close of the holiday.

(g) No radio or television antennas shall be affixed to or placed in, through or upon the exterior walls, roof, or windows of a Unit or shall be installed on any part of a Lot. No short-wave radio or other type of radio transmitter shall be permitted in or about any Unit, which may interfere with the radio or television reception in any Unit. Satellite dishes may be installed provided such do not exceed twenty (20) inches in diameter and subject to such other rules and regulations as the Board may adopt.

(h) No window air conditioning units shall be installed in any Unit without the prior written approval of the Architectural Control Committee.

(i) No sheds, storage buildings, tent or other temporary structures of any kind shall be erected on any part of a Lot. Garages shall be used for storage of vehicles as permitted herein. Garage doors shall remain closed at all times except when vehicles are being moved.

(j) No pools or Jacuzzis shall be permitted on any Lot.

(k) No Owner shall be permitted to alter the grading of a Lot from the grading originally installed by the Declarant. No Owner shall alter the landscaping originally furnished to a Lot by the Declarant or remove or add any shrubbery, trees, gardens or other plants, rock gardens or other elements of landscaping without the prior approval of the Architectural Control Committee.

(l) No sign, billboard, or other advertising device of any character shall be erected or maintained upon any part of a Lot or Unit, except by the Declarant. One "For Sale" sign containing no more than six (6) square feet may be exhibited on a Lot in such locations as shall be approved by the Board.

(m) Other than fences originally installed by the Declarant and privacy fences installed on the lot line between Units and extending no more than six (6) feet in height and no more than ten (10) feet from the rear elevation, no fence shall be commenced, erected or maintained on a Lot. Privacy fences shall be solid white vinyl/PVC as specified by the

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Architectural Control Committee.

(n) No exterior addition to or exterior change or alteration in a Unit including storm doors and windows, railings, flower boxes, benches, shutters and seal coating of driveways shall be made without the approval of the Architectural Control Committee. Any such exterior addition to or exterior change or alteration to a Unit approved by the Architectural Control Committee shall be of color, design, material and construction equal to that of the Unit as originally constructed, shall comply with all applicable building, zoning and fire laws, statutes and ordinances and any other requirements of the Town, shall be performed in a good and workmanlike manner, and shall harmonize, to the satisfaction of the Architectural Control Committee as to design, color, location and size, with surrounding structures and topography.

(o) Garbage and receptacles therefore shall not be placed out-of-doors for pick up until after 6:00 p.m. the night before pickup of garbage is scheduled and garbage receptacles shall be placed indoors the same day after pickup is made.

**5.4 Remedies:** The violation of any covenant, condition, restriction, rule or regulation adopted by the Board, or the breach of any provision herein contained shall give the Board the following rights, upon not less than ten (10) days notice (or immediately in the event of any matter of an emergency nature which might result in damage to persons or property), in addition to the rights set forth in the next succeeding section:

(a) to enter (without breach of the peace) upon that part of any Lot where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant<sup>™</sup> or its beneficiaries, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

(c) to levy fines in such reasonable amounts and pursuant to such procedures for hearing and appeals, as the Board shall from time to time determine.

All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of ten percent (10%) per annum until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of the respective share of the expenses of the Association of such defaulting Owner, and the Association shall have a lien, for all of the same upon the Lot of such defaulting Owner and upon all additions and improvements thereto. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

**5.5 Fines for violations of Architectural Standards and Use Restrictions.** The Association's Board shall determine violations of Article V and VI and Rules and Regulations. The Owners and Members consent to the Board making such determination and the assessment of a \$50.00 per day fine for violations of Article V and VI and Rules and Regulations and consent to the Association recording a lien against the Owner's or Member's Unit to collect such fines. The following procedure shall govern the imposition of fines: (i) the Association shall give written Notice of Violation of Article VI and Rules and Regulations adopted by the Board of Directors; (ii) if the Owner or Member does not respond within ten (10) days of receipt of the Notice of Violation, the Owner or Member shall be deemed

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to have agreed with such determination; (iii) if the Owner or Member objects to such Notice of Violation, it shall provide all written evidence as to why such act or omission does not constitute a violation of Article VI and Regulations within ten (10) days of receipt of the Notice of Violation; (iv) the Board shall consider all written evidence submitted by the Owner or Member and shall make a final determination thereon within fifteen (15) days of receipt of the Owner's or Member's written material; (v) the Association, through the Board of Directors, shall respond to an Owner's or Member's objection in writing with a final determination on the issue; (vi) if the Owner or Member does not adhere to the Association's initial determination or final determination, if applicable, the Association shall be entitled to levy a fine against the Owner or Member, not exceeding \$50.00 per day for as long as the violation of Article VI or Rules and Regulations continue.

**5.6 Rules and Regulations.** Rules and Regulations concerning the use of the Units may be promulgated and amended by the Association acting by and made through its Board of Directors each of which shall be deemed to be incorporated herein by referenced and made a part hereof, as amended from time to time; provided, however, copies of all such Rules and Regulations shall be furnished to each Owner prior to the time that the same become effective. All rules and regulations promulgated from time to time shall be deemed to be reasonable and enforceable, so long as they bear any relationship to the safety, health, happiness and enjoyment of life of all the Owners, are in furtherance of a plan to provide for the congenial occupation of the Units, to promote and protect the cooperative aspects of ownership, the value of the Units, and/or facilitate the administration of the community as a first class, safe, healthy, happy, quiet and restful residential community, and are not arbitrary and capricious. The Board of Directors of the Association is hereby granted the specific power and authority to enforce said Rules and Regulations in accordance with the provisions of Article V, Section 5.5 and Article XI, Section 11.3.

## ARTICLE VI **Architectural Control Committee**

**6.1 Membership:** The Architectural Control Committee shall consist of three persons. Until the initial meeting of voting members, the Declarant shall designate the members of the Architectural Control Committee. Thereafter, upon the sale and conveyance by the Declarant of all of the Lots, all three members shall be appointed by the Board. Except for members designated by the Declarant, each member of the Architectural Control Committee shall be an Owner and shall reside within a Unit. In the absence of any appointment as provided for herein the Board shall serve as the Architectural Control Committee.

