

UPI: 18-2/29Q



R 02232-0643 May 24, 2019

S & A HOMES INC  
S & A HOMES INC

05-24-2019

11:39:52

DECO 57 pgs.

RECORDER OF DEEDS

*Joseph A. Vanden*

NAC  
57-3  
124.50

## CONDOMINIUM DECLARATION

for

**THE KINGSTON VILLAGE CONDOMINIUM,  
a Pennsylvania Flexible Condominium.**

**PURSUANT TO THE PROVISIONS OF THE PENNSYLVANIA  
UNIFORM CONDOMINIUM ACT, 68 Pa. C.S. §3101 et. seq.**

## TABLE OF CONTENTS

### ARTICLE I

SUBMISSION; DEFINED TERMS.....	6
Section 1.1 Declarant; Property; County; Name.....	6
Section 1.2 Easements and Licenses.....	6
Section 1.3 Defined Terms .....	8

### ARTICLE II

ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES; UNIT IDENTIFICATION AND BOUNDARIES .....	11
Section 2.1 Percentage Interests .....	12
Section 2.2 Unit Boundaries .....	12
Section 2.3 Allocation of Unit Owner's Voting Rights.....	14
Section 2.4 Maximum number of Units.....	14

### ARTICLE III

ALLOCATION AND RESTRICTION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS .....	14
Section 3.1 Limited Common Elements .....	14
Section 3.2 Common Elements.....	15
Section 3.3 Reserved Common Elements.....	15

### ARTICLE IV

MAINTENANCE, REPAIR, AND REPLACEMENT .....	15
Section 4.1 Maintenance Responsibilities .....	15
Section 4.2 Common Elements and Limited Common Elements .....	15
Section 4.3 Rights of Unit Owners if Common Element Not Properly Maintained.....	16
Section 4.4 Units and Limited Common Elements.....	16
Section 4.5 Repairs Resulting from Negligence .....	16
Section 4.6 Action by Executive Board to Remedy Unsatisfactory Conditions.....	17

### ARTICLE V

SUBSEQUENTLY ALLOCATED LIMITED COMMON ELEMENTS .....	17
Section 5.1 Parking Space Allocations .....	17

### ARTICLE VI

ALLOCATION AND REALLOCATION OF LIMITED COMMON ELEMENTS .....	17
Section 6.1 Designation of Limited Common Elements .....	17

<u>ARTICLE VII</u>	
EASEMENTS .....	18
Section 7.1 Additional Easements .....	18

<u>ARTICLE VIII</u>	
INITIAL CONSTRUCTION AND MODIFICATION OF BUILDINGS; DESIGN STANDARDS; ADDITIONS AND ALTERATIONS .....	22
Section 8.1 Modifications of Party Walls or Other Improvements Shared by Two or More Unit Owners .....	22
Section 8.2 Application for Governmental Permits and Approvals .....	22
Section 8.3 Indemnification .....	22

<u>ARTICLE IX</u>	
BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT .....	22
Section 9.1 Budget Adoption and Ratification .....	23
Section 9.2 Ratification of Non-Budgeted Common Expense Assessments .....	23
Section 9.3 Statement of Unpaid Assessments .....	23
Section 9.4 Monthly Payment of Common and Limited Common Expense and Special Assessments .....	23
Section 9.5 Initiation Fee .....	23
Section 9.6 Acceleration of Common Expense Assessments .....	24
Section 9.7 Confessions of Judgment .....	24
Section 9.8 Commencement of Common Expense Assessments .....	24
Section 9.9 No Waiver of Liability for Common Expenses .....	24
Section 9.10 Personal Liability of Unit Owners .....	24
Section 9.11 Subordination of Certain Charges .....	25
Section 9.12 Limitation on Expenditures .....	25
Section 9.13 Reserve .....	25
Section 9.14 Accounting .....	25
Section 9.15 Special Assessments .....	25
Section 9.16 Acceleration .....	25
Section 9.17 Enforcement .....	26
Section 9.18 Lien .....	27
Section 9.19 Common or Limited Common Expenses Attributable to Fewer than all Units .....	29

<u>ARTICLE X</u>	
USE RESTRICTIONS .....	29
Section 10.1 Use and Occupancy of Units and Common Elements .....	29

<u>ARTICLE XI</u>	
MORTGAGES .....	34
Section 11.1 Requirements .....	34
Section 11.2 Eligible Mortgagees .....	35

Section 11.3 Approval of Mortgagees .....	37
<u>ARTICLE XII</u>	
LEASING .....	39
Section 12.1 Leasing Units .....	39
<u>ARTICLE XIII</u>	
UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN .....	39
Section 13.1 General .....	39
Section 13.2 Eminent Domain .....	40
<u>ARTICLE XIV</u>	
AMENDMENT OF DECLARATION .....	40
Section 14.1 Amendment Generally .....	40
Section 14.2 Technical Corrections .....	41
Section 14.3 Rights of Secured Lenders .....	41
<u>ARTICLE XV</u>	
DECLARANT'S RIGHTS; SPECIAL DECLARANT RIGHTS .....	41
Section 15.1 Declarant's Control of the Association .....	42
Section 15.2 Declarant Rights .....	42
Section 15.3 Disputes .....	43
<u>ARTICLE XVI</u>	
TERMINATION .....	43
Section 16.1 Termination .....	43
<u>ARTICLE XVII</u>	
DAMAGE TO OR DESTRUCTION OF PROPERTY .....	43
Section 17.1 Duty to Restore .....	43
Section 17.2 Cost .....	44
Section 17.3 Plans .....	44
Section 17.4 Replacement of Less than Entire Property .....	44
Section 17.5 Insurance Proceeds .....	44
Section 17.6 Certificates by the Executive Board .....	45
Section 17.7 Certificates by Attorneys or Title Insurance Companies .....	45
<u>ARTICLE XVIII</u>	
INSURANCE .....	45
Section 18.1 Coverage .....	45
Section 18.2 Property Insurance .....	45
Section 18.3 Liability Insurance .....	47
Section 18.4 Fidelity Bonds or Employee Dishonesty Endorsement .....	47

Section 18.5 Unit Owner Policies .....	48
Section 18.6 Workers Compensation Insurance .....	48
Section 18.7 Directors and Officers Liability Insurance .....	48
Section 18.8 Other Insurance .....	48
Section 18.9 Premiums .....	48

#### ARTICLE XIX

LIMITATION OF LIABILITY FOR EXECUTIVE BOARD MEMBERS AND OFFICERS .....	48
Section 19.1 Standard of Conduct .....	48
Section 19.2 Good Faith Reliance .....	49
Section 19.3 Limited Liability .....	49
Section 19.4 Indemnification .....	49

#### ARTICLE XX

CONVERTIBLE REAL ESTATE .....	50
Section 20.1 Reservation .....	50

#### ARTICLE XXI

OPTION TO WITHDRAW WITHDRAWABLE REAL ESTATE .....	51
Section 21.1 Declarant's Option to Withdraw Withdrawable Real Estate .....	51

**CONDOMINIUM DECLARATION FOR  
KINGSTON VILLAGE**

This Declaration is made this 2<sup>nd</sup> day of November, 2018, by **S & A Homes, Inc.**, a Pennsylvania corporation, with its principal offices at 2121 Old Gatesburg Road, Suite 200, State College, PA 16803.

**ARTICLE I  
SUBMISSION; DEFINED TERMS**

Section 1.1 Declarant; Property; County; Name. **S & A Homes, Inc.** ("Declarant"), owner in fee simple of the Real Estate described on Exhibit "A" attached hereto, located in **Patton Township, Centre County, Pennsylvania** hereby submits the Real Estate, including all easements, rights and appurtenances thereunto belonging and the Buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C.S. §3101 et seq. (the "Act"), and hereby creates with respect to the Property a condominium, to be known as **The Kingston Village Condominium**, a Pennsylvania Flexible Condominium.

Section 1.2 Easements and Licenses. Included among the easements, rights and appurtenances referred to in Section 1.1 above are the following recorded easements and licenses, and the Real Estate is hereby submitted to the Act:

- 1.2.1 Right-of-way in favor of Bell Telephone Company as recorded 2/21/1941 in Misc. Book 32 at Page 91, and recorded 3/9/1944 in Misc. Book 34 at Page 286.
- 1.2.2 Right-of-way for private waterline recorded 9/8/192 in Record Book 118 at Page 265.
- 1.2.3 Agreement and right-of-way for water system in favor of Patton Township Authority recorded 12/4/1972 in Misc. Book 118 at Page 1034.
- 1.2.4 Right-of-way in favor of State College Water Authority for water line recorded 1/29/1998 in Record Book 974 at Page 1074.
- 1.2.5 Right-of-way in favor of University Area Joint Authority for sewer line recorded 3/16/1998 in Record Book 984 at Page 944.
- 1.2.6 Private agreement regarding trees and stormwater drainage easement recorded 10/9/2015 in Record Book 2170 at Page 253.

- 1.2.7 Right-of-way in favor of Columbia Gas of PA, Inc. recorded 4/15/2018 in Record Book 2213 at Page 837.
- 1.2.8 Right-of-way in favor of West Penn Power Co., recorded 3/20/2018 in Record Book 2213 at Page 120.
- 1.2.9 Matters set forth in plans as follows:
  - a. Recorded 8/20/2009 in Plat Book 82 at Page 85;
  - b. Recorded 8/20/2009 in Plat Book 82 at Page 86;
  - c. Recorded 9/28/2009 in Plat Book 83 at Page 129;
  - d. Recorded 1/10/2011 in Plat Book 83 at Page 199;
  - e. Recorded 4/14/2016 in Plat Book 90 at Page 162;
  - f. Recorded 5/13/2016 in Plat Book 90 at Page 180;
  - g. Recorded 6/8/2016 in Plat Book 90 at Page 200;
  - h. Recorded 9/26/2016 in Plat Book 91 at Page 70;
  - i. Recorded 9/26/2016 in Plat Book 91 at Page 71;
  - j. Recorded 6/9/2017 in Plat Book 91 at Page 189;
  - k. Recorded 6/9/2017 in Plat Book 91 at Page 194; and
  - l. Recorded 6/22/2017 in Plat Book 92 at Page 1 (to be amended);
- 1.2.10 Under and subject to a temporary cul-de-sac for Champion Drive and twenty foot (20') utility easement along Bernel Road as set forth in Plat Book 91 at Page 194.
- 1.2.11 Under and subject to a future right-of-way reservation for expansion of Bernel Road as set forth in Plan Book 92 at Page 1.
- 1.2.12 Matters set forth in the Preliminary/ Final Land Development Plan for Kingston Village prepared by PennTerra Engineering, Inc. dated January 3, 2017 and recorded October 4, 2018 in Plan Book Volume 93 at Page 128.
- 1.2.13 Under and subject to a ten foot (10') asphalt pedestrian walkway/ emergency access easement as set forth in Plan Book Volume 93 at Page 128.

