

# DECLARATION

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DECLARATION  
  
OF  
  
MUIRFIELD ESTATES  
  
A PLANNED COMMUNITY  
  
SOUTHINGTON, CONNECTICUT

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## DECLARATION

**Lovley Development, Inc.**, a corporation organized and existing under the laws of the State of Connecticut with an office at 710 Main Street, Suite 11, Plantsville, Connecticut does hereby submit the real property in the Town of Southington, Connecticut described in Exhibit A-1 to the provisions of the Common Interest Ownership Act, Section 47-200, et seq. of the Connecticut General Statutes, as amended, for the purpose of creating **Muirfield Estates, a Planned Community**.

### ARTICLE I Definitions

In the Documents, the following words and phrases shall have the following meanings:

**Section 1.1 - Act.** The Common Interest Ownership Act, Section 47-200, et seq. of the Connecticut General Statutes, as it may be amended from time to time.

**Section 1.2 - Allocated Interests.** The Common Expense liability, and votes in the Association, allocated to the Units in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration and shown on **Schedule A-2**.

**Section 1.3 - Association.** **Muirfield Owners Association, Inc.**, a non-stock corporation organized and existing under the laws of the State of Connecticut. It is the Association of Unit Owners pursuant to Section 47-243 of the Connecticut General Statutes.

**Section 1.4 - Building.** Together with the adjacent Garden Bed Area, a Unit.

**Section 1.5 - Bylaws.** The Bylaws means the Documents, however denominated, that contain the procedures for conduct of the affairs of the Association regardless of the form in which the Association is organized, including any amendments to the Documents.

**Section 1.6 - Common Elements.** Any real property within Muirfield Estates which is owned or leased by the Association, other than a Unit.

**Section 1.7 - Common Expenses and Assessments.** Common Expenses shall mean and include (without limitation) the following:

(A) Expenses of administration, maintenance, repair or replacement of Common Elements;

(B) Expenses declared to be Common Expenses by the Documents or by the Act;

(C) Expenses declared to be Common Expenses by the Association; and

(D) Reasonable reserves, 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.

(E) "Assessment" means the sums attributable to a Unit and due to the Association pursuant to Section 47-257 of the Connecticut General Statutes.

**Section 1.8 - Common Interest Community.** Muirfield Estates, a Planned Unit Community.

**Section 1.9 - Declarant.** Lovley Development, Inc., a Connecticut corporation or its successor as defined in Subsection (12) of Section 47-202 of the Connecticut General Statutes.

**Section 1.10 - Declaration.** This document, including any amendments.

**Section 1.11 - Development Rights.** The rights reserved by the Declarant under Article VIII of this Declaration.

**Section 1.12 - Director.** A member of the Executive Board.

**Section 1.13 - Documents.** The Declaration, Survey and Plans recorded and filed pursuant to the provisions of the Act, the Bylaws, and the Rules as they may be amended from time to time. Any exhibit, schedule or certification accompanying a Document is part of that Document.

**Section 1.14-Driveway.** The driveway which shall service each Unit shall be located immediately in front of the garage serving that Unit, and shall be a limited common element for the use of said Unit.

**Section 1.15 - Eligible Insurer.** An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be deemed

to include a request that the Eligible Insurer be given the notice and other rights described in Article XVIII.

**Section 1.16 - Eligible Mortgagee.** The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVIII.

**Section 1.17 - Executive Board.** The body, regardless of name, designated in the Declaration and Bylaws to act on behalf of the Association. "Executive Board" is sometimes called "Board of Directors" or "Board".

**Section 1.18 - Improvements.** Any construction or facilities existing or to be constructed on the land included in the Common Interest Community, including but not limited to, buildings, trees and shrubbery planted by the Declarant or the Association, paving, utility wires, pipes, and light poles.

**Section 1.19 - Limited Common Elements.** A portion of the Common Elements allocated by the Declaration or by the operation of Subsection (2) or (4) of Section 47-221 of the Connecticut General Statutes for the exclusive use of one or more but fewer than all of the Units. The Limited Common Elements in the Common Interest Community are described in Article V of this Declaration.

**Section 1.20 – Majority of Unit Owners.** The owners of more than 50% of the Votes in the Association. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means such percentage, portion or fraction in the aggregate of the Votes.

**Section 1.21 – Manager.** A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

**Section 1.22 - Notice and Comment.** The right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 24.1 of this Declaration.

**Section 1.23 - Notice and Hearing.** The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 24.2 of this Declaration.

**Section 1.24 - Person.** An individual, corporation, business trust, estate, trust, partnership, Association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

**Section 1.25 - Plans.** The plans filed with this Declaration as Schedule A-4, as they may be amended from time to time.