**6.2 Powers and Duties:** The Architectural Control Committee shall have the following powers and duties:

- (a) to review requests by Owners for approval of any exterior addition to or modification or alteration to a Unit or other matter described in this Declaration as requiring approval of the Architectural Control Committee and, subject to final approval by the Board, to render decisions thereon;
- (b) to propose to the Board rules, regulations and procedures concerning exterior maintenance, repair, landscaping, fences, trash removal and the enforcement of the provisions of the Declaration in relation thereto; and
- (c) such other power and duties as the Board shall from time-to-time delegate.

**6.3 Procedures:** Any matter requiring the approval of the Architectural Control Committee shall be submitted to the Architectural Control Committee in writing and, if approval of any alteration or addition to a Unit or Lot shall be requested, shall include preliminary design drawings, plans and

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specifications, elevations, landscaping schemes and descriptive materials showing the size, color, design, configuration, height, shape and materials of such alteration or addition. Within a reasonable time not exceeding thirty (30) days after receipt of all such items, the Architectural Control Committee shall advise such Owner and the Board in writing:

(a) whether such Owners request has been approved or denied and if denied, the specific reasons therefor; or

(b) whether the Architectural Control Committee requires additional information, plans or other materials to render a decision, in which case such additional items shall be furnished as expeditiously as possible.

If additional items shall be required pursuant to subsection (b) above, within a reasonable period of time not exceeding ten (10) days from the date of receipt of all such items, the Architectural Control Committee shall advise such Owner and the Board in writing whether such Owners request has been approved or denied and if denied, the specific reasons therefor. If such Owners request for approval shall have been denied, such Owner shall have the right to appeal the decision of the Architectural Control Committee to the Board pursuant to Section 6.4 hereof.

**6.4 Right of Appeal:** Any adverse decision of the Architectural Control Committee may be appealed to the Board, which shall render a final decision as to the matter in question. An Owner desiring to appeal shall so advise the Board in writing. The Board shall consult with the Architectural Control Committee and such Owner, shall review the plans and other materials submitted by such Owner and shall render a written decision as to the matter under consideration as expeditiously as practical. In rendering its decision, the Board shall take into consideration the criteria set forth in Section 6.5, the manner in which the Architectural Control Committee has applied such criteria to the matter under review and such other factors as the Board deems relevant in respect to the overall enhancement of the value and desirability of the Lots and Parcel.

**6.5 Review Criteria:** In evaluating requests by Owners for approvals required of the Architectural Control Committee hereunder, the factors to be considered by the Architectural Control Committee shall include those set forth in Section 5.3(a - n) and the following:

(a) the architectural integrity and compatibility of any proposed exterior modification to a Unit with a design, color scheme and materials of such Unit as originally constructed in regard to which the Architectural Control Committee shall not have the authority to approve an exterior alteration or addition that:

(i) changes color schemes or architectural styles from those originally constructed by the Declarant;

(ii) substitutes materials of lesser quality than those originally furnished by the Declarant; or

(iii) results in a change in the grade of a Lot or the elevation, size or basic exterior design as to door and window placement from that originally provided by the Declarant.

(b) the aesthetic effect of any proposed modification of landscaping, exterior fences or exterior lighting; and



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(c) such other factors as the Architectural Control Committee deems relevant in assessing the overall effect of the Owner's request upon the maintenance and operation of the Parcel.

**6.6 Final Board Approval:** There is hereby reserved to the Board the power to reverse any decision of the Architectural Control Committee, whether approving or denying an Owner's request, if, in the Board's judgment, which shall not be subject to challenge or review, the Architectural Control Committee, in rendering such decision, has failed to correctly apply the criteria set forth in Sections 5.3(a-n) and 6.5.

## **ARTICLE VII** **Party Walls**

**7.1 Party Wall:** Each wall and fence which is built as part of the original construction of a Unit (or as reconstructed following fire or other casualty) which is located on the boundary line between separate Lots, shall constitute a party wall ("Party Wall"), and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**7.2 Exterior Rear Decks.** Owners are responsible for maintaining the exterior rear decks and patios and garden areas, including but not limited to cleaning as needed and sealing at least every three (3) years. Owners shall not paint or stain rear decks unless the Association approves of such action in writing.

**7.3 Sharing of Repair and Maintenance:** In the event it shall become necessary to repair or rebuild any portion of any Party Wall the expense of such repairing or rebuilding shall be borne equally by the Owners of the Units adjacent to such Party Wall, unless the damage to said Party Wall was caused by an act, intentional or otherwise, by one of the adjacent Owners, in which case the cost shall be borne solely by the Owner at fault; also, if damage to said Party Wall shall affect only one side, then the cost of repair shall be borne by the Owner on whose side the damage has occurred.

**7.4 Destruction by Fire or Other Casualty:** The easements or cross-easements hereby created shall not terminate in the event any Party Wall has been destroyed by fire or other cause and either Owner shall have the right to rebuild if the other will not cooperate in such rebuilding, in which event the Owner(s) of the Unit(s) adjacent to such Party Wall who shall have rebuilt the same shall be entitled to receive from the Owner(s) of the other Unit(s), and said last-mentioned Owner shall be liable to pay upon demand to the Owner who shall have rebuilt said Party Wall, an amount equal to the fraction the other Owners' Units benefit from the Party Wall multiplied by the cost of such rebuilding, including the costs of foundations and supports necessarily installed except as provided in Section 7.2 hereof. Whenever any Party Wall or portion thereof, shall be repaired or rebuilt, it shall be constructed on the same line and be of the same size and the same or similar materials and of like quality as the Party Wall being repaired or rebuilt, and it shall in all respects conform to the laws and ordinances regulating the construction of buildings in force at the time.