- 1.2.14 Under and subject to a Declaration of Utility Easement recorded in Record Book 2222 at Page 853.
- 1.2.15 Under and subject to a Stormwater Management Agreement and Declaration of Easement recorded in Record Book 2222 at Page 854.
- 1.2.16 Any restrictions on use, occupancy and alienations contained within this Declaration and the By-Laws of The Kingston Village Condominium Association

Section 1.3 Defined Terms. Capitalized terms not otherwise defined herein or in the Plats and Plans shall have the meanings specified or used in the Act.

- 1.3.1 The following terms are used or defined in general terms in the Act and shall have specific meanings herein as follows:
  - a. "Association" means the Unit Owners Association of the Condominium and shall be known as "The Kingston Village Condominium Association"
  - b. "Assessments" means an expense issued by the Association and allocated to the Unit Owners for repair, maintenance, replacement or insurance of Common or Limited Common Elements, and the operation of the Association itself, as well as any Special Assessments, Initial Capitalization Fee.
  - c. "Building(s)" means any structures depicted on the Plats and Plans of this Declaration.
  - d. "Common Elements" means each portion of the Condominium other than conveyed with a Unit.
  - e. "Common Expenses" means the expenses or financial liabilities for the operation of the Common Elements and the Association. These include:
    - (i) Expenses of administration, maintenance, repair or replacement of the Common Elements;
    - (ii) Expenses declared to be Common Expenses by the Condominium Documents or the Act;
    - (iii) Expenses agreed upon as Common Expenses by the Association;
    - (iv) Such reasonable reserves, as may be established by the Association, whether held in trust or by the Association for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.



- f. "Common Facilities" means any Real Estate with the Condominium which is owned by the Association or leased to the Association.
- g. "Condominium" means the Condominium described in Section 1.1 above.
- h. "Condominium Documents" consist of this Declaration, including the Plats and Plans, the By-Laws, the Public Offering Statement and any Rules and Regulations.
- i. "Convertible Real Estate" means a portion of a Flexible Condominium not within a building containing a Unit, within which additional Units or Limited Common Elements, or both, may be created.
- j. "Declarant" means the Declarant described in Section 1.1 above and all successors to any Special Declarant Rights and as further defined under the Act.
- k. "Declarant Control Period" means the time period commencing on the date of recordation of this Declaration and ending on the earlier of:
  - (i) Seven (7) years after the date of the first conveyance of a Unit to a Unit Owner other than the Declarant; or
  - (ii) One hundred eighty (180) days after the conveyance of seventy-five percent (75%) of the Units to Unit Owners other than the Declarant.
- l. "Declaration" means this document, as the same may be amended from time to time.
- m. "Eligible Mortgage" means a first mortgage to
  - (i) the Declarant;
  - (ii) the Seller of a Unit;
  - (iii) a bank, trust company, savings bank, savings and loan association, mortgage service company, insurance company, credit union, pension fund, real estate investment fund or like institutional investor or lender; and
  - (iv) any other mortgage approved by the Executive Board, or a junior mortgage which is approved by the Executive Board.

A holder, insurer or governmental guarantor of an Eligible Mortgage is referred to herein as an "Eligible Mortgagee"

- n. "Executive Board" means the Executive Board of the Association.
- o. "Flexible Condominium" means a condominium containing withdrawable or convertible real estate, a condominium to which additional real estate may be added, or a combination thereof.
- p. "Horizontal Boundaries" means the upper and lower boundaries of a Unit.
- q. "Identifying Number" means a symbol that identifies only one Unit in a Condominium.
- r. "Limited Common Elements" means the portion of the Condominium designated herein as shown on the Plats and Plans. The portions of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by the Declaration or the Act.
- s. "Limited Common Expenses" means the Common Expenses incurred for maintenance, repair and/or replacement of certain Limited Common Elements which, pursuant to Section 4.1 and 4.2 of this Declaration, are to be assessed against all Unit Owners of the Association who are allocated an interest in that Limited Common Element.
- t. "Limited Common Facility" means a portion of the Common Facilities allocated by or pursuant to the Declaration for the exclusive use of all or fewer than all of the Units of the Condominium.
- u. "Majority or Majority of Unit Owners" mean the owners of more than fifty percent (50%) of the votes in the Association.
- v. "Party Wall" means a wall located at the perimeter of a Unit, which is a common wall shared with an adjacent Unit.
- w. "Percentage Interest" means the allocation of a fraction or percentage of undivided ownership interest in the Common Elements and in the Common Expenses of the Association appurtenant to each Unit as set forth in Exhibit "C" attached hereto.
- x. "Perimeter Wall" means any wall located at, or within, the perimeter of a Unit, which wall is part of the Unit and which coincides with the exterior of a building.
- y. "Plats and Plans" means the Plats and Plans attached hereto as Exhibit "D" and made a part hereof.

- z. "Property" means the land and all improvements, easements, rights and appurtenances which have been submitted to the provisions of the Act by this Declaration.
- aa. "Public Offering Statement" means the current document prepared pursuant to Section 3402 of the Act as it may be amended from time to time and provided to purchasers prior to the time of execution of a binding purchase agreement.
- bb. "Purchaser" means a person other than a Declarant who, by means of disposition, acquires a legal or equitable interest in a Unit, other than either a leasehold interest of less than 20 years, including renewal options, or a security for an obligation.
- cc. "Real Estate" means any fee, leasehold, or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance.
- dd. "Reserved Common Elements" means portions of the Common Elements of the Condominium which the Executive Board may designate as such from time to time pursuant to Section 3.3 hereof.
- ee. "Special Declarant Rights" means Special Declarant Rights as defined in Section 3103 of the Act and such additional rights reserved for the benefit of the Declarant as set forth in the "Condominium Documents".
- ff. "Unit" means an improved Unit as described herein.
- gg. "Unit Owner" means the Declarant or other individual, corporation, trust, estate, partnership, association or other legal or commercial entity (herein "Person"). Unit Owner does not include a person having an interest in a Unit solely as a security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.
- hh. "Withdrawable Real Estate" means Real Estate that may be withdrawn from a Flexible Condominium.

**ARTICLE II**  
**ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND**  
**COMMON EXPENSE LIABILITIES; UNIT IDENTIFICATION**  
**AND BOUNDARIES**

Section 2.1 Percentage Interests. Attached as Exhibit "E" hereto is a list of all Units by their Identifying Numbers and the Percentage Interest appurtenant to each Unit, determined by dividing the Unit by the number of all currently converted Units in the Condominium. The Percentage Interests as so computed have been rounded out to four (4) significant figures so that the sum of the Percentage Interest of all Units shall equal at least one hundred percent (100%). The Percentage Interest shall determine the share of Common Expense Liability appurtenant to each Unit.

Section 2.2 Unit Boundaries. The title lines or boundaries of each Unit are situated as shown on the Plats and Plans. Each Unit consists of the area between party walls, floors and ceilings, and does not include any portion of the exterior of the building Unit. The title boundaries shall be allowed to extend over designated Common or Limited Common Area(s) as easements.

The Plats and Plans, attached hereto as Exhibit "D", illustrate the maximum Unit boundary size allowed under this Declaration.

Each Unit includes all utility and service pipes, lines, drains, cables, conduits or other facilities, located within the boundaries of the Unit, and serving only that Unit. Each Unit shall include the items within the title lines described in Section 3202 of the Act which are appurtenant to the Unit, as follows:

- a. From stud walls out, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of such boundary walls, floors or ceilings are a part of the Unit, and all other portions of such Party and Perimeter walls are a part of the Common Elements.
- b. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to those Unit(s).
- c. Subject to the provisions of subparagraph (b), all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.
- d. Any shutters, window boxes, balconies, porches, patios, terraces (including railings), doors and windows or other fixtures (including sills, frames and hardware) designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to the Unit.

There is also included within a Unit (by way of illustration and not limitation):

- a. The air space enclosed within the title lines described above.
- b. All partitions which are wholly contained within such title lines, including (but not limited to), all doors, door frames, hardware, electrical outlets and wiring, telephone outlets and conduits, and other equipment and devices in such partitions serving only such Unit.
- c. All plumbing fixtures located within such title lines and serving only such Unit, and their water and waste connections.
- d. All items of kitchen equipment located within such title lines and serving only such Unit, and such equipment's water, waste and electrical connections.
- e. Exhaust fans and the grilles, registers, ventilation ducts and related fixtures which serve only such Unit, whether or not any of the foregoing is located in any portion of the Common Elements.
- f. Lighting devices (including, by way of illustration and not limitation, lamps and bulbs which are surface mounted on, recessed in, or suspended from, ceilings, walls and partitions within or on the perimeter of such Unit) serving only such Unit whether or not such lighting devices are themselves located entirely within the title lines of such Unit.
- g. Outlets, wires, cables, conduits, circuits and related equipment transmitting electricity for lighting and power or transmitting electrical impulses and signals (including, but not limited to, impulses and signals for telephone, telegraph and television transmission, except to the extent otherwise specifically provided herein) which serve only such Unit and which are located entirely within the title lines of such Unit.
- h. Surface-mounted and recessed medicine cabinets (including, by way of illustration and not limitation, all associated lighting fixtures and accessories).
- i. Refrigerators, ranges, dishwashers, clothes washers and dryers, garbage disposals units and other appliances (if any), and the

portions of their water, waste, electrical and exhaust connections located within such title lines and serving only such Unit.

j. Notwithstanding the foregoing, the sprinkler system, if any, regardless of location and all drainpipes located outside the Unit shall be Common Elements.

k. Windows and doors (including garage doors).

2.2.1 Declarant reserves the right to relocate the boundaries between adjoining Units owned by Declarant and to reallocate between Units their Common Element Interest, votes in the Association and Common Expense Liabilities by amendment to the Declaration in accordance with Section 3214 of the Act.

Section 2.3 Allocation of Unit Owner's Voting Rights. Each Unit Owner shall be entitled to one (1) vote in the Association per Unit owned. Where the ownership of a Unit is in more than one (1) person, the person who shall be entitled to cast a vote of such Unit shall be the person named in a certificate executed by all of the owners of such Unit and filed with the Secretary or in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present, then such a vote shall be cast only in accordance with their unanimous agreement pursuant to Section 3310(a) of the Act. There shall be deemed to be unanimous agreement if any one of the multiple owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners. Such certificate shall be valid until revoked by a subsequent certificate similarly executed.

Section 2.4 Maximum Number of Units. The maximum number of Units that may be created by the Declarant pursuant to Section 3215(c) of the Act is twenty-four (24) single-family duplex Units on 9.642 acres +/- . The Units will be constructed and converted in multiple phases.

### **ARTICLE III**

#### **ALLOCATION AND RESTRICTION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

Section 3.1 Limited Common Elements.