**Section 1.26 - Property.** The land, all improvements, easements, rights and appurtenances, which have been submitted to the provisions of the Act by this Declaration.

**Section 1.27 - Record.** “Record” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

**Section 1.28 - Rules.** “Rules” means a policy, guideline, restriction, procedure or regulation of the Association, however denominated, which is adopted by the Association, which is not set forth in the Declaration or Bylaws and which governs the conduct of persons or the use or appearance of property.

**Section 1.29 - Security Interest.** An interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

**Section 1.30 - Special Declarant Rights.** The rights reserved by the Declarant under Article VIII of this Declaration as Special Declarant Rights.

**Section 1.31 - Survey.** The survey filed with this Declaration as Schedule A-3, as it may be amended from time to time.

**Section 1.32 – Trustee.** The person which may be designated by the Board of Directors as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Board of Directors acting by majority vote, as executed by the President and attested by the Secretary shall serve as the Trustee.

**Section 1.33 – Time Share Plan.** A Unit may not be conveyed or used pursuant to a “Time Share Plan”, as defined under Chapter 734b, of the Connecticut General Statutes.

**Section 1.34 - Unit.** A physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 4.3 of this Declaration.

**Section 1.35 - Unit Owner.** The Declarant or other Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.

**Section 1.36 – Unit Ownership Area Outside Unit.** The Garden Bed Areas, as shown on the Survey, shall be a part of the Unit located outside the boundaries of the Unit structure.

**Section 1.37 – Votes.** The votes allocated to each Unit.

## **ARTICLE II**

### **Name and Type of Common Interest**

#### **Community and Association**

**Section 2.1 - Common Interest Community.** The name of the Common Interest Community is Muirfield Estates, a Planned Community

**Section 2.2 - Association.** The name of the Association is Muirfield Owners Association, Inc., a non-stock corporation.

## **ARTICLE III**

### **Description of Land**

The Common Interest Community is situated in the Town of Southington, Connecticut and is located on land described in Schedule A-1, commonly known as 45 Pacer Lane, Southington, CT.

## **ARTICLE IV**

### **Maximum Number of Units, Identification and Boundaries**

**Section 4.1 - Number of Units.** The Common Interest Community presently contains One (1) Unit. The Declarant may create up to Fourteen (14) additional Units for a maximum total of fifteen (15) Units.

**Section 4.2 - Identification of Units.** All Units are identified by Number and are shown on the Survey or Plans or both.

**Section 4.3 - Boundaries.** The boundaries of each Unit created by this Declaration are located as shown on the Survey and Plans and are more particularly described as the exterior portions and foundation of the Dwelling Unit along with the Garden Bed Areas as shown on the map:

(A) A Unit shall comprise one of the separate and numbered Units which are designated on the Survey (A-3), Plans (A-4) and in the Table attached as Exhibit A-2 to this Declaration.

(B) **Inclusions:** Each Unit shall include the space and Improvements lying within the boundaries described in Subsection 4.3 above, and shall also contain any pipes, wires, ducts and conduits situated in the perimeter walls of the Unit serving that Unit, and the perimeter Walls and roofs of the Unit.

(D) **Inconsistency with Survey and Plans:** If this definition is inconsistent with the Survey and Plans, then this definition shall control.

## **ARTICLE V**

### **Limited Common Elements**

The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(1) Steps, stoops, (other than those located at the front entrance of the Unit) porches, patios, decks, and the like, the use of which is limited to a certain Unit as shown on the survey or Plan are Limited Common Elements allocated to the Unit served.

(2) Driveways, walks, stoops and steps at the front entrance to each Unit and mail boxes, the use of which is limited to a certain Unit as shown on the Plans, shall be Limited Common Elements allocated to that Unit.

(3) The land beneath the lower boundary of a Unit extending downward from the vertical boundaries of that Unit shall be a part of the Unit.

(4) The space located directly above a Unit a distance of twenty (20) feet shall be a Limited Common Element allocated to that Unit.

As to each of the foregoing, a right of use is reserved as an appurtenance to the Particular Units as described above. The fee ownership of the limited Common Elements, however, is vested in the Association.

## **ARTICLE VI**

### **Maintenance, Repair and Replacement**

**Section 6.1 - Common Elements.** The Association shall maintain, repair and replace all of the Common Elements, except the portions of the Limited Common Elements which are required by this Declaration to be maintained, repaired or replaced by the Unit Owners as set forth in Section 6.3.

All plantings, flowers, shrubs, decorative material and the like installed by the Unit Owner in the Garden Bed Areas, which are a portion of the Unit, shall be maintained by the Unit Owner. Unit Owners are permitted to install such vegetation as they see fit in the Garden Bed Areas. The Executive Board, prior to their installations, must approve any and all improvements and plantings located in Common Elements. All exterior modification to the Units and additions to the Common Elements must also be approved in writing by the Board. The Unit Owner must maintain the aforementioned improvements and plantings.