**7.5 Weatherproofing:** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.

**7.6 Right to Contribution Runs with Land:** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

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## **ARTICLE VIII** **Insurance and Maintenance**

8.1 **Insurance:** Each Owner shall maintain in full force and effect, with a company licensed to conduct business in the State of Indiana, a policy of insurance covering the Unit and Lot owned against loss or damage by fire and against loss or damage by occurrences now or hereafter embraced by standard extended coverage and vandalism and malicious mischief in one hundred percent (100%) of the full insurable replacement cost of such Unit. Each Owner shall deliver to the Board a certificate of insurance confirming that such insurance is in effect and a certificate of all renewals thereof. In the event of the failure of an Owner to maintain the insurance required herein, the Association shall have the right, but not the obligation, to obtain such insurance in the name of such Owner and to add the cost thereof to the assessments due from such Owner.

8.2 **Maintenance by Association:** The Association shall be responsible for:

- (a) snow removal from the Common Facilities, sidewalks, front walks and driveways of Lots;
- (b) maintenance, repairs and replacement of lighting in the Common Facilities;
- (c) maintenance and landscaping of the Common Facilities and the lawn and landscaping of each Unit, excluding the maintenance of any landscaping installed by an Owner or someone other than the Declarant or Association; and
- (d) maintenance, repairs and replacement of the Common Facilities including, without limitation, detention ponds and the structures appurtenant to said detention ponds.

Nothing herein contained shall impose upon the Association any greater duty with respect to snow removal than is otherwise imposed by law.

8.3 **Exterior Maintenance and Repair of Units:** Except as may be the obligation of the Association under Section 8.2 above, each Owner shall maintain in first-class condition and repair all exterior portions of Units, including by way of example and not limitation, doors, walks, patios and privacy fences and watering of all shrubbery, trees, grass and plantings on areas of Lots. In the event any Owner fails to maintain or repair the Unit or Lot owned by such Owner as aforesaid, the Association shall have the right, but not the obligation, to enter upon such Owner's Lot and Unit to perform such maintenance or repair and such Owner shall pay all costs and expenses of the Association incurred thereby upon demand. The cost of any maintenance and repairs by the Association under this Section shall be charged to the Owners benefited thereby and shall be added to the assessment payments due from such Owner and shall bear interest and constitute the personal liability of such Owner and shall be a continuing lien on such Owner's Lot and Unit enforceable as provided in Article IV hereof. Notwithstanding anything aforesaid to the contrary, in the event it shall become necessary to replace or rebuild any portion of a roof, the expense of such replacement or rebuilding shall be borne by the Association.

8.4 **Damage or Destruction:** In the event of any damage to a Unit by fire or other casualty, the Owner of such Unit shall repair, restore and rebuild the portion of such Unit so damaged or destroyed to its original condition as near as possible, immediately preceding such fire or other casualty as rapidly as possible but in all instances within 120 days after the occurrence of such damages, unless prevented by inclement weather or other causes beyond such Owner's reasonable control in which event reconstruction shall be completed within 180 days after the occurrence of such damage. Should such Owner fail to

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reconstruct such Unit as aforesaid, the Association may undertake to do such construction as it deems necessary, and to charge such Owner the costs thereof. Any amounts so charged to an Owner shall bear interest and constitute a lien in the same manner as provided in Section 8.3 hereof.

**8.5 Repair and Reconstruction:** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against the Owner or Owners of Units affected by such damage or destruction. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

## **ARTICLE IX** **Rights Reserved to Declarant**

**9.1 Declarant's Promotional Rights:** The right is reserved to the Declarant to place and maintain on any area of the Parcel with the exception of a Lot which has been sold and conveyed or sold on contract, or sold pursuant to an installment contract or articles of agreement for deed, to an Owner, model Units, construction trailers, sales offices, fencing, flag poles, advertising signs, banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by Declarant for construction, sales and leasing purposes.

There is also reserved to the Declarant, its agents, employees and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Parcel for such sales and leasing purposes. The Declarant also reserves the right to maintain on the Parcel without charge (a) a general office for the purpose of exercising the rights reserved in Sections 9.1 and 9.2 hereof, (b) a general construction office for Declarant's contractors and subcontractors and (c) appropriate parking facilities for the employees of Declarant's agents and contractors. Declarant's aforesaid reserved rights shall continue for so long as Declarant is engaged in the construction, sale or leasing of Units on any portion of the Parcel.

**9.2 Declarant's Easements:** The Declarant reserves unto itself a non-exclusive easement through, over, under and across the Parcel and all portions thereof for the purpose of exercising the rights reserved to the Declarant pursuant to this Declaration, and for the purpose of implementing the overall development of the Parcel including, without limitation, the planning, construction, marketing, leasing, management and maintenance of improvements in any portion of the Parcel for so long as Declarant is engaged in the construction, sale or leasing of Units on any portion of the Parcel. All rights and easements in favor of the Owners created by this Declaration shall be subject and subordinate to the aforescribed development rights and easements of Declarant, whether or not inconvenience to any Owner shall result therefrom. The rights and easements reserved pursuant to Section 9.2 and Section 9.3 shall inure to the benefit of the Declarant, its respective successors and assigns including any successor to or assignee of the Declarant's rights under this Declaration.

**9.3 Rights of Declarant to Make Dedications to Grant Utility Easements:** As used in this Section 9.3, the term "utilities" means all public and private utility conduits, wires, ducts, pipes, cables and other lines, and all associated equipment, which serve the Parcel, including without limitation, those for the transmission and/or distribution of water, electricity, gas, telephone, sewage, drainage and television and other electronic signals. Said term also includes all standpipes, hydrants, pumps, equipment vaults and other structures and facilities for the provision of fire protection services.

Declarant hereby reserves the following rights and easements:

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- (a) to add additional land, Lots or Units to this Declaration (Subsequent Amendment).
- (b) to dedicate streets and streetlights, walks, malls, parkways, parkland, drives, open space and water rights to any governmental authority and to make such other dedications as may be required to implement the ordinances of any governmental authority from time to time applicable to the Parcel and to the public improvements therein.
- (c) to dedicate space in the Parcel or any portion thereof to any public or quasi-public utility or to any governmental authority for the location of utilities serving any portion of the Parcel.
- (d) to reserve or grant easements in, over, under, to and across the Parcel or any portion thereof or ingress and egress to, and for installation, construction and maintenance of, any or all of the utilities.
- (e) to record plats of subdivision and resubdivision of portion of the Parcel.
- (f) to Amend this Declaration to the extent not inconsistent with the intent and purpose thereof.