3.1.1 The following portions of the building are hereby designated as Limited Common Elements and their expense to maintain, repair and/ or replace

shall be shared by those Units to which the Limited Common Element is allocated:

- a. Porches, patios and decks;
- b. Exterior doors and windows;
- c. Driveways and walking paths directly appurtenant to each Unit; and
- d. Any other area shown and identified as such on the Plats and Plans attached hereto as Exhibit "D", and any amendments subsequently created.

Section 3.2 Common Elements. The Common Elements of the Condominium include, but are not limited to, the following:

- a. The exterior of all buildings, including but not limited to, the roof and exterior siding, but specifically not including windows and doors (including garage doors) which are Limited Common Elements;
- b. Aeropointe Lane and parking areas;
- c. All landscaping after installation by Declarant;
- d. Stormwater Basin #2;
- e. Cluster mailboxes;
- f. All utility and access easements as identified on the Plats and Plans; and
- g. Any other area shown and identified as such on the Plats and Plans attached hereto as Exhibit "D", and any amendments subsequently created.

Section 3.3 Reserved Common Elements. Reserved Common Elements are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all of the Unit Owners or non-Owners of any Units for specified periods of time, or by only those persons paying applicable fees or satisfying other reasonable charges or conditions for use as may be established by the Executive Board.

#### **ARTICLE IV** **MAINTENANCE, REPAIR AND REPLACEMENT**

Section 4.1 Maintenance Responsibilities. The Units, including all improvements constructed therein shall be maintained and repaired by each Unit Owner, and the Common Elements and Limited Common Elements shall be maintained and repaired by the Association in accordance with the provisions of Section 3307 of the Act, except as expressly set forth to the contrary in this Declaration or the By-Laws.

Section 4.2 Common Elements and Limited Common Elements. The Condominium Association shall maintain, repair and replace all of the Common or Limited

Common Elements in good order and repair and in an attractive condition. The Association shall continually keep and maintain, or cause to be continually kept and maintained, all Common and Limited Common Elements together with all improvements thereon in a safe, sightly and serviceable condition, which repair and maintenance shall include: replacement, cleaning, lighting, painting, striping, landscaping, removing garbage and trash, removing obstructions, snow, water and ice, repairing and servicing the parking areas, curbs, walks, driveways, alley-way, utilities and drainage facilities, and directional signs and lighting facilities as necessary from time to time. Maintenance of the Common Elements by the Association includes the payment of all utility charges applicable to the Common Elements, including sewer, water and electric. Any Unit Owner may, at his expense, provide additional cleaning, sweeping or other maintenance of Common or Limited Common Elements, such as sidewalks adjacent to his Unit.

Section 4.3 Rights of Unit Owners if Common or Limited Common Elements Not Properly Maintained. If any Unit Owner believes that the Association is not maintaining the Common or Limited Common Elements in accordance with the requirements of this Section, then such Unit Owner, after reasonable prior notice to the Executive Board, may take such steps on its behalf and not on behalf of the Association, to cause the Common or Limited Common Elements to be maintained in accordance with the requirements of this Section, and if such Unit Owner obtains a final unappealable decision of a court of competent jurisdiction determining that the Common or Limited Common Elements have not been maintained in accordance with the requirements of this Section, then the Executive Board shall, within sixty (60) days after the date of such decision (or otherwise in compliance with the decision), levy Special Assessment against all Unit Owners of the Condominium Association for the reasonable costs incurred by such Unit Owner to maintain the Common or Limited Common Elements in accordance with the requirements of this Section and for reasonable costs such Unit Owner incurred in obtaining such court decision, including without limitation, reasonable attorney's fees. The Special Assessment shall be made against all Unit Owners of the Condominium Association, including the Unit Owner who obtained such court decision.

Section 4.4 Units and Limited Common Elements. Each Unit Owner shall maintain, repair and replace, at his own expense, all portions of his Unit, including that portion of the Limited Common Elements allocated to their Unit, in a safe, clean and tenantable condition and in good order and repair and in an attractive condition except the portions thereof which are required by this Declaration or the By-Laws to be maintained, repaired or replaced by the Association.

Section 4.5 Repairs Resulting from Negligence. Each Unit Owner shall reimburse the Association and any Unit Owners whose Units were damaged or any damages to the Common or Limited Common Elements or to any other Unit caused



intentionally, negligently or by that Unit Owner(s) failure to properly maintain, repair or make replacements to their Unit or to Common and/ or Limited Common Elements which are the responsibility of such Unit Owner.

- Section 4.6 Action by Executive Board to Remedy Unsatisfactory Conditions. Any person authorized by the Executive Board shall have the reasonable right of access to all portions of the Property, including a Unit, for the purpose of correcting any condition threatening any other Unit, Common or Limited Common Elements, and for the purpose of performing installations, alterations or repairs; for the purpose of reading, repairing, replacing utility meters and related pipes, valves, wires and equipment; and for other proper purposes provided that all requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, reasonable attempts to notify a Unit Owner shall be made, however, such right of entry shall be immediate with such force as is apparently necessary to gain entrance, whether or not the Unit Owner is present at the time.

#### **ARTICLE V** **SUBSEQUENTLY ALLOCATED LIMITED COMMON ELEMENTS**

- Section 5.1 Parking Space Allocations. Those portions of the Common Elements shown as parking spaces on the Plats and Plans may be subsequently allocated as Limited Common Elements in accordance with Article III of this Declaration or may be assigned by rule of the Executive Board or may be limited by rule to visitors only.

#### **ARTICLE VI** **ALLOCATION AND REALLOCATION OF LIMITED COMMON ELEMENTS**

- Section 6.1 Designation of Limited Common Elements. A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to the provisions of this Article VI. All allocations will be made by Amendment to the Declaration specifying to which Unit or Units the Limited Common Element is allocated. Such Amendment shall require the approval of all holders of mortgages in the affected Units, which approval shall be endorsed thereon. The person executing the Amendment shall provide an executed copy thereto to the Association, which, if the Amendment complies with the provisions of this Declaration and the Act, shall record it. The Amendment shall contain words of conveyance and must be recorded and indexed in the names of the parties and the Condominium. The parties executing the Agreement shall reimburse the Association for its reasonable attorneys' fees in connection with the review of the Amendment and for the recording costs.

**ARTICLE VII**  
**EASEMENTS**

Section 7.1 Additional Easements. In addition to and in supplementation of the easements provided for by Sections 3216, 3217 and 3218 of the Act, the following easements are hereby created.

7.1.1 Declarant's Use for Sales Purposes

- a. Declarant shall have an easement to maintain sales offices, management offices and models throughout the Property and to maintain one (1) or more advertising signs on the Common Elements while the Declarant is selling Units in the Condominium, even after Declarant Control has ended. Declarant reserves the right to place models, management offices and sales offices in any Units owned by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate. The models, management offices and sales offices constituting a portion of the Common Elements shall be subject to the following requirements:
  - i. The number of models maintained by the Declarant within the Common Elements shall not exceed two (2). The size of each such model shall not exceed the size of a comparable Unit.
  - ii. In addition to the models maintained by the Declarant on the Common Elements, Declarant shall have the right to maintain within the Common Elements not more than one (1) office for sales and management purposes. Each such sales or management office may not exceed the size of the largest Unit.
- b. Declarant may from time to time relocate models, management offices and sales offices to different locations within the Property. Upon the relocation of a model, management office or sales office constituting a Common Element, Declarant may remove all personal property and fixtures therein. Any fixtures not so removed shall be deemed Common Elements, and any personal property not so removed shall be deemed the property of the Association.

- 7.1.2 Utility Easements. The Unit, Common and Limited Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, appropriate utility and service companies, and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section 7.1.2 shall include, without limitation, rights of Declarant, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common and Limited Common Elements. Notwithstanding the foregoing provisions of this Section 7.1.2, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant, or so as not to materially interfere with the use or occupancy of the Unit by its occupants.
- 7.1.3 Street and Sidewalk Easements. The Common Elements illustrated as sidewalks and streets are made subject to easements in favor of all Unit Owners and their guests for pedestrian and vehicular traffic accordingly.
- 7.1.4 Declarant's Easements.
- a. Declarant reserves an easement (until Declarant shall have satisfied all of its obligations under the Condominium Documents and all commitments in favor of any Unit Owner and the Association, including after Declarant Control has ended) on, over and under those portions of the Common or Limited Common Elements not located within a Building for the purposes of maintaining and correcting drainage of surface, roof or storm water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 7.1.4 expressly includes the right to cut any trees, bushes or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which Declarant shall restore the affected property as closely to its original condition as practicable.
  - b. Declarant reserves an easement (until Declarant shall have satisfied all of its obligations under the Condominium Documents and all commitments in favor of any Unit Owner and the Association, including after Declarant Control has ended) to use

portions of the Common or Limited Common Elements and any Units owned by Declarant for construction or renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Property.

- c. During the Declarant Control Period and while Declarant is selling Units in the Condominium, the Declarant shall have an easement through the Condominium for any access necessary to complete any renovations or modifications to be performed by Declarant.

7.1.5 Easement for Ingress and Egress Through Common Elements; Access to Units and Supports.

- a. Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable Rules and Regulations as may be imposed by the Association. Each Unit is hereby burdened with and subject to any easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.
- b. To the extent necessary, each Unit shall have an easement for structural support over every Unit in the building, the Common Elements and the Limited Common Elements; and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in the building, the Common Elements and the Limited Common Elements.

7.1.6 Common Elements in Favor of the Association. The Common Elements (including the Limited Common Elements) shall be and are hereby made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of inspection, upkeep, maintenance, repair and replacement of the Common Elements (including the Limited Common Elements).

7.1.7 Common Elements in Favor of the Units. The Common Elements (including the Limited Common Elements) shall be and are hereby made subject to the following easements in favor of the Units benefited:

- a. For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are a part of or serve any Unit

and which shall pass across or through a portion of the Common Elements.

- b. For the installations, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Element adjacent to such Unit; provided that the installations, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the building or impair or structurally weaken the building.
- c. For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the drywall or plaster perimeter walls bounding the Unit, the bottom surface of floor joist above the Unit and the top surface of the bottom surface of floor joists below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of Common Elements adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the building, or impair or structurally weaken the building.
- d. For the maintenance of the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grills, and similar fixtures which serve only one Unit but which encroach into any part of any Common Elements or Limited Common Elements on the date this Declaration is recorded or was thereafter installed by Declarant during the Declarant Control Period or within two (2) years after the termination thereof.

7.1.8 Units and Limited Common Elements Easement in Favor of Association.

The Units and the Limited Common Elements are hereby made subject to the following easements in favor of the Association and its agents, employees, and independent contractors:

- a. For inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible.

- b. For inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements, or both.
- c. For correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements, the Limited Common Elements and/or the Units.