**Section 6.2 - Units.** Each Unit Owner shall maintain, repair and replace at his or her own expense, all portions of his or her Unit, and all Limited Common Areas allocated to his or her Unit. Each Unit Owner shall be responsible for all costs of maintenance, repair and/or replacement of all interior and exterior portions of their Unit, including but not limited to any foundation, roof, exterior siding, exterior door and storm door and exterior window and storm window and slider door, decks, porches and patios on any Unit. Each Unit Owner shall be responsible for maintenance, repair and replacement of any and all mechanical systems within the Unit. Each Unit Owner shall be responsible for maintenance, repair and replacement of any improvements, of any nature, within basement areas including responsibility of remediation of radon, if any, in basement areas.

**Section 6.3 – Limited Common Elements.** Notwithstanding the provisions of Section 6.1 and Section 6.2, the Association shall be responsible for removing all snow, ice, and debris in the winter season from all driveways, sidewalks, and front steps which are Limited Common Elements appurtenant to each Unit. Unit Owners shall otherwise be responsible for the maintenance, repair and replacement of all driveways, sidewalks and front steps which are used exclusively by the subject Unit. The Association shall be responsible for mowing of lawn areas, which are Common Elements.

In the event that a Limited Common Element is not maintained in conformance with the standards of the Common Interest Community, the Association, after notice and hearing, may repair, restore or maintain such Limited Common Element to the standards of the Common Interest Community. All expenses incurred by the Association shall be at the expense of the Unit Owner to which such Limited Common Element is allocated and shall be chargeable against the Unit as a Common Expense in accordance with this Section.

The maintenance of grounds in the Common Elements including mowing of lawns as well as the clearing of snow and ice from all walks and front steps shall be performed by the Association and shall be a common expense which shall be allocated to the Units in accordance with each Unit's percentage of the Common Expense Liability. The care of plantings, flowers and shrubs planted by the Association in the Common Elements which are not Limited Common Elements shall be performed by the Association and shall be a Common Expense which shall be allocated to the Units in accordance with each Unit's percentage of the Common Expense liability. Plantings flowers and shrubs in Limited Common Elements allocated to individual Units shall be maintained by the Unit Owner. Any improvements made by an Owner shall be maintained by the Owner at the Owner's sole expense. The Association shall have no responsibility for maintenance or repair of any such improvement by an Owner.

**Section 6.4 – Access.** Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any conditions threatening the Common Elements, and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, wires and equipment provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner consistent with the availability of contractors and others employed or engaged by the Association.

**Section 6.5 - Repairs Resulting From Negligence, Intent and/or Failure to Comply with a Written Maintenance Standard.** The cost to repair damage to any Common



Element caused by intentional conduct or negligence by any Unit Owner, tenant, guest or invitee of a Unit Owner or tenant shall be assessed in accordance with Article 19.3(J) of this Declaration.

## **ARTICLE VII**

### **Subsequently Allocated Limited Common Elements**

No portion of the Common Elements may be subsequently allocated as Limited Common Elements, except as specifically allowed in Section 8.1 or Section 12 of the Declaration.

## **ARTICLE VIII**

### **Development Rights and Special Declarant Rights**

**Section 8.1 - Reservation of Development Rights.** The Declarant reserves the following Development Rights:

(a) The right to add Buildings, Units, Common Elements, and Limited Common Elements in the location shown as “Development Rights Reserved” on the Survey and the Plans.

(b) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the land not designated “Development Rights Reserved in this Area” on the Survey for the purpose off furnishing utility and other services to Buildings and Improvements to be constructed on the land designated “Development Rights Reserved in this Area” on the Survey. The Declarant also reserves the right to grant easements to public utility companies and to any governmental authorities and to convey Improvements within those easements anywhere in the Common Interest Community for the above-mentioned purposes. If the Declarant grants any such easements, Exhibit A-1 shall be amended to include reference to the recorded easement.

**Section 8.2 - Limitations on Development Rights.** The Development Rights reserved in Section 8.1 are limited as follows:

(a) The Development Rights may be exercised at any time, but not more than twenty (20) years after the recording of the initial Declaration;

(b) Not more than Fourteen (14) additional Units may be created under the Development Rights for a total number of Units of Fifteen (15).

(c) The quality of construction of any Buildings and Improvements to be created on this Property shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded;

(d) All Units and Common Elements created pursuant to the Development Rights will be restricted to residential use in the same manner and to the same extent as the Units created under this Declaration as initially recorded;

(e) No Development Rights may be abandoned or terminated unless approved pursuant to Section 18.5 of this Declaration.