Any rights hereby reserved to the Declarant, to the extent affecting the Common Facilities, may be assigned and transferred by the Declarant to any successor Declarant or to the Association by an instrument in writing, executed by the Declarant and recorded in the office of the Lake County Recorder of Deeds, following which the rights so assigned and transferred shall be exercised by such successor Declarant or the Association as the case may be. Until Declarant's rights under Section 9.2 hereof are terminated, Declarant shall have the right to tap into utilities for the purpose of exercising all such rights.

Notwithstanding anything aforesaid to the contrary none of the rights of the Declarant set forth in this Section 9.3 shall exist so as to alter or amend the legal description of any Lot previously conveyed by Declarant. All said rights shall terminate upon conveyance of all the real estate described in Exhibit A to Owners.

**9.4 Contracts:** The Declarant shall have the right to enter into contracts on behalf of the Association prior to the date of the initial meeting of Members; provided, however, that with the exception of contracts for cable television service and security system, any such contracts shall be terminable by the Association without penalty on not less than ninety (90) days prior notice.

**9.5 Amendments by Declarant:** Notwithstanding any other provision of the Declaration, and in addition to any other right to amend elsewhere set forth herein, the Declarant alone may amend this Declaration, or the Articles of Incorporation, By-laws, and Rules and Regulations, without the consent of the Owners, the Association, the Board of Directors or any Mortgagee, or any other person, (1) to correct scrivener's errors, minor defects or omissions, or (2) to comply with the requirements of Indiana law, or (3) to comply with the requirements of any governmental agency, public authority, or title insurance company, or (4) to comply with the requirements of the Federal Home Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by each such entity, (5) to add additional real estate by Subsequent Amendment or replat any real estate pursuant to Article XII, Section 12.3 hereof or (6) to make any other change which does not materially affect the

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right of the Owners to use and enjoy their Unit. This Section shall constitute an irrevocable special power of attorney to Declarant on behalf of all Owners, Mortgagees, and any and all other persons having an interest of any kind in the Property, for so long as Declarant owns any Unit or until the expiration of five (5) years from the date on which this Unit is recorded, whichever occurs first. The amendment shall be signed by the Declarant and it shall become effective upon the recording of a copy thereof in the Office of the Recorder of Lake County, Indiana. A copy of such amendment shall also be sent to all Owners and their Mortgagees in the manner provided in Section 9.4 hereof.

**9.6 Absence of Warranty:** The Declarant specifically disclaims any warranty or representation in connection with the Property or this Declaration except as specifically set forth herein; and no person shall rely upon any warranty or representation set forth herein. Any estimates of Assessments are believed to be accurate, but no warranty or guaranty is made or intended, nor may one be relied upon. Declarant and Developer hereby disclaim and exclude any and all warranties, expressed or implied (including, without limitation, any implied warranty of habitability, merchantability, quality or fitness for particular purpose), with respect to the Property, Common Areas and the Units. The Association and any Owner knowingly agree to waive any and all rights that they may have pursuant to the implied warranty of habitability. The Association and Owners acknowledge and agree that the sole warranties that apply to the Property, Common Areas and the Units are solely contained within the purchase agreement for the acquisition of the Unit.

**9.7 Litigation Against Declarant or Developer:** The Association shall not commence any litigation against the Declarant or Developer until at least seventy-five (75%) percent of the Members have approved of that action in a meeting of the Members or in a written consent of the Members. The only litigation authorized is arbitration pursuant to the next Section. No lawsuit against the Developer or Declarant is permitted in any circumstance.

## ARTICLE X

The following provisions are for the benefit of holders, insurers, or guarantors of first Mortgages on Units. To the extent applicable, necessary, or proper, the provisions of this Article XIV apply to both this Declaration and to the By-laws of Savannah Cove Homeowners Association Inc. Where indicated, these provisions apply to "Eligible Holders", as hereinafter defined; provided, however, voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

**10.1 Notices of Action:** An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request (such request to state the name and address of such holder, insurer or guarantor and the Unit address), to the Association (therefor becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (c) any delinquency in the payment of Assessments or charges owed by an Owner of a Unit subject to the Mortgage of such Eligible Holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days;

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- (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (e) any proposed action which would require the consent of Eligible Holders, as required in Section 10.2.

10.2 **Mortgagee's Rights Respecting Amendments to the Declaration:** To the extent possible under Indiana law, and notwithstanding the provisions of Article XI, any amendment of a material nature must be approved by Eligible Holders representing at least fifty-one (51) percent of the votes of Units that are subject to Mortgages held by Eligible Holders. An amendment to any of the following shall be considered material:

- (a) voting rights;
- (b) Assessments, Assessment liens, or subordination of Assessment liens;
- (c) reserves for maintenance and repairs;
- (d) boundaries of any Unit;
- (e) convertibility of Units into Common Areas or vice versa;
- (f) expansion of the Parcel (to include real estate not described in Exhibits "A" or not adjacent thereto), or the contraction of the Project or withdrawal of property to or from the Parcel:
- (g) insurance or fidelity bonds;
- (h) leasing of Units;
- (i) imposition or any restrictions on an Owner's right to sell or transfer his or her Unit;
- (j) a decision by the Association to establish self-management when professional management had not been required previously by an Eligible Holder;
- (k) restoration or repair of the Parcel (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration:
- (l) any action to terminate the legal status of the Parcel after substantial destruction or condemnation occurs, provided however, that any action to terminate the legal status of the Parcel for reasons other than substantial destruction or condemnation shall require the consent of Eligible Holder's representing sixty-seven (67) percent of the votes of Units; or
- (m) any provisions that expressly benefit mortgage holders, insurers or guarantors.

10.3 **Special FHLMC Provision:** So long as required by FHLMC, the following provisions apply in addition to and not in lieu of the foregoing three Sections of this Article. Unless two-thirds (2/3) of the first Mortgagees or Owners give their consent, the Association shall not:

- (a) change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner;

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(b) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of any Common Area;

(c) fail to maintain fire and extended coverage insurance, as required by this; or

(d) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such.