7.1.9 Record Easements. The Condominium is subject to those additional record easements and title exceptions as shown on the Plats and Plans or as listed in Section 1.2 hereof.

#### **ARTICLE VIII**

#### **INITIAL CONSTRUCTION AND MODIFICATION OF BUILDINGS; DESIGN STANDARDS; ADDITIONS AND ALTERATIONS**

- Section 8.1 Modifications of Party Walls or Other Improvements Shared by Two or More Unit Owners. No Unit Owner may remove or cause to remove any Party Wall, nor portion thereof including insulation or paneling, nor affix any object that may damage or impair the structural integrity, soundproofing or design of any Party Wall.
- Section 8.2 Application for Governmental Permits and Approvals. The Association shall be responsible for the submission of any and all government permits required for construction, rehabilitation or improvement and submit such permit only after the Association approves or initiates the proposed construction, rehabilitation or improvement.
- Section 8.3 Indemnification. Each Unit Owner shall repair, at its own expense, any and all damage to the Common or Limited Common Elements caused by any construction upon its Unit and shall defend, indemnify and hold harmless the Association, all other Unit Owners and occupants of the Property, from and against all injury, loss, claims or damage to any person or property arising out of, or in any way connected with, any claims or action or proceeding brought thereof, including reasonable attorneys' fees. Further, such Unit Owner shall reimburse the Association for any costs incurred by the Association because of such Unit Owner's construction and use of the Common or Limited Common Elements and such reimbursement shall constitute a payment under Section 3302(a)(10) of the Act.

#### **ARTICLE IX**

#### **BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT**

- Section 9.1 Budget Adoption and Ratification. Within thirty (30) days after adoption of the proposed budget for the Condominium by the Executive Board, the Executive Board shall provide a summary of the annual budget to each Unit Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners rejects the budget, the budget is ratified whether or not a quorum is present. If the proposed budget is rejected the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a budget proposed by the Executive Board.
- Section 9.2 Ratification of Non-Budgeted Common Expense Assessments. If the Executive Board votes to levy a Common Expense assessment not included in the current budget other than one enumerated in Section 9.18 of this Declaration in an amount greater than fifteen percent (15%) of the current annual operating budget, the Executive Board shall submit such Common Expense to Unit Owners for ratification in the same manner as the budget under Section 9.1.
- Section 9.3 Statements of Unpaid Assessments. The Association upon written request shall furnish to a Unit Owner a statement in recordable form setting out the amount of unpaid assessments against a Unit. The statement shall be furnished within ten (10) days after receipt of the request and is binding on the Association Executive Board and each Unit Owner.
- Section 9.4 Monthly Payment of Common, Limited Common and Special Assessments. All Common and Limited Common Expense annual assessments shall be due and payable in equal monthly installments, in advance, on the first day of each month. Special assessments shall be due and payable in equal monthly installments, in advance, on the first day of each month, during such period of time as established by the Executive Board, but not less than six (6) months.
- Section 9.5 Initiation Fee. During the Declarant Control Period, Declarant reserves the right to charge an initial capitalization fee, or Initiation Fee, for each Unit sold, resold, or transferred in the Condominium. At the conclusion of the Declarant Control Period, the Executive Board may determine the amount or application of Initiation Fees.

The Initiation Fee shall be paid immediately upon transfer of the Deed for a Unit and shall be a one-time fee used by the Association for capital expenses and improvements in starting and maintaining the Association.

The amount of Initiation Fee shall be set by the annual Association Budget, and disclosed in a Public Offering Statement or Resale Certificate provided by the Declarant or the Association.

- Section 9.6 Acceleration of Assessments. In the event of default by the Unit Owner for a period of ten (10) days in the payment of any assessment levied against the Unit Owner's Unit, the Executive Board of the Association shall have the right to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable. Further, a late fee of fifteen percent (15%) of the total fee on the delinquency, and a penalty of Five Dollars (\$5.00) per day will be assessed. In addition, attorney's fees equal to fifteen percent (15%) of the total due and payable shall be assessed.
- Section 9.7 Confessions of Judgment. IN ORDER TO EXPEDITE THE EXECUTIVE BOARD'S COLLECTION OF ANY DELINQUENT ASSESSMENT, EACH UNIT OWNER (BY ACCEPTANCE OF THE DEED TO THEIR UNIT) SHALL BE DEEMED TO HAVE APPOINTED ANY ONE OR MORE EXECUTIVE BOARD MEMBERS, THE ATTORNEY-IN-FACT FOR SUCH UNIT OWNER TO CONFESS JUDGMENT AGAINST SUCH UNIT OWNER IN ANY COURT OF COMPETENT JURISDICTION IN PENNSYLVANIA, FOR ANY SUCH UNPAID ASSESSMENTS, WHICH APPOINTMENT (BEING FOR SECURITY) SHALL BE IRREVOCABLE; AND FOR SO DOING A COPY OF THIS SECTION 9.7 AND SAID DEED, BOTH VERIFIED BY AFFIDAVIT, SHALL BE SUFFICIENT WARRANT. THE AUTHORITY GRANTED HEREIN TO CONFESS JUDGMENT SHALL NOT BE EXHAUSTED BY ANY EXERCISE THEREOF BUT SHALL CONTINUE FROM TIME TO TIME AND ALL TIMES UNTIL THIS DECLARATION SHALL BE TERMINATED.
- Section 9.8 Commencement of Common and Limited Common Expense Assessments. Common and Limited Common Expense assessments shall commence upon conveyance of a Unit to a third-party purchaser for value from the Declarant. **The Declarant will not be responsible for dues on Units not yet sold to a third-party purchaser for value unless the Declarant uses a Unit as a model home or sales office.**
- Section 9.9 No Waiver of Liability for Assessments. No Unit Owner may exempt themselves from liability or for payment of the Assessments by waiver of the use or enjoyment of the Common or Limited Common Elements or by abandonment of the Unit against which the assessments are made.
- Section 9.10 Personal Liability of Unit Owners. The Unit Owner of a Unit at the time a Common or Limited Common Expense Assessment or a portion thereof is due and payable, is personally liable for the Assessment. Personal liability for the Assessment shall not pass to a successor in title to the Unit unless they agree to assume the obligation.



- Section 9.11 Subordination of Certain Charges. Any fees, charges, late charges, fines and interest which may be levied by the Executive Board, pursuant to Section 3302(a)(10), (11) and (12) of the Act, shall be subordinate to the lien of an Eligible Mortgage on a Unit.
- Section 9.12 Limitation on Expenditures. All expenses, charges and costs of maintenance, repair, or replacement of the Common or Limited Common Elements, and any other expenses, charges or costs which the Executive Board may insure or expend pursuant hereto, shall be approved by the Executive Board, and a written memorandum thereof prepared and signed by the Treasurer.
- Section 9.13 Reserve. Each annual budget may include an amount reasonably considered by the Executive Board to be sufficient as a reserve for replacements and contingencies. To initiate such reserve, the Declarant may collect from each of its grantees, at the time of settlement, an amount equal to twice the estimated monthly assessment allocable to the Unit purchased by such grantee and shall remit such amount to the Executive Board. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserve. In addition, the Executive Board shall have the right to segregate all or any portion of the reserve for any specific replacement or contingency upon such conditions as the Executive Board deems appropriate.
- Section 9.14 Accounting. On or before February 15 of each year, the Executive Board shall have available for inspection by all Unit Owners an itemized accounting of the Common and Limited Common Expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected, pursuant to the annual budget or assessments and leases and sales of property owned or managed by the Executive Board on behalf of the Association, and showing the net excess or deficit of income over expenditures plus reserves.
- Section 9.15 Special Assessments. If any annual budget proves inadequate for any reason, including nonpayment of any Unit Owner's assessments, or any nonrecurring expense, or any expense not set forth in the annual budget as adopted, the Executive Board may at any time levy a further assessment, which shall be assessed to the Unit Owners according to each Unit Owner's Percentage Interest. Such further assessment shall be payable in such monthly installments as the Board may determine. The Executive Board shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the amount and reasons therefore, and such further assessment shall become effective and shall be payable at such time or times as determined by the Executive Board.
- Section 9.16 Acceleration of Special Assessments. In the event of default by the Unit Owner for a period of ten (10) days in the payment of any Special Assessment levied

against the Unit Owner's Unit, the Executive Board of the Association shall have the right to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable. Further, a late fee of fifteen percent (15%) of the total fee annually, on the delinquency, and a penalty of Five Dollars (\$5.00) per day will be assessed. In addition, attorney's fees equal to fifteen percent (15%) of the total due and payable shall be assessed.

Section 9.17 Enforcement.

- 9.17.1 Assessments shall be assessed against all Units in accordance with their Percentage Interest, and each Unit Owner shall be personally liable for the amount so assessed. The Assessment shall, until fully paid, together with interest thereof at the rate established by the Association, constitute a lien against such Unit enforceable as provided in Section 3315 of the Act.
- 9.17.2 Any Assessment against a Unit may be enforced by suit by the Executive Board acting on behalf of the Unit Owners in any appropriate action at law or equity. Any judgment against a Unit and the Unit Owner shall be enforceable in the same manner as is otherwise provided by law.
- 9.17.3 In the event that title to a Unit shall be transferred by sheriff's sale pursuant to execution upon any lien against the Unit, the Executive Board shall give notice in writing to the sheriff of any unpaid Assessments. The purchaser at such sheriff's sale and the Unit involved shall not be liable for unpaid Assessments which became due prior to the sheriff's sale of the Unit. Any such unpaid Assessment which cannot be promptly collected from the former Unit Owner shall be reassessed by the Executive Board to be collected from all the Unit Owners, including the purchaser who acquired title at the sheriff's sale. To protect the Executive Board's right to collect unpaid Assessments which are a lien against a Unit, the Executive Board may, on behalf of the Unit Owners, purchase the Unit at sheriff's sale, provided such action is authorized by a majority of the members of the Executive Board, and if the Executive Board does effect such purchase, the Executive Board shall thereafter have the power to sell, convey, mortgage or lease such Unit to any person whomsoever. Notwithstanding any foreclosure, tax sale, judicial or other forced sale of a Unit, all applicable provisions of the Condominium Documents shall be binding upon any purchaser at such sale to the same extent as they would bind a voluntary grantee, except that such purchaser shall not be liable for unpaid Assessments chargeable to such Unit which became due prior to such sale, except as otherwise provided in this paragraph 9.17.3.
- 9.17.4 Upon the voluntary sale or conveyance of a Unit by a Unit Owner other than the Declarant, the grantee shall be jointly and severally liable with the

grantor for all unpaid Assessments which are a charge against the Unit as of the date of the sale or conveyance. Such joint and several liability shall be without prejudice to the grantee's right to recover from the grantor the amount of any such unpaid Assessments, but until such Assessments are paid, they shall continue to be a lien against the Unit which may be enforced in the manner set forth in Section 3315 of the Act.