**Section 8.3 – Phasing of Development Rights.** No assurances are made by the Declarant regarding the portion of the areas shown as “Development Rights Reserved in this Area” on the Plans and Survey as to the portions where the Declarant will exercise its Development Rights or the order in which such portion or all of the area will be developed. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions.

**Section 8.4 - Special Declarant Rights.** The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

(a) To complete Improvements indicated on the Survey and Plans filed with this Declaration;

(b) To exercise any Development Right reserved in this Declaration;

(c) To maintain sales offices, management offices, signs advertising the Common Interest Community, and models;

(d) To use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community;

(e) To appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control subject to the provisions of Section 8.9 of this Declaration.

(f) To control any construction, design review or aesthetic standards committee or process.

(g) To attend meetings of the Unit Owners and, except during an executive session at a time when the Declarant is not a member of the Board, the Executive Board.

(h) To have access to the Records of the Association to the same extent as a Unit Owner.

**Section 8.5 - Models, Sales Offices and Management Offices.** As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit or sales office or management office.

**Section 8.6 - Construction; Declarant's Easement.** The Declarant reserves the right to perform warranty work, and repairs and construction work, and to store materials in secure areas, in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration.

**Section 8.7 - Signs and Marketing.** The Declarant reserves the right to post signs and displays in the Common Elements to promote sales of Units, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Unit Owners.

**Section 8.8 - Declarant's Personal Property.** The Declarant reserves the right to retain all personal Property and equipment used in the sales, management, construction and maintenance of the premises that has not been represented as Property of the Association. The Declarant reserves the right to remove from the Property, promptly after the sale of the last Unit, any and all goods and Improvements used in development, marketing and construction whether or not they have become fixtures.

**Section 8.9 - Declarant Control of Association.**

(a) Subject to Subsection 8.9(b), there shall be a period of Declarant control of the Association, during which the Declarant, or Persons designated by it, may appoint and remove the officers and members of the Executive Board. The period of Declarant control shall terminate no later than the earliest of:

(i) sixty (60) days after conveyance of sixty percent (60%) of the Units that may be created to Unit Owners other than a Declarant;

(ii) two (2) years after all Declarants have ceased to offer Units for sale in the ordinary course of Business; or

(iii) two (2) years after any right to add new Units was last exercised;

(iv) The date the Declarant, after giving written notice in a Record to Unit Owners, records an instrument voluntarily surrendering all rights to control the activities of the Association.

(b) A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before the period of Declarant control ends. In that event the Declarant may require, during the remainder of the period, 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.

(c) Not later than sixty (60) days after conveyance of one-third (1/3) of the Units that may be created to Unit Owners other than a Declarant, at least one (1) member and not less than one-third (1/3) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant.

(d) Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

(e) During the period of Declarant control, the Declarant reserves the right to amend the Declaration, By-Laws and Rules to comply with the requirement of secondary market entities such as FNMA and Federal Home Loan Mortgage Corporation, or as it deems necessary for the benefit of the Common Interest Community.

**Section 8.10 – Limitations on Special Declarant Rights.** Unless sooner terminated by a recorded instrument executed by the Declarant, any Special Declarant Right may be exercised by the Declarant for Twenty (20) years after recording this Declaration. Earlier termination of certain rights may occur by statute.

**Section 8.11 - Interference with Special Declarant Rights.** Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

## **ARTICLE IX**

### **Allocated Interests**

**Section 9.1 - Allocation of Interests.** The table showing Unit numbers and their allocated interests is attached as Schedule A-2. These interests have been allocated in accordance with the formulas set out in this Article IX.

**Section 9.2 - Formulas for the Allocation of Interests.** The Interests allocated to each Unit have been calculated on the following formulas:

**(A) Liability for the Common Expenses.** The percentage of liability for Common Expenses allocated to each Unit is based on a fraction the numerator of which is one and the denominator of which is the number of Units which have been declared in the Common Interest Community. For example, if there are eleven declared Units, each Unit would have liability for 1/11<sup>th</sup> of the Common Expenses. If the number of declared Units increases, each Unit's share of liability for Common Expenses would decrease. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XIX of this Declaration.

**(B) Votes.** Every Unit Owner shall be a Member of the Association. Each Unit in the Common Interest Community shall have one (1) equal Vote. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Schedule A-2.

**(C) Maximum Change.** The maximum extent to which the Unit Owner's liability for the Common Expenses and vote will be changed will be determined by the number of Units that are declared in the future pursuant to the Special Declarant Rights.

**Section 9.3 – Assignment of Allocated Interests Upon Creation of Units Pursuant to Exercise of Development Rights.** The effective date for assigning Allocated Interests to Units created pursuant to Section 8.1(a) of this Declaration shall be the date on which the amendment creating the units is recorded in the land records of the Town of Southington.