The provisions of this Section 10.3 shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Owners where a large percentage vote is otherwise required for any of the actions contained in this Section.

10.4 **Mortgagee's Right to Cure:** First Mortgagees may, jointly or singly pay taxes or other charges which are in default and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of the policy and first Mortgagees making such payment shall be entitled to immediate reimbursement from the Association.

## ARTICLE XI General

11.1 **Amendment:** This Declaration may be amended by recording an instrument executed and acknowledged by not less than three-quarters of the voting members.

11.2 **Severability:** Invalidation of all or any portion of any of the covenants, restrictions, easements, conditions, reservations, liens and charges imposed by this Declaration, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration, all of which shall remain in full force and effect.

11.3 **Enforcement:** Enforcement by the Association or any Owner of the covenants and restrictions contained in this Declaration shall be had by any proceeding at law or in equity against any person or persons violating or attempting to violate any such covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter.

11.4 **Notices:** Any notice required to be sent to any Member of the Association or to an Owner under the provision for this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member or Owner as it appears on the records of the Association at the time of such mailing.

11.5 **Title Holding Land Trust:** In the event title to any Lot is conveyed to a title holding trust, under the terms of which all power of management, operation and control of such Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligations hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon such Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

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11.6 **Duration:** The covenants, restrictions, conditions, reservations, liens and charges imposed or established by or created under this Declaration shall run with and bind the land for a period of forty (40) years from the date of the recording of this Declaration and may be enforced by the Association or any Owner through any proceeding in law or in equity. Failure by the Association or any Owner to so enforce shall in no event be deemed a waiver of the right to do so thereafter. After the expiration of said forty (40) year period, all of such covenants, restrictions, conditions, reservations, liens and charges shall continue to run with and bind the land for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part, by an instrument in writing which is executed by the Owners of not less than two-thirds of the Lots and recorded in the Office of the Recorder of Deeds for Lake County, Indiana. Except in case of condemnation or destruction of a substantial portion of the Units, the legal status of the Association shall not be terminated without the affirmative vote of not less than sixty-six and two thirds percent (66 2/3%) of the Owners.

11.7 **Captions:** The Articles and Section headings herein are intended for convenience only and shall not be construed with any substantive effect in this Declaration.

11.8 **Arbitration:** Excluding (a) any suit by the Association to collect Assessments under Article VIII; (b) any suit by the Association to obtain a temporary restraining order to enforce the provisions of Article XI; and (c) arbitration conducted by the Board under Article VIII, any and all claims, disputes and controversies by and between the Association, an Owner, Developer, Declarant, Managing Agent or any other party connected in any way to the Association, or any combination of the foregoing, arising from or related to the Property, the Association, any improvements to the Property, the sale of any Unit on the Property, including, without limitation, any claim of breach of contract, negligence, negligent or intentional misrepresentation or non-disclosure in the inducement, execution or performance of any contract, including this arbitration agreement, and breach of any alleged duty of good faith and fair dealings, shall be submitted to arbitration by and pursuant to the rules of JAMS in effect at the time of the request for arbitration or by such other arbitration service as Declarant shall, in its sole discretion select, and pursuant to the rules of that arbitration service in effect at the time of the request for arbitration. This arbitration agreement shall inure to the benefit of, and be enforceable by all successors and assigns of the parties. Any party shall be entitled to recover reasonable attorneys' fees and costs incurred in enforcing this arbitration agreement, and the arbitrator shall have sole authority to award such fees and costs. The decision of the arbitrator shall be final and binding and may be entered as a judgment in any state or federal court of competent jurisdiction. This arbitration agreement shall be deemed to be a self-executing arbitration agreement. Any disputes concerning interpretation or the enforceability of this arbitration agreement, including without limitation, its revocability or voidability for any cause, the scope of arbitrable issues and any defense based on waiver, estoppel or laches shall be decided by the arbitrator. The initiation of or participation by any party in any judicial proceedings concerning this arbitration agreement or any matter arbitrable hereunder shall not be deemed a waiver of the right to enforce this arbitration agreement, and notwithstanding provision of law to the contrary, shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration agreement. Any party who shall commence a judicial proceeding concerning a dispute that is arbitrable, however, shall also be deemed a party requesting arbitration within the meaning of this arbitration agreement. The arbitrator's compensation shall be borne equally by the arbitrating parties. Any additional fees may be assessed in accordance with the arbitration rules and fees. Parties expressly agree that this arbitration agreement involves and concerns interstate commerce and is governed by the provisions of the Federal Arbitration Act (9 USC §1 *et seq.*) now in effect as the same may from time to time be amended, supplanted or replaced, to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any local law, ordinance or judicial rule may be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rule shall govern the conduct of the proceedings. If any provision of this arbitration agreement shall be determined by arbitrator or by any court to be (i) non-enforceable or (ii) have been waived, the remaining provision shall be deemed to be severable therefrom and enforceable



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according to their terms.

## ARTICLE XII Annexation of Additional Property

12.1 **Annexation Without Approval of Membership:** As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time until the end of the fifteenth (15th) year after the recording of this Declaration, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of real estate within a one (1) mile radius by filing in the Official Records of Lake County, Indiana, an amendment annexing such real estate. Any such annexation shall be effective upon the filing for record of such Subsequent Amendment unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the said right, provided that such transferee or assignee shall be the Developer of at least a portion of said real estate described in this Section and that such transfer is memorialized in a written, recorded instrument.

12.2 **Amendment to this Article:** This Article shall not be amended without the written consent of Declarant, so long as the Declarant owns any property described in Exhibit "A".

12.3 **Replatting:** Declarant shall have and hereby reserves the right, at any time or from time to time, to file a replat of all or any part of the Property, which is owned by Declarant, or all or any real estate which is added to the Property by Subsequent Amendment.

**IN WITNESS WHEREOF,** the Declarant hereto has caused these presents to be signed by its proper officers and its corporate seal to be hereunto affixed as of the date first above written.