Section 9.18 Lien.

9.18.1 The Association has a lien on a Unit for an assessment levied against a Unit or fines imposed against its Unit Owner from the time the Assessment or fine becomes due. Fees, charges, late charges, fines and interest charges pursuant to the Act and the Declaration and the By-laws are enforceable as Assessments under this section. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

9.18.2 A lien under this section is prior to all other liens and encumbrances on a Unit except:

- i. a lien and encumbrance recorded before the recordation of the Declaration;
- ii. a first mortgage on the Unit recorded before the date on which the Assessment sought to be enforced became delinquent; and
- iii. liens for real estate taxes and other governmental assessments or charges against a Unit. A lien under this section is also prior to all mortgages described in Article XI to the extent of the assessments based on the periodic budget adopted by the Association pursuant to Section 9.1 of this Article which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce either the Association's lien or a security interest described in subsection (ii) of this Section 9.18.2. This subsection does not affect the priority of mechanics or materialmens liens or the priority of a lien for other assessments made by the Association. A lien under this section is not subject to the provision of dower or curtesy or other exemptions excluded in subsection 3315(b) of the Act.

9.18.3 Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claimant lien for assessment under this section is not required.

- 9.18.4 A lien for an unpaid Assessment is extinguished unless proceedings to enforce a lien are instituted within three (3) years after the full amount of the Assessment becomes due; provided, that if an owner of a Unit subject to a lien under this section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.
- 9.18.5 This Section does not prohibit an action to recover sums for which this section creates a lien or prohibit the Association from taking in lieu of foreclosure.
- 9.18.6 A judgment or decree in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.
- 9.18.7 A judgment or decree in an action brought under this section is enforceable by execution under the Commonwealth of Pennsylvania statute on judgment executions.
- 9.18.8 The Association lien may be foreclosed as a mortgage, or foreclosed as a lien under the Commonwealth of Pennsylvania non-judicial foreclosure proceedings.
- 9.18.9 In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Assessments based on a periodic budget adopted by the Association pursuant to section 9.1 of this Declaration.
- 9.18.10 If a holder of a first or second mortgage on a Unit forecloses that security interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which came due before the sale, other than the assessments which were prior to that mortgage in accordance with the provisions of the Act. Any unpaid assessments not satisfied from the proceeds of the sale become Common Expenses collectible from all the Unit Owners, including the purchaser.
- 9.18.11 In the case of foreclosure under Commonwealth of Pennsylvania non-judicial foreclosures, the Association shall give reasonable notice of its

action to each of the lien holders of a Unit whose interest would be affected.

9.18.12 Any payments received by the Association in discharge of a Unit Owners obligation must be applied to their oldest balance due.

Section 9.19 Common or Limited Common Expenses Attributable to Fewer Than All Units.

9.19.1 Any Common or Limited Common Expenses for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against the Unit which benefits from such service.

9.19.2 Any insurance premium increase attributable to a particular Unit by virtue of activities or construction of the Unit shall be assessed against that Unit.

9.19.3 An assessment to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their Common Expense liabilities.

9.19.4 If a Common or Limited Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner's Unit.

9.19.5 Fees, charges, late charges, fines, collections, costs and interest charged against a Unit Owner pursuant to the Declaration, the By-Laws, Rules and Regulations, and the Act are enforceable as Assessments.

**ARTICLE X**  
**USE RESTRICTIONS**

Section 10.1 Use and Occupancy of Units and Common Elements. The occupancy and use of the Units, as well as the Common and Limited Common Elements, shall be subject to the following Rules, Regulations and Restrictions:

10.1.1 Prohibited Uses and Nuisances.

A. Itemization. Except for the activities of Declarant during original development:

1. No Unit Owner shall permit their Unit or that portion of the Limited Common Element allocated to their Unit to be used or occupied for any prohibited purpose.

2. Only duplex buildings contained two (2) single family dwellings shall be constructed for residential purposes. Said duplex buildings shall not exceed two and one-half (2 ½) stories in height. Each Unit shall be at least two thousand sq. ft. (2,000 sq. ft.) of livable space.
3. The Declarant shall maintain architectural control over the construction on or in the Units.

At the end of the Declarant Control Period, the Association, by and through the Architectural Review Committee, shall maintain architectural control over the construction on or in the Units and shall require all Unit Owners to contract with an architectural firm as determined by the Architectural Review Committee which is capable of conforming to the architectural specifications of the Condominium.

4. Each structure within the Condominium must meet the minimum set back requirements as established by Patton Township, Centre County, Pennsylvania as well as statutory or current case law pertaining to the condominium form of ownership.
5. The erection and maintenance of any structure of a temporary and/or permanent character, such as a tent, trailer, barn, shed or any other type of out building, is prohibited.
6. No fences or exterior walls shall be permitted in the Condominium. However, underground/ buried electric dog fences are permissible in the Common Area adjacent to a Unit. Said underground/ buried dog fences are to be located two (2) feet off the center line of the duplex building in the backyard and can extend no more than thirty feet (30') measured from the rear exterior wall of the Unit back.
7. Said Units, as herein above provided, shall be used for residential or dwelling purposes and no business, mercantile, commercial or manufacturing enterprise or activity of any kind shall be conducted thereon with the exception of such home occupations as

permitted by the zoning ordinances established by the governing municipality and approved by the Declarant.

8. The erection and maintenance of any type of sign (ex. Billboards, signboards or other advertising contrivance or medium) is prohibited, with the exception of the entrance sign and signs for professional purposes, not to exceed in area one square foot, or a sign advertising the property for sale or rent, not exceeding five square feet, or signs used by the builder to advertise the property during the construction and sales period. All signage must be in compliance with the Patton Township Ordinances for signage. At no time will "for sale" signs be permitted at the entrance sign areas or other Common Areas within the Condominium.
9. No animals, livestock, horses or poultry of any kind shall be kept for breeding or commercial use. No Unit Owner shall be allowed to have more than three (3) domestic animals, which shall be defined as dogs and cats, also referred to as pets. All pets must be on a leash when outside and Unit Owners with pets must carry a sanitary utensil to clean up after their pets. Domestic animals are to be housed inside the dwelling; no exterior pet houses will be allowed.
10. All trash, garbage and refuse shall be stored in covered metal or plastic receptacles and concealed from view by an enclosure or screening approved by Declarant, their successors and assigns. Trash may be visible only on the day or night before the day of trash pickup by the municipality.
11. The use of any Unit or part thereof as a dumping ground for garbage and rubbish is strictly prohibited. All Units shall be kept neat and clean and free from refuse and weeds and nothing shall be placed, kept, stored or maintained thereon, which may constitute a nuisance or annoyance to Unit Owners. Responsibility shall commence from time of Unit purchase. Unit Owners shall comply with municipal ordinances. All porches and patios must be kept neat

and clean and free from trash and items that would create clutter. Items permitted on the porches and patios shall be in accordance with the Rules and Regulations set forth by the Executive Board and the Architectural Review Committee. All excess fill from Unit construction shall be required to be dumped in such areas as indicated by the Declarant.

12. Landscaping and land maintenance will be completed by Declarant during Declarant Control Period. Unit Owners are prohibited from any landscaping or land maintenance during Declarant Control Period. At the conclusion of the Declarant Control Period, the landscaping will be maintained by the Association pursuant to Section 3.2 herein.
13. Any activity which is noxious or offensive and inconsistent with the residential character of the neighborhood is strictly prohibited and is herewith declared to be a public nuisance and abatable as such.
14. No permanent or temporary clothesline or any structure used for the drying of clothing or housewares may be installed or used on any Unit.
15. No rooftop or other type of antennas shall be permitted to be installed on any exterior portion of any structure. However, satellite dishes no larger than twenty-four (24) inches in diameter are permitted if attached to building Unit at rear. Satellite dishes are subject to approval from the Architectural Review Committee as to location and color, which may not be unreasonably withheld.
16. No unlicensed, uninspected or unregistered motor vehicle may be maintained or kept on any Unit or parking area of the said Condominium unless contained in the garage with the garage door down. In addition, no repair work will be done on any motor vehicle outside of the Unit.
17. No recreational vehicles (i.e. campers, trailers, golf carts, ATV's, dirt bikes, jet skis, boats, etc.) may be kept on the Unit or within the



Condominium development unless contained in the garage with the garage door down.

18. No trampolines, game courts, hoops, nets or children's play equipment will be permitted in the Common Areas.
19. Solar collection panels shall not be permitted.
20. Developer and Declarant shall have the sole right to erect, maintain and operate real estate sales, management and/or construction offices on any part of the Property and/or in any dwelling house now or hereinafter erected on any Unit provided such offices are solely used and operated in connection with the development of the Property or the building of structures on the Units, or the management, rental or sale of any part of the Unit, or of structures now or hereafter erected thereon, but no part of the Property, nor any part of any dwelling now or hereafter erected thereon, shall be used for any of the aforesaid purposes set forth in this paragraph without written consent and approval of Declarant, in his sole, reasonable discretion, being first had and obtained. Successor Declarant shall not enjoy the rights granted by this paragraph unless an instrument is signed by Declarant expressly granting such right and has been recorded in the Centre County Recorder of Deeds.
21. These conditions, reservations, covenants and restrictions shall apply to all Units shown on the aforesaid Condominium plan whether vacant or improved and to all structures erected or to be erected thereon as well as to the alteration or improvement of or addition to any such structures.
22. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Non-compliance to violations shall be assessed violation fees of up to \$50.00 per day and fifteen percent (15%) interest, plus any court or magistrate costs, penalties, fines and attorney fees

incurred by the Association in the process of enforcing compliance of the violation.

23. Reasonable rules and regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Common and Limited Common Elements within the Condominium, may be promulgated from time to time by the Executive Board, subject to the right of the Association to change such Rules and Regulations. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit Owners by the Executive Board promptly after the adoption of such Rules and Regulations or any amendments thereto.

24. Invalidity of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

10.1.2 Survival of Article 10. The uses, restrictions and architectural standards as set forth in this Article X shall survive the termination of the Condominium. It is the intent of Declarant that the use restrictions shall run with the land.

## **ARTICLE XI** **MORTGAGES**

### **Section 11.1 Requirements.**

11.1.1 Any mortgage or other lien on a Unit and the obligations secured thereby shall be deemed to provide, generally, that the mortgage or other lien instrument and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act and this Declaration shall be deemed to provide specifically, but without limitation, that the mortgagee or lien holder shall have no right (i) to participate in the adjustment of losses with insurers or in the decision as to whether or not or how to repair or restore damage to or destruction of the property; or (ii) to receive or apply the proceeds of insurance to the reduction of the mortgage debt or otherwise, except in the event and to the extent either a distribution of such proceeds to Unit Owners pursuant to Section 3312(g) of the Act or of insurance proceeds in excess of the cost of repair or restoration being received by the Owner of the Unit encumbered by such mortgage; or (iii)

to accelerate the mortgage debt or to have any other remedies on the property other than within the affected Unit, and the obligation secured shall be pre-payable, without penalty, upon the happening of any termination of the Condominium or determination not to restore or replace the affected Unit.