## **ARTICLE X**

## **Restrictions on Use, Alienation and Occupancy**

**Section 10.1 - Use and Occupancy Restrictions.** Subject to the Special Declarant Rights reserved under Article VIII, the following use restrictions apply to all Units and to the Common Elements:

(A) Each Unit is restricted to residential use as a single-family residence not requiring regular visits from the public other than those normally generated by a residence, or unreasonable levels of mail, shipping, trash or storage. No sign indicating commercial or professional uses may be displayed nor may other external evidence of a business may be visible outside a Unit. No persons other than members of the family may be employed on the premises and no business is to be conducted on the premises except by email or telephone. A single-family residence is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining are, with no more overnight occupants than two per bedroom as designated on the plans on file with the Town of Southington. The foregoing occupancy restrictions shall not be construed to prevent the occupants of any of the units from entertaining guest of any age in their units, including temporary residents not to exceed six (6) months in any 12 month period.

(B) (i) Each Unit must be occupied by at least one person who is fifty-five (55) years of age or older. The 55 year old individual may have a spouse or other occupant residing with himself who must, however, be age 18 or older. An occupant who has survived an individual over the age of 55, and who has an ownership interest in the dwelling may reside there. An occupant over the age of 18, and who has an ownership interest and resides in a Unit vacated by an individual over the age of fifty-five, who has entered a long -term care facility may reside there.

(ii) The purchase of a dwelling for investment purposes by an entity or an individual not intending to occupy the dwelling is prohibited, except that a nonresident family member may purchase up to one unit for a family member who will reside int he dwelling unit and otherwise comply with other requirements. The use of Common Elements, Units and Limited Common elements are subject to the Bylaws and the Rules of the Association.

(iii) This age restriction is made pursuant to Section 3-09.2 of the Zoning Regulations of the Town of Southington regulating Age-Restricted Cluster Housing Zones and pursuant to the provisions of the Federal Fair Housing Act as amended Pursuant to the provisions of the Zoning Regulations of the Town of Southington, it is intended that

the Common Interest Community be operated for occupancy by at least one person 55 years of age or older per Unit in one hundred (100%) per cent of the Units.

(C) Garages and driveways are restricted to use by the Unit Owners as storage and parking spaces for vehicles, specifically excluding however, trucks, commercial vehicles and campers in excess of one ton and possessing more than four (4) wheels to which such garage is a part of, as storage and as parking space for vehicles.

(D) There is no restriction on the amount for which a Unit may be sold or otherwise transferred, except with respect to the affordable housing Units #2 and #6, which are governed by restrictions provided by law, and The Affordable Housing Plan as attached to this Declaration and made a part hereof.

(E) No Unit may be altered in such a way that it modifies or alters any Common Element or Limited Common Element.

(F) The use of Common Elements is subject to the Bylaws and the Rules of the Association.

(G) Any vehicle other than standard passenger vehicles (which term shall include pickup trucks and vans), such as commercial vehicles, campers or boats, shall not be parked upon any Limited Common Elements or Common Elements so as to be visible from the street or adjoining Property, except for commercial vehicles parked temporarily while engaging in providing products or services to the owner of the Unit. Only vehicles which are validly registered and are in operating condition are permitted to be parked upon the Limited Common elements or the Common Elements. The use of parking spaces by Unit Owners, occupants and their guests and invitees may be further limited by the Rules of the Association. The rest of this paragraph notwithstanding, the use of motor vehicles on the Property shall comply with all requirements of the Rules and the parking spaces may only be used for parking motor vehicles in accordance with the Rules.

(H) A Unit may not be leased, except pursuant to (B)(ii) or (D) of this Section.

(I) No Unit shall be used or maintained as a dumping ground for rubbish, trash, or garbage. All trash shall be disposed of as required in the Rules.

(J) No signs are permitted to be posted on any Unit except for those approved in writing by the Board of Directors or as provided in the Rules of the Association.

(K) No displays shall be exhibited outside of a Unit or shall be visible from a Unit, except as permitted in the Rules.

(L) No changes may be made to the exterior of any Unit, except as permitted in the Rules.

(M) No noxious or offensive activities shall be carried on in any Unit, nor shall anything be done in any Unit which is or may become an annoyance or nuisance to other Unit Owners. Each Unit Owner shall maintain its Unit in a good state of preservation and cleanliness.

(N) Household pets are allowed to the extent that the Rules with respect to pets are complied with.

(O) Time sharing as defined in Chapter 734 of the Connecticut General Statutes is prohibited by the Declaration.