### SAVANNAH COVE, LLC

By: Providence Real Estate Development, LLC, its Manager

By:

  
Printed Name: John P. Carroll

Its: President

STATE OF ILLINOIS

COUNTY OF DEWAGE



I, Cheryl Marie Dvorchak Notary Public in and for said County and State, do hereby certify that John P. Carroll, President of Providence Real Estate Development, LLC, Manager of Savannah Cove, LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he executed said instrument as his free and voluntary act, and as the free and voluntary act of Savannah Cove, LLC, being thereunto duly authorized for the uses and purposes therein set forth.

Given under my hand and notary seal this 20<sup>th</sup> day of July, 2024.

  
Notary Public

10/25/2027  
Commission Expires

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## AFFIRMATION

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. *Greg A. Bouwer*

**This Instrument Prepared by and after Recording Return to:**  
Greg A. Bouwer, Esq. (#16368-53), Koransky, Bouwer & Poracky, PC  
425 Joliet Street, Suite 425, Dyer, IN 46311

Property of Lake County Recorder

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## EXHIBIT A

### LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN LYING SOUTH OF THE FORMER CHESAPEAKE AND OHIO RAILROAD, NOW NORTHERN INDIANA PUBLIC SERVICE COMPANY, WARRANTY DEED AND QUITCLAIM DEED RECORDED AS DOCUMENT NUMBER 986061 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA AND MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 16; THENCE NORTH 00 DEGREES 01 MINUTES 53 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, 2531.66 FEET TO THE SOUTHERLY LINE OF SAID FORMER CHESAPEAKE AND OHIO RAILROAD; THENCE SOUTH 65 DEGREES 03 MINUTES 30 SECONDS EAST, 1196.00 FEET ALONG SAID SOUTHERLY LINE; THENCE NORTH 89 DEGREES 58 MINUTES 07 SECONDS WEST, 441.60 FEET; THENCE NORTH 88 DEGREES 34 MINUTES 19 SECONDS WEST, 90.03 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 53 SECONDS WEST, 130.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 60.00 FEET AND A CHORD THAT BEARS NORTH 84 DEGREES 55 MINUTES 47 SECONDS WEST, 26.08 FEET; THENCE 26.29 FEET ALONG LAST SAID CURVE; THENCE NORTH 07 DEGREES 28 MINUTES 57 SECONDS WEST, 130.00 FEET; THENCE SOUTH 66 DEGREES 29 MINUTES 14 SECONDS WEST, 132.40 FEET, THENCE SOUTH 22 DEGREES 50 MINUTES 40 SECONDS WEST, 100.00 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 53 SECONDS WEST, 333.30 FEET; THENCE SOUTH 09 DEGREES 25 MINUTES 51 SECONDS EAST, 91.24 FEET; THENCE SOUTH 89 DEGREES 58 MINUTES 07 SECONDS EAST, 131.45 FEET; THENCE NORTH 02 DEGREES 19 MINUTES 10 SECONDS WEST, 10.01 FEET; THENCE SOUTH 89 DEGREES 58 MINUTES 07 SECONDS EAST, 203.96 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 160.05 FEET TO THE NORTHWEST CORNER OF LOT 265 IN TURKEY CREEK SOUTH UNIT 6 AS SHOWN IN PLAT BOOK 40, PAGE 104 IN SAID RECORDER'S OFFICE; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID TURKEY CREEK SOUTH UNIT 6 AND ALONG THE WEST LINE OF TURKEY CREEK SOUTH UNIT 5 AS SHOWN IN PLAT BOOK 39, PAGE 49 IN SAID RECORDER'S OFFICE, 1320.82 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 16; THENCE NORTH 89 DEGREES 19 MINUTES 05 SECONDS WEST ALONG SAID SOUTH LINE, 700.86 FEET TO THE POINT OF BEGINNING ALL IN LAKE COUNTY, INDIANA, SUBJECT TO THE INTEREST IN 73RD AVENUE.

AND

OUTLOT A IN SAVANNAH COVE-PHASE 1 SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 12, 2023 IN BOOK 116 OF PLATS, PAGE 95 AS DOCUMENT NO. 2023-010457, IN THE TOWN OF MERRILLVILLE, LAKE COUNTY, INDIANA.

OUTLOT B IN SAVANNAH COVE-PHASE 1 SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 12, 2023 IN BOOK 116 OF PLATS, PAGE 95 AS DOCUMENT NO. 2023-010457, IN THE TOWN OF MERRILLVILLE, LAKE COUNTY, INDIANA.

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OUTLOT D IN SAVANNAH COVE-PHASE 1 SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 12, 2023 IN BOOK 116 OF PLATS, PAGE 95 AS DOCUMENT NO. 2023-010457, IN THE TOWN OF MERRILLVILLE, LAKE COUNTY, INDIANA.

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## EXHIBIT B

### PLAT OF SUBDIVISION

Property of Lake County Recorder

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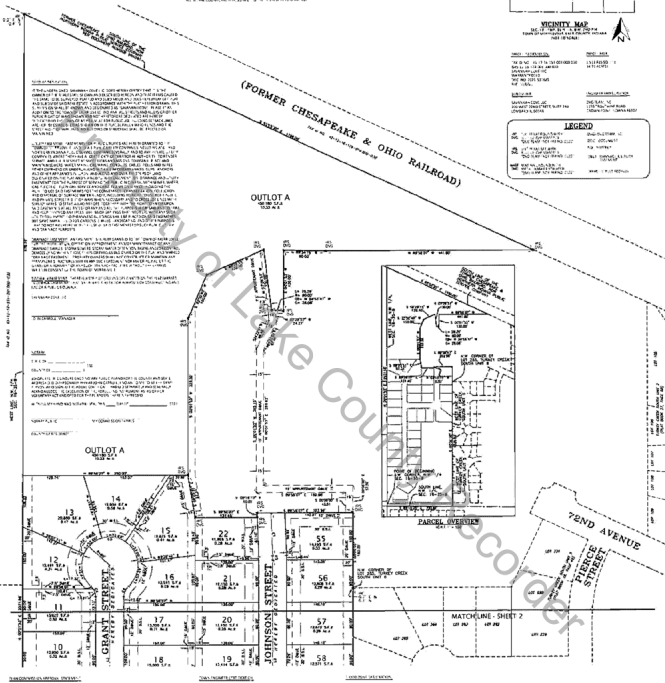
## SAVANNAH COVE (PHASE I) AN ADDITION TO THE TOWN OF MERRILLVILLE, LAKE COUNTY, INDIANA SHEET 1 OF 2