Nothing contained in this Section 11.1.1 hereinabove or elsewhere in this Declaration shall give a Unit Owner, or any other party, priority over any rights of the mortgagee of a Unit pursuant to its mortgage in case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for loss to or a taking of one or more Units and/or Common Elements.

- 11.1.2 No Unit Owner or purchaser of a Unit shall deliver any mortgage or other lien instrument secured by a Unit, or any obligation to be secured hereby, unless it has first notified the Executive Board of the name and address of the proposed mortgagee or lien holder, the amount of the debt proposed to be so secured, and has submitted to the Executive Board a copy of the form of the proposed mortgage and note or other instrument of obligation. When a mortgage to the Declarant or Seller of a Unit is delivered to the Executive Board, the Executive Board shall promptly notify the proposed mortgagee whether such mortgage has been approved by the Executive Board as an Eligible Mortgage.

Section 11.2 Eligible Mortgagees.

- 11.2.1 When an Eligible Mortgage is delivered to the Eligible Mortgagee or other lien holder, the Unit Owner shall simultaneously provide executed or conformed copies to the Executive Board. Upon receipt of such copy of an Eligible Mortgage, the Secretary of the Executive Board shall instruct the insurer of the Property to add the name of the Eligible Mortgagee to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Eligible Mortgagee with a Certificate of Insurance showing that the Eligible Mortgagee's name has been so added.
- 11.2.2 The Secretary shall maintain a register of Eligible Mortgages, showing the names and addresses of the Eligible Mortgagees, the amount secured by each Eligible Mortgage and whether it is a first mortgage.
- 11.2.3 An Eligible Mortgagee shall have the affirmative right of timely notice in the following events:

- 11.2.3.1 Any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;
  - 11.2.3.2 Any sixty (60) day delinquency in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage;
  - 11.2.3.3 A lapse, cancellation or material modification of any insurance policy maintained by the Association; and
  - 11.2.3.4 Any proposed action that requires the consent of a specified percentage of mortgagees.
- 11.2.4 Upon the specific written request of a holder of an Eligible Mortgage of a Unit or its servicer to the Executive Board, the Eligible Mortgagee shall be entitled to receive some or all of the following as designated in the request:
- a. Copies of budgets, notices of assessments or any other notices or statements provided under this Declaration by the Executive Board to the Owner of the Unit covered by the mortgage.
  - b. Any audited or unaudited financial statements of the Executive Board, which are prepared for the Executive Board and distributed to Unit Owners. The holder of any mortgage on a Unit shall be entitled to have an audited statement prepared at its own expense if one is not otherwise available.
  - c. Copies of notices of meetings of the Unit Owners and the right to be represented at any such meetings by a designated representative.
  - d. Notice of any decision by the Executive Board to terminate professional management and assume self-management of the Property.
  - e. Such other financial data as such Eligible Mortgagee shall reasonably request in writing.
- 11.2.5 The request of an Eligible Mortgagee or its servicer shall be written and specify which of the above items it desires to receive and shall indicate the address to which any notice or documents shall be sent by the Executive Board. The Executive Board shall be under no obligation to inquire into the validity of any request made hereunder by an Eligible Mortgagee. The Executive Board may refuse to honor any request where, after reasonable inquiry, it shall determine that the person making such request is not entitled to the material so requested and may establish reasonable rules to implement this Section 11.2.5.

11.2.6 Failure to comply with the requirements set forth above shall in no way invalidate the otherwise proper actions of the Association and the Executive Board.

11.2.7 Any Eligible Mortgagee shall have the right, exercisable upon written request to the Executive Board, to examine the books and records of the Association at any reasonable time.

Section 11.3 Approval of Mortgagees. Subject to the limitations imposed by Section 3221 of the Act:

11.3.1 The prior written approval of holders of first mortgages of Units representing at least sixty-seven percent (67%) of the votes of Units subject to first mortgages shall be required to terminate the condominium status of the Property for reasons other than substantial destruction or condemnation of the Property.

11.3.2 The prior written approval of at least sixty-seven percent (67%) of the holders of first mortgages on Units (based on one (1) vote for each first mortgage owned) shall be required for any of the following:

- a. the termination or abandonment of the condominium status of the Property except for termination or abandonment as a result of condemnation or substantial loss to the Units and/or Common Elements;
- b. a change in the schedule of Percentage Interests set forth in Exhibit "E" allocated to each Unit;
- c. the abandoning, encumbering, selling or transferring of the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended uses of the Common Elements shall not be deemed a transfer within the meaning of this subsection); and
- d. the use of hazard insurance proceeds for losses to any Condominium Property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium Property.

11.3.3 The prior written approval of holders of first mortgages of Units representing at least fifty-one percent (51%) of the votes of the Units subject to first mortgages shall be required to make an amendment of a material nature to the Condominium Documents. A change to the

provisions of any Condominium Document directly relating to any of the following shall for this purpose be considered material:

- a. voting rights;
- b. assessments, assessment liens or subordination of assessment liens;
- c. reserves for maintenance, repair and replacement of the Common Elements;
- d. responsibility for maintenance and repairs;
- e. reallocation of interest in the Common Elements or Limited Common Elements or rights to their use;
- f. boundaries of any Unit;
- g. convertibility of Units into Common Elements or of Common Elements into Units;
- h. expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;
- i. insurance or fidelity bonds;
- j. leasing of Units by the Declarant;
- k. imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;
- l. a decision by the Association to establish self-management when professional management had been required previously by an Eligible Mortgagee;
- m. restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;
- n. actions to terminate the legal status of the project after substantial destruction or condemnation occurs; or
- o. provisions that expressly benefit holders, insurers or guarantors of Eligible Mortgages.

- 11.3.4 Notwithstanding anything to the contrary in this Section 11.3, written approval of holder's first mortgages on Units shall not be required for an amendment to this Declaration made pursuant to Section 14.2 hereof.

## **ARTICLE XII**

### **LEASING**

Section 12.1 **Leasing Units.** A Unit Owner may lease or sublease their Unit (but not less than their entire Unit) at any time and from time to time provided that (except for a lease or sublease made by (i) Declarant or (ii) an Eligible Mortgagee, which is either in possession or is a purchaser at a judicial sale):

- 12.1.1 No Unit may be leased or subleased for transient or hotel purposes or for an initial term of less than ninety (90) days.
- 12.1.2 No Unit may be leased or subleased without a written lease or sublease approved first by the Executive Board. A copy of such lease or sublease shall be furnished to the Executive Board within ten (10) days after execution thereof.
- 12.1.3 At no time shall a Unit be leased to more than two (2) unrelated parties.
- 12.1.4 The rights of any lessee or sublessee of the Unit shall be subject to, and each such lessee or sublessee shall be bound by the covenants, conditions and restrictions set forth in this Condominium Declaration and the By-Laws and Rules and Regulations, and a default thereunder shall constitute a default under the lease or sublease; provided, however, that the foregoing shall not impose any direct liability on any lessee or sublessee of a Unit to pay any Assessments on behalf of the Owner of that Unit.
- 12.1.5 All leases of a Unit shall be deemed to include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Condominium Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce and/or reasonable opportunity to cure the violation prior to the commencement of an enforcement action.

## **ARTICLE XIII**

### **UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN**

Section 13.1 **General.** Every Unit Owner shall, and by his acceptance of his Unit deed does, covenant on behalf of himself, his heirs, successors and assigns, that he will comply strictly with the terms, covenants and conditions set forth in this

Condominium Declaration and the By-Laws of this Condominium, as well as the rules, regulations, resolutions and decisions adopted pursuant thereto, and the Unit deeds, in relation to the use and operation of the Units, the Common and Limited Common Elements and the Property. Failure to comply with any of the foregoing shall be grounds for an action to recover sums due for damages, or injunctive relief or any or all of them. Such action may be maintained by an aggrieved Unit Owner or the Executive Board on its own behalf or on behalf of the Unit Owners or by any person who holds a lien upon a Unit and is aggrieved by any such non-compliance. In the case of flagrant or repeated violations by a Unit Owner, he may be required by the Executive Board to give sufficient surety or sureties for his future compliance with the terms, covenants and conditions set forth in the Condominium Documents and Rules and Regulations. In any such action the prevailing party shall be entitled to recover from the adverse party all costs and expenses, including legal fees, incurred.

- Section 13.2 Eminent Domain. Whenever all or part of the Condominium shall be taken, injured or destroyed by eminent domain, the Association shall represent the Unit Owners in negotiations, settlements and agreements with the condemning authority. Each Unit Owner appoints the Association as attorney-in-fact for this purpose. Each Unit Owner shall be entitled to notice thereof; but in any proceedings for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit Owner's interest therein. The award or proceeds of settlement shall be payable to the Association for the use and benefit of the Unit Owners and their Mortgagees as their interests may appear.

#### **ARTICLE XIV** **AMENDMENT OF DECLARATION**

- Section 14.1 Amendment Generally. This Declaration, including the Plats and Plans, may be amended only in accordance with the procedures specified in Section 3219 of the Act, by vote of at least sixty-seven percent (67%) of the Association, except unanimous consent of all Unit Owners affected shall be required to create or increase Special Declarant Rights, alter the terms or provisions governing the completion or conveyance or lease of Common Facilities or increase the number of Units or change in the boundaries of any Unit, the Common Expenses Liability or voting strength in the Association allocated to a Unit or the uses to which a Unit is restricted. No Declaration provisions pursuant to which any Special Declarant Rights have been reserved to a Declarant shall be amended without the express written joinder of the Declarant in such amendment. This section shall not apply to amendments executed by a Declarant under Section 3210(e) or (f) (relating to Plats and Plans), Section 3211(a) (relating to conversion and expansion of Flexible Condominiums), Section 3212(a) (relating to withdrawal of Withdrawable Real Estate) or amendments executed by the Association under



Section 3107 (relating to eminent domain), Section 3209 (relating to Limited Common Elements), Section 3215 (relating to subdivision or conversion of Units), or amendments executed by certain Unit Owners under Section 3209(b) and Section 3214(a) (relating to relocation of boundaries between Units), Section 3215 and Section 3220(b) (relating to termination of Condominium).

Pursuant to Section 3219(b) of the Act, no action to challenge the validity of an amendment adopted by the Association may be brought more than one year after the amendment is recorded.