(P) The use and occupancy of the Units, the Limited Common Elements and the Common elements is subject to the Bylaws and the Rules and Regulations of the Association in order to prevent any use which violates the Declaration. The Rules and Regulations may also regulate any occupancy of a Unit which violates the Declaration or adversely affects the use and enjoyment of any other Units, any of the Limited Common Elements or any of the Common Elements by a Unit Owner.

(Q) For any period during which any Common Expense assessment remains unpaid or, after Notice and Hearing, for any period not to exceed thirty (30) days, for any infraction of its published Rules the Executive Board may suspend the right to use Common Elements not necessary to give access to a public street.

Rules and regulations of the Association may be adopted which are reasonably designed to meet first mortgage underwriting requirements of institutional lenders provided no such rules and regulations shall be enforceable unless notice thereof is recorded on the land records of the Town of Southington. Such notice shall be indexed in the grantor index in the name of the Association.

Notwithstanding the foregoing, as long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model unit or sales office. The Declarant may also maintain management offices and signs and displays advertising the Common Interest Community.



For further restriction, see the Rules attached as Exhibit C.  
The provisions of Article X do not apply to any lease entered into by the Declarant.

## **ARTICLE XI**

### **Easements and Licenses**

All easements or licenses to which the Common Interest Community is presently subject are recited in Schedule A-1 to this Declaration. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article VIII of this Declaration.

## **ARTICLE XII**

### **Reallocation of Limited Common Elements**

The Declarant has not reserved any right to reallocate the Limited Common Elements that have not previously been allocated, except with respect to the right to create Limited Common elements as set forth in Subsection 8.1(a) of the Declaration.

No limited Common Element depicted on the Survey or Plans may be reallocated by an amendment to this Declaration pursuant to this Article XII except as part of a relocation of boundaries of Units pursuant to Article XIV of this Declaration.

Such amendments shall require the approval of all holders of Security Interest in the affected Units, which approval shall be endorsed thereon. The persons executing the amendment shall provide an executed copy thereof 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 shall be recorded and indexed in the names of the parties and the Common Interest Community.

The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorneys' fees in connection with the review of the amendment and for recording costs.

## **ARTICLE XIII**

### **Additions, Alterations and Improvements**

#### **Section 13.1 - Additions, Alterations and Improvements by Unit Owners.**

(A) A Unit Owner:

(1) May make any improvements or alterations to the interior of his or her Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community;

(2) May not change the appearance of the Common Elements, or the exterior appearance of a Unit or any other portion of the Common Interest Community, without permission of the Executive Board;

(B) A Unit Owner may submit a written request to the Executive Board for approval to do anything that he or she is forbidden to do under Subsection 13.1(A)(2). Such request may include approval of modifications to the Unit or to the limited common areas allocated exclusively to the Unit. During the period of Declarant control, the Declarant may approve or deny such request upon consideration of the benefit to the Unit Owner and the detriment, if any, to the Common Interest Community. After the period of Declarant control, such request shall only be made following submission of complete plans prepared by a party experienced in performing the work and/or improvements to be made by the Unit Owner to the Board of Directors. No approval will be awarded without Notice and Comment given to the Unit Owners. The applicant shall pay for the cost of preparation of the application, the cost of professional review, if deemed required by the review entity, and all costs of permits and fees connect with any right given under this Article. The Executive Board shall answer any written request for such approval, after Notice and Hearing, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of its rules.

(C) Any applications to any department or to any governmental authority for a permit to make any additions, alteration or improvement to the exterior of any Unit shall be executed by the Association only. Such execution will not, however, create any liability on the part of the Association or any of its members to any contractor, sub-contractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

(D) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any

increase in the premiums of any insurance policies carried by the Association or by the owners of any Units other than those affected by such change.

The provisions of this Section shall not apply to the Declarant in the exercise of any Special Declarant Right.

**Section 13.2 - Additions, Alterations and Improvements by Executive Board.** Subject to the limitations of Sections 19.5 and 19.6 of this Declaration, the Executive Board may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

#### **ARTICLE XIV Indemnification of Town Officials**

In accordance with Connecticut General Statutes, Section 8-12, the Town of Southington, acting through its duly appointed officials, may enter onto the premises for the purpose of verifying compliance with federal, state and local laws rules and regulations, including the approvals issued in connection with the Muirfield Estates development. As a condition of approval, the Declarant and its successors and assigns, Owners and Owners Association hereby hold harmless and indemnifies the Town of Southington and its duly appointed officials from any claims or liability arising from the correction of violations of said federal, state and local laws, rules and regulations. This provision shall survive the issuance of certificates of occupancy and certificates of zoning compliance.