**GENERAL NOTES:**

1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE REVIEW AND APPROVAL OF THE BOARD OF ZONING AND PLANNING AND THE BOARD OF HEALTH AND SAFETY.
2. THE PROPERTY LINES AND DIMENSIONS SHOWN ON THIS PLAN ARE BASED ON THE SURVEY AND RECORDS OF THE LAKE COUNTY RECORDS.
3. THE PROPERTY LINES AND DIMENSIONS SHOWN ON THIS PLAN ARE SUBJECT TO THE SURVEY AND RECORDS OF THE LAKE COUNTY RECORDS.
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DATE	2-19-22
BY	DAK
SCALE	1/4" = 100'
PROJECT	SAVANNAH COVE PHASE I
SHEET	1 OF 2



**SAVANNAH COVE - PHASE I**  
7TH AVENUE AND GRANT STREET  
MERRILLVILLE, INDIANA 46404  
FINAL PLAN

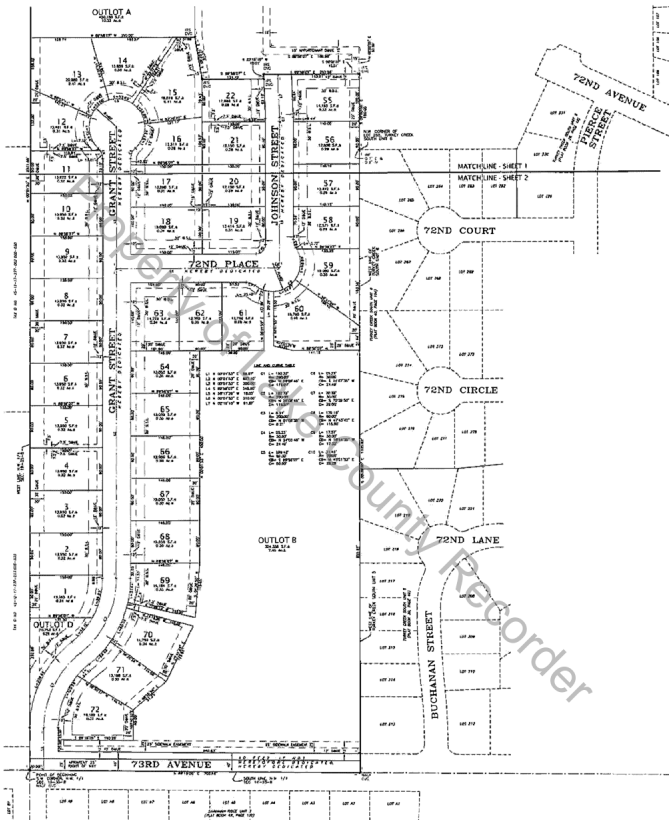
DATE	DESCRIPTION

DAK  
1133 Transamerica Blvd  
Crown Point, IN 46033  
P 317-842-7710  
F 317-842-3766  
www.dakgroup.com



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SAVANNAH COVE PHASE I  
AN ADDITION TO THE TOWN OF  
MERRILLVILLE, LAKE COUNTY, INDIANA  
SHEET 2 OF 2



DATE	2-1-2022
DRAWN	10-29-2021
CHECKED	
SCALE	1/8" = 1'-0"
DATE	2-1-2022

SAVANNAH  
COVE LLC



SAVANNAH COVE - PHASE I  
73RD AVENUE AND GRANT STREET  
MERRILLVILLE, INDIANA 46410  
FINAL PLAT

DATE	APPROVED FOR REVISION

DVC Title, Inc.  
1101 Tipton Road  
Crown Point, IN 46039  
P 708-842-2710  
F 708-842-2700  
www.dvctitle.com



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**EXHIBIT C**

**BY-LAWS**

**OF**

**SAVANNAH COVE HOMEOWNERS ASSOCIATION INC.**

Property of Lake County Recorder



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**BY-LAWS  
OF  
SAVANNAH COVE HOMEOWNERS ASSOCIATION INC.**

**ARTICLE I  
NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS**

Section 1. Name The name of the Association shall be Savannah Cove Homeowners Association Inc., (hereinafter referred to as the "Association").

Section 2. Principal Office The principal office of the Association shall be located initially at the principal business location of Declarant, and thereafter such location as determined by the Board of Directors. The Association may have such offices, either within or without the State of Indiana, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions The words used in these By-laws shall have the same meaning as set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Savannah Cove Homeowners Association Inc. (said Declaration as amended, renewed or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

**ARTICLE II  
ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES**

Section 1. Membership The Association shall have one (1) class of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either in the Parcel or as convenient thereto as possible and practical.

Section 3. Annual Meetings The first meeting of the Members, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent regular annual meetings of the Members shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors.

Section 4. Special Meetings The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by at least ten percent (10 %) of the total votes of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by mail, to each

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Member entitled to vote at such meeting, not less than ten (10) days nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these By-laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Section 6. Waiver of Notice** Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such member of notice at the time, date and place thereof, unless such Member specifically objects to a lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to vote.

**Section 7. Adjournment of Meetings** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least twenty-five (25 %) percent of the total votes of the Association remains present in person or by proxy, and provided further that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

**Section 8. Voting** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 9. Proxy.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Unit or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy.

**Section 10. Majority.** As used in these By-laws, the term "majority" shall mean those votes of Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total number.

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Section 11. Quorum. Except as otherwise provided in these By-laws or in the Declaration, the presence in person or by proxy of one-third (1/3) of the Members shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

Section 13. Action without a Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by a majority of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as an affirmative vote of the Members.