Section 14.2 Technical Corrections. If any amendment to the Declaration is necessary in the judgment of the Executive Board to cure an ambiguity, correct or supplement any provision of the Declaration, including Plats and Plans, that is defective, missing or inconsistent with any other provision of the Declaration or Act or conform to the requirements of any agency or entity that has established national or regional standards with respect to loans secured by mortgages or deeds of trust or Units in a Condominium Community, such as Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, the Executive Board may effect an appropriate corrective amendment without approval of the Unit Owners or the holders of liens on the Condominium, upon receipt of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of Section 3219(f) of the Act.

Section 14.3 Rights of Secured Lenders. Annexation of additional properties, mergers and consolidations, dedication of Common Areas and amendment of the Declaration does not requires prior approval of HUD/VA as long as the Declarant exercises his Special Declarant Rights which extend for a period of time of seven (7) years from the date of the first conveyance of a Unit to a person other than the Declarant; provided, however, that the Declarant's Special Rights will terminate one-hundred and eighty (180) days after conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than Declarant. Further, Declarant's Special Rights which entitle it to unilaterally convert Convertible Real Estate, add Additional Real Estate and withdraw Withdrawable Real Estate, cause mergers and consolidations and appoint or remove the Executive Board, extended from the date of the first conveyance of a Unit to a person other than the Declarant for not more than seven (7) years; provided however, that the Declarant's Special Rights will terminate one-hundred and eighty (180) days after conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than Declarant.

## **ARTICLE XV**

### **DECLARANT'S RIGHTS; SPECIAL DECLARANT RIGHTS**

Section 15.1 Declarant's Control of the Association.

15.1.1 There shall be a period of Declarant Control of the Condominium Association, during which the Declarant or persons designated by the Declarant may appoint and remove the officers and members of the Executive Board. The period of Declarant Control terminates no later than the earlier of:

- a. One hundred eighty (180) days after conveyance of seventy-five percent (75%) of the Units that may be created, to Unit Owners other than Declarant; or
- b. Seven (7) years after the first Unit is conveyed to a Unit Owner other than Declarant.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in no event may the Declarant require, for the duration of the period of Declarant Control, that specified actions of the Association or Executive Board as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

15.1.2 Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit Owners other than Declarant, one (1) additional Executive Board member, who shall comprise not less than twenty-five percent (25%) of the Executive Board, shall be elected by Unit Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units, which may be created to Unit Owners other than Declarant, one (1) additional Executive Board member, who shall comprise not less than thirty-three percent (33%) of the members of the Executive Board, shall be elected by Unit Owners other than Declarant.

15.1.3 The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

15.1.4 Notwithstanding any provision of this Declaration or the By-Laws to the contrary, following notice under Section 3308 of the Act, the Unit Owners by sixty-seven percent (67%) vote of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 15.2 Declarant Rights. Declarant reserves unto itself all Special Declarant Rights as defined in Section 3103 of the Act, now or as amended in the future.

Section 15.3 Disputes. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions or interpretation or application of the provisions of this Declaration (including the Plats and Plans), the By-Laws and/or the Rules and Regulations, the ultimate determination, with respect thereto, shall be given by the Executive Board following an appeal to such Executive Board from the Association body. The determination by the Executive Board in the first instance shall be final and binding on each and all such Unit Owners. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief or offer to assist it in fulfilling its responsibilities.

## **ARTICLE XVI** **TERMINATION**

Section 16.1 Termination. Termination of the Condominium may be accomplished only in accordance with Section 3220 of the Act.

16.1.1 Unit Owner Approval. Except in the case of a taking of all the Units by eminent domain, the Condominium may be terminated only by agreement of Unit Owners of Units to which at least eighty percent (80%) of the votes in the association are allocated.

16.1.2 Recordation of Termination Agreement. An agreement of Unit Owners to terminate the Condominium must be evidenced by the execution of a termination agreement or ratifications thereof, in the same manner as a deed, by the requisite number of Unit Owners who are owners of record as of the date preceding the date of recordation of the termination agreement. The termination agreement must specify the date it was first executed or ratified by a Unit Owner. The termination agreement will become null and void unless it is recorded on or before the earlier of:

- i. the expiration of one year from the date it was first executed or ratified by a Unit Owner; or
- ii. such date as shall be specified in the termination agreement.

## **ARTICLE XVII** **DAMAGE TO OR DESTRUCTION OF PROPERTY**

Section 17.1 Duty to Restore. The portion of the Condominium for which insurance is required by this Declaration, the Bylaws or Section 3312 of the Act, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

17.1.1 The Condominium is terminated; or

17.1.2 Repair or replacement would be illegal under state statute or municipal ordinance governing health or safety; or

17.1.3 Eighty percent (80%) of the Unit Owners, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

Section 17.2 Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 17.3 Plans. The property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board, a majority of Unit Owners, and fifty-one percent (51%) of Eligible Mortgagees.

Section 17.4 Replacement of Less than Entire Property.

17.4.1 The insurance proceeds attributable to the damaged property shall be used to restore the damaged property to a condition compatible with the remainder of the Condominium;

17.4.2 Except to the extent that other persons would be distributees:

- a. the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated or to lien holders as their interest may appear; and
- b. the remainder of the proceeds must be distributed to each Unit Owner or lien holder as their interests may appear in proportion to the Common Element interests of all the Units.

17.4.3 If the Unit Owners vote not to rebuild a Unit, the Percentage Interest of the Unit is reallocated upon the vote of the Unit Owners as if the Unit had been condemned under Section 3107 of the Act. The Association promptly shall prepare, execute and record an Amendment to the Declaration reflecting the reallocations.

Section 17.5 Insurance Proceeds. The Trustee, or if there is no Trustee, then the Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holder as their interests may appear. Subject to the provisions of Section 17.1.1 through 17.1.3

of this Declaration, the proceeds shall be disbursed for the repair and restoration of the damaged property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completed, repaired or restored or the Condominium has been terminated.

Section 17.6 Certificates by the Executive Board. The Trustee, if any, may rely on the following certification in writing made by the Executive Board:

17.6.1 Whether damaged or destroyed property is to be repaired or restored.

17.6.2 The manner and amounts to be paid for repairs or the restoration and the names and addresses of the parties to whom such amount should be paid.

Section 17.7 Certificates by Attorneys or Title Insurance Companies. If payments are to be paid to Unit Owners or Eligible Mortgagees, the Executive Board and the Trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of land records of the applicable Office of the Recorder of Deeds from the date of the recording of the original Declaration stating the names of the Unit Owners and the Eligible Mortgagees.

## **ARTICLE XVIII** **INSURANCE**

Section 18.1 Coverage. To the extent reasonably available, the Executive Board, commencing no later than the time of the first conveyance of a Unit to a person other than the Declarant shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand delivered or be sent prepaid by United States mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

Section 18.2 Property Insurance.

18.2.1 Property insurance covering:

A, The project facilities, which term means all Buildings on the property, including the Units and all fixtures, equipment and any improvements and betterments whether a part of the Unit or a Common Element or a Limited Common Element, and such personal property of Unit Owners as is normally insured under building coverage, but excluding land, excavations, portions of foundations below the under surface of the

lowest basement floors, underground pilings, piers, pipes, flues and drains and other items normally excluded from property policies; and

b. All personal property owned by the Association.

18.2.2 Amounts. The project facilities for an amount (after application for any deductions) equal to ninety percent (90%) of their actual cash value at the time the insurance is purchased and at each renewal date. Personal property owned by the Association for an amount equal to its actual cash value.

The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement costs of the project facilities and the actual cash value of the personal property and the cost of such appraisals shall be a Common Expense.

18.2.3 Risks Insured Against. The insurance shall afford protection against all risks of direct physical loss commonly insured against.

18.2.4 Other Provisions. Insurance policies required by this Section shall provide that:

- a. The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of Unit Owner;
- b. An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association will not void the policy or be a condition to recovery under the policy;
- c. If, at the time of a loss under the policy, there is other insurance in the name of the Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance;
- d. Loss must be adjusted within the Association;
- e. Insurance proceeds must be paid to any insurance trustee designated in the policy for the purpose, and in the absence of such designation to the Association, in either case to be held in trust for each Unit Owner and each Unit Owner's Mortgagee;
- f. The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or a non-renewal has been mailed to the Association, each Unit Owner and each holder

of a mortgage to whom a certificate or memorandum of insurance has been issued at their respective last known addresses; and

- g. The name of the insured shall be substantially listed as follows: The Kingston Village Condominium Association, Inc., for the use and benefit of the individual Unit Owners.

Section 18.3 Liability Insurance. Liability Insurance, including medical payments insurance, in an amount determined by the Executive Board, but in no event less than One Million (\$1,000,000.00) Dollars covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements, Limited Common Elements and the activities of the Association.

18.3.1 Other Provisions. Insurance policies carried pursuant to this Section shall provide that:

- a. Each Unit Owner is an insured person under the policy with respect to liability arising out of the Unit Owner's Percentage Interest in the Common Elements, Limited Common Elements or membership in the Association.
- b. The insurer waives the right to subrogation under the policy against any Unit Owner or member of the household of Unit Owner.
- c. An act or omission by any Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.
- e. If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same residence covered by the policy, the policy of the Association provides primary insurance.

Section 18.4 Fidelity Bonds or Employee Dishonesty Endorsement. A blanket fidelity bond or Employee Dishonesty Endorsement is required for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond or endorsement shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond or endorsement is in force, and in no event less than an amount equal to seven (7) months assessments for all Units plus reserve funds. The bond or endorsement shall include a provision that calls for ten (10) days written notice to the Association, to each holder of a mortgage in a Unit, to each servicer that services an FNMA-owned or FHLMC-owned mortgage on a Unit and to the insurance

trustee, if any, before the bond or endorsement can be cancelled or substantially modified for any reason.

- Section 18.5 Unit Owner Policies. An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit.
- Section 18.6 Workers Compensation Insurance. The Executive Board shall obtain and maintain Workers Compensation Insurance, if applicable, to meet the requirements of the laws of the Commonwealth of Pennsylvania.
- Section 18.7 Directors and Officers Liability Insurance. The Executive Board shall obtain and maintain Directors and Officers Liability Insurance if available, covering all of the directors and officers of the Association in such limits as the Executive Board may from time to time determine. The Executive Board shall obtain insurance to satisfy the indemnification obligation of the Association and all Unit Owners set forth above, if and to the extent available at reasonable cost.
- Section 18.8 Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the Unit Owners.
- Section 18.9 Premiums. The premiums from any insurance policy obtained by the Executive Board shall be a Common Expense. The premiums from any insurance policy obtained by the Unit Owner for his or her own benefit shall be the Unit Owner's expense.

## **ARTICLE XIX**

### **LIMITATION OF LIABILITY FOR EXECUTIVE BOARD MEMBERS AND OFFICERS**

Section 19.1 Standard of Conduct.