#### **ARTICLE XV Amendments to Declaration**

**Section 15.1 - General.** Except in cases of amendments that may be executed by the Declarant in the exercise of its Development Rights or by the Association under this Declaration, or by certain Unit Owners under this Declaration and Section 47-237 of the Connecticut General Statutes and except as limited by Section 15.4 and Article XVIII of this Declaration, this Declaration, including the Survey and Plans, may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven (67%) of the votes in the Association are allocated.

**Section 15.2 - Limitation of Challenges.** No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is recorded.

**Section 15.3 - Recordation of Amendments.** Every amendment to this Declaration shall be recorded in every town in which any portion of the Common Interest Community is located and, is effective only on recording. An amendment, except an amendment pursuant to Article XIV of this Declaration, shall be indexed in the grantee's index in the name of the Common Interest Community and the Association and the grantor's index in the name of the parties executing the amendment.

**Section 15.4 - When Consent of More Than 67% of the Unit Owners May Be Required.** Except to the extent expressly permitted or required by provisions of the Act and this Declaration, the following amendments will require a vote in excess of 67 percent of the Unit Owners and compliance with the following conditions:

(A) No amendment may prohibit or materially restrict the permitted uses or occupancy of a Unit or other qualifications of persons who may occupy Units without a vote or agreement of Unit Owners to which at least 80 percent of the votes in the Association are allocated. Each amendment must provide reasonable protection for use and occupancy permitted at the time the amendment was adopted.

(B) The time limits for the exercise of Development Rights specified in Section VIII of the Declaration may be extended, and new Development Rights or other Special Declarant Rights may be created by amendment to the Declaration if persons entitled to cast at least 80 percent of the votes in the Association, including 80 percent of the votes allocated to units not owned by the Declarant, agree to that action. The amendment must identify the Association or other persons who hold any new rights that are created. Written notice of the proposed amendment to the Declaration must be delivered to all persons holding Development Rights or security interests in those rights. Notwithstanding the provisions of Section 15.3 of the Declaration, such an amendment to the Declaration is effective thirty days after the amendment is recorded and notice is delivered unless any person entitled to notice under this subsection records a written objection within the thirty-day period, in which case the amendment is void, or unless all of the persons entitled to notice under this subsection consent in writing at the time the amendment is recorded, in which case the amendment is effective when recorded.

(C) Although the boundaries between adjoining Units may be relocated pursuant to this Article XV of the Declaration, no amendment may change the boundaries

between any Unit and the common elements to incorporate Common Elements within the Unit except under the following procedure:

(1) The owner of a Unit who wishes his boundaries to be relocated to include Common Elements will make application to the Association with a plan for the relocated boundaries in sufficient specificity to act as an amendment to the Declaration and the Plans attached as Exhibit A-4 to the Declaration and if necessary, a survey showing the relocated building location outline in sufficient detail to amend the Survey attached as Exhibit A-3 to the Declaration. The application shall contain such other information as the Executive Board may reasonably require to evaluate the merits of the application and its effect on safety and structural soundness of any proposed change to the physical portions of the building involve. A fee sufficient to defer the costs of the executive Board may be required to be paid.

(2) The amendment will be reviewed by the Executive Board and such consultants as it feels are necessary.

(3) If the Executive Board approves the amendments, it will be submitted to a vote of the membership at a special meeting called for that purpose. Unless persons entitled to cast at least one hundred (100%) percent of the votes in the Association including one hundred (100%) percent of the votes allocated to Units not owned by the Declarant agree to the action, the amendment will not be approved.

(4) The amendment will be executed by the Unit Owner of the Unit whose boundary is being relocated and by the President of the Association pursuant to the resolution of the Executive Board approving the amendment, attested by the Secretary, contain words of conveyance between the Unit Owner and the Association and be recorded in the town land records and be indexed in the name of the Unit Owner as Grantee, and the Association as Grantor or otherwise as appropriate.

(D) No amendment may otherwise create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any unit to incorporate Common Elements into the Unit in the absence of unanimous consent of the Unit Owners unless otherwise provided above.

**Section 15.5 - Execution of Amendments.** Amendments to this Declaration which have been adopted in accordance with this Declaration and the Act, shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

**Section 15.6 – Special Provision Regarding Amendment to the Declaration.** The vote of at least eighty percent (80%) of the Votes in the Association, or any larger percentage established in the Declaration, are required to amend the Declaration to prohibit or materially restrict the permitted uses or occupancy of a Unit or the number of Persons who may occupy Units. Any such amendment must provide reasonable protection for a use or occupancy permitted at the time the amendment was adopted.

**Section 15.7 - Special Declarant Rights.** Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

**Section 15.8 – Extension of Development Rights.** The Development Rights reserved in this Declaration may be increased or extended based upon a vote of at least eighty percent (80%) of the Votes of the Association, including eighty percent (80%) of the Votes allocated to Units not owned by the Declarant.