## **ARTICLE III BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS**

### **A. Composition and Selection.**

Section 1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article III, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Directors During Declarant Control. The Directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant until such time as is specified in the Declaration, unless the Declarant shall earlier surrender this right to select Directors. The Directors selected by the Declarant need not be owners or residents of the Parcel. After the period of Declarant appointment, all Directors must be Members of the Association.

Section 3. Number of Directors. The number of Directors in the Association shall be not less than three (3) or more than five (5), as the Board of Directors may from time to time determine by resolution. The initial Board of Directors shall consist of three (3) members and are identified in the minutes of the first meeting of the Board.

Section 4. Nomination of Directors. Except with respect to Directors selected by the Declarant, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next 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 in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members to solicit votes.

Section 5. Election and Term of Office. Notwithstanding any other provision

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contained herein: At the first annual meeting of the membership after the termination of the Declarant's right to select directors and at each annual meeting of the membership thereafter, Directors shall be elected. All Directors shall be elected at-large. All Members of the Association shall vote upon the election of Directors. So long as there are three (3) Directors, the term of one (1) Director shall be fixed for one (1) year, and the term of one (1) Director shall be fixed at two (2) years, and the term of one (1) Director shall be fixed at three (3) years. The members of the Board of Directors shall hold office until their respective successors have been elected by the Association.

Section 6. Removal of Directors and Vacancies. Unless the entire Board is removed from office by the vote of the Association Members, an individual Director shall not be removed prior to the expiration of his or her term of office, except by the vote of a majority of Members.

In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

Section 7. Voting Procedure for Directors. The first election of the Board shall be conducted at the first meeting of the Association. 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.

B. Meetings.

Section 8. Organization Meetings. The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the Director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

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Section 11. Waiver of Notice. The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (1) a quorum is present, and (2) either before or after the meeting each of the Directors not present signs a written waiver or notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

Section 14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 15. Open Meeting. All meetings of the Board of Directors shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board

Section 16. Executive Sessions. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 17. Action without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent is in writing, setting forth the action so taken, shall be signed by a majority of the Directors, and such consent shall have the same force and effect as an affirmative vote.

## C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as set forth by the Declaration, Articles of Incorporation or these By-laws directed to be done and exercised exclusively by the Members.

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The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the Managing Agent or Manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making Assessments to defray the Common Expenses, establishing means and methods of collecting such Assessments, and establishing the period of the installment payments of the annual Assessment, provided otherwise determined by the Board of Directors, the annual Assessment against the proportionate share of the Common Expenses shall be payable in yearly installments, each such installment to be due and payable in advance on the first day of the year for said year;
- (c) providing for the operation, care, upkeep, and maintenance of any Common Area;
- (d) designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Association, its property, and any Common Area, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;
- (e) collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations;
- (g) making or contracting for the making of repairs, additions and improvements to or alterations of any Common Area in accordance with the other provisions of the Declaration and these By-laws after damage or destruction by fire or other casualty;
- (h) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (i) paying the cost of all services rendered to the Association or its members and not chargeable to Owners;
- (j) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners.
- (k) make available to any prospective purchaser of a Unit, any Owner of a Unit, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Unit, current



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copies of the Declaration, the Articles of Incorporation, the By-laws, Rules and Regulations, and all other books, records and financial statements of the Association; and

(l) permit utility suppliers to use portions of any Common Area reasonably necessary for the ongoing development or operation of the Parcel.

## Section 19. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-laws, other than the powers set forth in subparagraphs (a), (b), (d), (f), (g) and (i) of Section 18 of this Article III. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days or less written notice.

Section 20. Accounts and Reports. The following management standards of performance will be followed unless the Board of resolution specifically determines otherwise:

(a) cash basis accounting shall be employed;

(b) accounting and controls should conform with established AICPA guidelines and principles, which require, without limitation, (i) a segregation of accounting duties, (ii) disbursements by check requiring two (2) signatures, and (iii) cash disbursements limited to amounts of Twenty-five (\$25.00) Dollars and under;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(f) commencing at the end of the month in which the first Unit is sold and closed, quarterly financial reports shall be prepared for the Association containing:

(i) an Income and Expense Statement reflecting all income and expense activity for the preceding three (3) months on a cash basis:

(ii) a Balance Sheet as of the last day of the Association's fiscal year and an Operating Statement for said fiscal year, which shall be distributed within ninety (90) days after the close of a fiscal year.

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(iii) a Delinquency Report listing all Owners who have been delinquent during the preceding three (3) month period in paying the monthly installments of Assessments and who remain delinquent at the time of the report and describing the status of any action to collect such installments which shall be considered to be delinquent on the fifteenth (15th) day of each month; and

(iv) an annual report consisting of at least the following shall be distributed within one hundred twenty (120) days after the closing of the fiscal year: (1) a balance sheet as of the end of the fiscal year; (2) an operating (income) statement for the fiscal year; and (3) statement of changes in financial position for the fiscal year. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without an audit from the books and records of the Association.

Section 21. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of any Common Area without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided in Article VIII, Section 2, of the Declaration for Special Assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

## **ARTICLE IV OFFICERS**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The Board of Directors may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

Section 2. Election, Term of Office and Vacancy. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

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Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by the President or by such other person or persons as may be designated by resolution of the Board of Directors.

## **ARTICLE V** **COMMITTEES**

Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## **ARTICLE VI** **MISCELLANEOUS**

Section 1. Fiscal Year. The initial fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of the Association proceedings when not in conflict with Indiana law, the Articles of Incorporation, the Declaration or these By-laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Indiana Law, the provisions of Indiana law, the Declaration, the Articles of Incorporation, and the By-laws (in that order) shall prevail.

### Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration and By-laws, membership register, books of account, and minutes of meetings of the Members, the Board and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Parcel as the Board shall prescribe.

(b) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-laws, all notices, demands, bills, statements or other communications under these By-laws shall be in writing and

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shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner; or

(b) if to the Association, the Board of Directors, or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the Owners pursuant to this Section.

Section 6. Amendment. Declarant may amend the By-laws in accordance with the Declaration. These By-laws may be amended otherwise only by the affirmative vote (in person or by proxy) or written consent of Members representing two-thirds (2/3) of the total votes of the Association (not a majority of a quorum).