- 19.1.1 In the performance of their duties, the officers and members of the Executive Board shall stand in a fiduciary relation to the Association and shall perform their duties, including duties as members of any committee of the Board upon which they may serve, in good faith, in a manner they reasonably believe to be in the best interests of the Association and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances.
- 19.1.2 In discharging the duties of their respective positions, the Executive Board members and officers may, in considering the best interests of the Association, consider the effects of any action upon employees and upon suppliers of the Association and upon communities in which the Condominium is located, and all other pertinent factors. The



consideration of those factors shall not constitute a violation of the standards described above.

19.1.3 Absent a breach of fiduciary duty, lack of good faith or self-dealing, actions taken as an Executive Board member or officer or any failure to take any action shall be presumed to be in the best interest of the Association.

Section 19.2 Good Faith Reliance. In performing his duties, an officer or Executive Board member shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

19.2.1 One or more other officers or employees of the Association whom the officer or Executive Board member reasonably believes to be reliable and competent in the matters presented.

19.2.2 Counsel, public accountants or other persons as to matters which the officer or Executive Board member reasonably believes to be within the professional or expert competence of such person.

19.2.3 A committee of the Executive Board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the officer or Executive Board member reasonably believes to merit confidence.

19.2.4 An officer or Executive Board member shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

Section 19.3 Limited Liability. No Executive Board member or officer, in his capacity as such, shall be personally liable for monetary damages for any action taken, or any failure to take any action, unless he has breached or failed to perform the duties of his office under the standards described above; provided, however, that the provisions of this Section 19.3 shall not apply to the responsibility or liability of an Executive Board member or officer pursuant to any criminal statute, or to the liability of an Executive Board member or officer for the payment of taxes pursuant to local, state or federal law.

Section 19.4 Indemnification. To the extent permitted under Pennsylvania law, each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of

his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged to be in breach of the standards of conduct described above; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member and/or officer) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Section 19.4 shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

To the extent permissible under Pennsylvania law, expenses incurred by an Executive Board member and/or officer in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon the request of the Executive Board member and/or officer, after the Association has received an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association.

## **ARTICLE XX**

### **CONVERTIBLE REAL ESTATE**

Section 20.1 Reservation. Declarant hereby explicitly reserves an option, until the tenth (10<sup>th</sup>) anniversary of the recording of this Declaration, to convert all or any portion of the Convertible Real Estate to Units, Common Elements, Limited Common Elements, Controlled Facilities, Limited Controlled Facilities, or any combination thereof from time to time in compliance with Section 3211 of the Act, without the consent of any Unit Owner or holder of a mortgage on any Unit. This option to convert may be terminated prior to such anniversary only upon the filing of an Amendment to this Declaration by the Declarant. Declarant expressly reserves the right to convert any or all portions of the Convertible Real Estate at any time, at different times, in any order, without limitation, and without any requirement that any other Real Estate be converted, added, or withdrawn; provided, however, that the Convertible Real Estate shall not exceed the area described as such on Exhibit "C" attached hereto. There are no other limitations on this option to convert the Convertible Real Estate.

**ARTICLE XXI**  
**OPTION TO WITHDRAW REAL ESTATE**

Section 21.1 Declarant's Option to Withdraw Withdrawable Real Estate. Declarant hereby explicitly reserves an option, until the tenth (10<sup>th</sup>) anniversary of the recording of this Declaration, to withdraw Withdrawable Real Estate from the Condominium from time to time in compliance with Section 3212 of the Act, without the consent of any Unit Owner or holder of a mortgage on any Unit. This option to withdraw may be terminated prior to such anniversary only upon the filing of an amendment to this Declaration by the Declarant. Declarant expressly reserves the right to withdraw any or all portions of the Withdrawable Real Estate at any time, at different times, in any order, without limitation and without any requirement that any other Real Estate be withdrawn, added, or converted, except as set forth in Section 3212 of the Act; provided, however, that the Withdrawable Real Estate shall not exceed the area described as such on Exhibits "C" attached hereto. There are no other limitations on this option to withdraw the Withdrawable Real Estate from the Condominium.

1

IN WITNESS WHEREOF, the said S&A Homes, Inc., Declarant, has executed this Declaration this 2nd day of November, 2018.

WITNESS:

DECLARANT:  
S & A Homes, Inc.

*Amanda J. [Signature]*

By:

*Christopher A. Dochat*  
Christopher A. Dochat, Chief Financial Officer

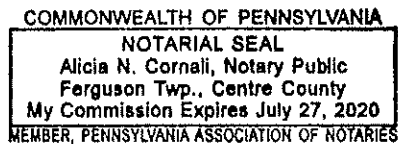
COMMONWEALTH OF PENNSYLVANIA :

: ss.

COUNTY OF CENTRE :

On this, the 2nd day of November, 2018, before me, a Notary public, in and for said Commonwealth, personally appeared, Christopher A. Dochat, who, after being duly sworn according to law, deposes and says that he is the Chief Financial Officer of S & A Homes, Inc., that he is authorized to execute the Condominium Declaration for The Kingston Village Condominium for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



*Alicia N. Cornali*  
NOTARY PUBLIC  
My Commission Expires:

## EXHIBIT "A"

### Legal Description of all Real Estate Submitted

ALL that certain tract of land situated in **Patton Township**, Centre County, PA, being Lot 6 as shown on a plan entitled, "Aeropointe Place, Subdivision Plan for Tax Parcel 18-2-29E Nittany Valley Sports Centre Phase 2A, Subdivision Plan", dated January 3, 2017, by PennTerra Engineering, Inc., State College, PA, and recorded at the Centre Recorder of Deeds Office in Plat Book 91, at Page 194, on June 9, 2017, being bounded and described as follows:

**BEGINNING** at an iron pin, lying in a westerly R/W line Bernel Road (S.R. 3003, 33' R/W) and being an easterly corner of Proposed Lot 5R; thence along said Proposed Lot 5R the following three bearings and distances: S67°55'45"W, 301.57 feet to a point; thence along a curve to the left, having a chord bearing of S27°40'01"E, a chord distance of 149.16 feet, a radius of 1,000.00 feet and an arc length of 149.29 feet to an iron pin; thence S52°20'01"W, 692.40 feet to a point, being a westerly corner of said Proposed Lot 5R and lying in an easterly line of lands owned now or formerly by Ann Gale and Pamela Sue Kradel (Tax Parcel 18-2-28, R.B. 807, at Page 187); thence along said Gale and Kradel lands the following two bearings and distances: N36°56'49"W, 121.16 feet to an iron pin; thence N34°56'25"W, 347.47 feet to a point, lying in an easterly line of said Gale and Kradel lands and being a southerly corner of the terminus of Champion Drive (R/W); thence along said R/W the following three bearings and distances: N55°03'35"E, 607.17 feet to a point; thence along a curve to the right, having a chord bearing of N61°25'49"E, a chord distance of 438.27 feet, a radius of 1,975.00 feet and an arc length of 439.18 feet to a point; thence S67°08'07"E, 49.51 feet to a point, being a southerly corner of said R/W and lying in a westerly R/W line of Bernel Road (S.R. 3003, 33' R/W); thence along said R/W S22°04'15"E, 271.12 feet to an iron pin, being the place of **BEGINNING**. **CONTAINING 9.642 acres.**

Being known as Centre County Uniform Identifier Tax Parcel Number 18-2/29Q

## EXHIBIT "B"

### Legal Description of Phase 1

ALL that certain tract of land situated in **Patton Township**, Centre County, PA, being Lot 6 as shown on a plan entitled, "Aeropointe Place, Subdivision Plan for Tax Parcel 18-2-29E Nittany Valley Sports Centre Phase 2A, Subdivision Plan", dated January 3, 2017, by PennTerra Engineering, Inc., State College, PA, and recorded at the Centre Recorder of Deeds Office in Plat Book 91, at Page 194, on June 9, 2017, being bounded and described as follows:

**BEGINNING** at an iron pin, lying in a westerly R/W line Bernel Road (S.R. 3003, 33' R/W) and being an easterly corner of Proposed Lot 5R; thence along said Proposed Lot 5R the following three bearings and distances: S67°55'45"W, 301.57 feet to a point; thence along a curve to the left, having a chord bearing of S27°40'01"E, a chord distance of 149.16 feet, a radius of 1,000.00 feet and an arc length of 149.29 feet to an iron pin; thence S52°20'01"W, 692.40 feet to a point, being a westerly corner of said Proposed Lot 5R and lying in an easterly line of lands owned now or formerly by Ann Gale and Pamela Sue Kradel (Tax Parcel 18-2-28, R.B. 807, at Page 187); thence along said Gale and Kradel lands the following two bearings and distances: N36°56'49"W, 121.16 feet to an iron pin; thence N34°56'25"W, 347.47 feet to a point, lying in an easterly line of said Gale and Kradel lands and being a southerly corner of the terminus of Champion Drive (R/W); thence along said R/W the following three bearings and distances: N55°03'35"E, 607.17 feet to a point; thence along a curve to the right, having a chord bearing of N61°25'49"E, a chord distance of 438.27 feet, a radius of 1,975.00 feet and an arc length of 439.18 feet to a point; thence S67°08'07"E, 49.51 feet to a point, being a southerly corner of said R/W and lying in a westerly R/W line of Bernel Road (S.R. 3003, 33' R/W); thence along said R/W S22°04'15"E, 271.12 feet to an iron pin, being the place of **BEGINNING**. **CONTAINING 9.642 acres.**

SPECIFICALLY INCLUDING Unit Numbers 111 and 113 (Building 12), AND SPECIFICALLY EXCEPTING AND RESERVING Unit Numbers 119 and 121 (Building 11), 127 and 129 (Building 10), 135 and 137 (Building 9), 143 and 145 (Building 8), 151 and 153 (Building 7), 159 and 161 (Building 6), 167 and 169 (Building 5), 175 and 177 (Building 4), 183 and 185 (Building 3), 191 and 193 (Building 2), 199 and 201 (Building 1).

## **EXHIBIT "C"**

### **Legal Description of Convertible/ Withdrawable Real Estate**

ALL those certain Units as set forth on the Declaration Plats and Plans attached hereto as Exhibit "D" prepared by PennTerra Engineeing, Inc. attached hereto as Exhibit "D", being known as Unit Numbers 119 and 121 (Building 11), 127 and 129 (Building 10), 135 and 137 (Building 9), 143 and 145 (Building 8), 151 and 153 (Building 7), 159 and 161 (Building 6), 167 and 169 (Building 5), 175 and 177 (Building 4), 183 and 185 (Building 3), 191 and 193 (Building 2), 199 and 201 (Building 1).

## EXHIBIT "E"

### Identifying Numbers, Percentage of Interest and Voting Interest of Units

Pursuant to Article 2, Section 2.1 of the Declaration of Condominium of  
The Kingston Village Condominium.

	Unit No.	Percentage Interest	Voting Interest
	111	4.1667	1
	113	4.1667	1
Total	2	100.00	2