**Section 15.9 - Consent of Holders of Security Interests.** If any provision of the Declaration requires the consent of a person holding a security Interest in a Unit as a condition to the effectiveness of any amendment to the Declaration, that consent shall be deemed granted if no written refusal to consent is received by the Association within forty-five (45) days after the Association delivers notice of the proposed Amendment to the holder of the interest or mails the notice to the holder of the interest by certified mail, return receipt requested. The Association may rely on the last-recorded Security Interest of record in delivering or mailing notice to the holder of that interest.

**Section 15.10 – Consent of Holders of Security Interests.** Amendments are subject to the consent requirements of Article XVIII.

**Section 15.11 - Amendments to Exercise Development Rights.** To exercise any Development Right reserved under Section 8.1 of this Declaration, the Declarant shall prepare, execute and record an amendment to the Declaration. If necessary, the Declarant shall also record either new Surveys and Plans necessary to conform to the requirements of subsections (a), (b) and (d) of Section 47-228 of the Act.

The amendment to the Declaration shall assign an identifying number to each new Unit created and reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements and any Limited Common Elements created thereby and designate the Unit to which each Limited Common Element is allocated to the extent required by Subsection 47-227 (a) of the Act.

**ARTICLE XVI**  
**Amendments to Bylaws**

The Bylaws may be amended only by vote of two-thirds (2/3) of members of the Executive Board, following Notice and Comment to all the Unit Owners at any meeting of the Unit Owners called for such purpose at which a quorum is present.

**ARTICLE XVII**  
**Termination**

Termination of the Common Interest Community may be accomplished only in accordance with Section 47-237 of the Connecticut General Statutes, as may be amended from time to time.

**ARTICLE XVIII**  
**Mortgagee Protection**

**Section 18.1 - Introduction.** This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

**Section 18.2 - Percentage of Eligible Mortgagees** Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Units then subject to Security Interests held by Eligible Mortgagees.

**Section 18.3 - Notice of Actions.** The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

(A) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;

(B) Any delinquency in the payment of Common Expense assessments owed by an Owner whose Unit is subject to a first Security Interest held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, which remains uncured for a period of sixty (60) days;

(C) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(D) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 18.4; and

(E) Any judgment rendered against the Association.

#### **Section 18.4 - Consent Required.**

**(A) Document Changes.** Notwithstanding any lower requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Subsection 18.4(A) may be effective without the vote of at least sixty-seven (67%) of the Unit Owners (or any greater Unit Owner vote required in this Declaration or Chapter 828 of the Connecticut General Statutes) and until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments effected by the exercise of any Development Right. Material includes, but is not limited to, any provision affecting:

(1) Assessments, assessment liens or subordination of assessment liens;

(2) Voting rights;

(3) Reserves for maintenance, repair or replacement of Common Elements;

(4) Responsibility for maintenance and repairs;

(5) Reallocation of interests in the Common Elements or Limited Common Elements except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the Eligible Mortgagees holding Security Interests in such Units must approve such action;



- (6) Rights to use Common Elements and Limited Common Elements;
- (7) Convertibility of Units into Common Elements or Common Elements into Units;
- (8) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (9) Insurance or fidelity bonds;
- (10) Leasing of Units;
- (11) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (12) Establishment of self-management when professional management had been required previously by any Eligible Mortgagee;
- (13) Restoration or repair of the project after a hazard damage or partial condemnation in a manner other than that specified in the Documents;
- (14) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
- (15) Any provision that expressly benefits mortgage holders, insurers or guarantors.

**(B) Actions.** Notwithstanding any lower requirement permitted by this Declaration or Chapter 828 of the Connecticut General Statutes, the Association may not take any of the following actions without the approval of at least fifty-one (51%) of the Eligible Mortgagees or such higher percentage as set forth herein:

- (1) The conveyance or encumbrance of the Common Elements or any portion thereof, as to which an eighty percent (80%) Eligible Mortgagee approval is required. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements for the benefit of the Common Interest Community shall not be deemed a conveyance or encumbrance within the meaning of this clause;

(2) The establishment of self-management when professional management had been required previously by any Eligible Mortgagee;

(3) The restoration or repair of the Property after hazard damage or a partial condemnation in a manner other than that specified in the Documents;

(4) The termination of the Common Interest Community, for reasons other than substantial destruction or condemnation, as to which a sixty-seven (67%) Eligible Mortgagee approval is required;

(5) The alteration of any partition or creation of any aperture between adjoining Units when Unit boundaries are not otherwise being affected, in which case only the owners of Units affected and Eligible Mortgagees of those Units need approve the action;

(6) The merger of this Common Interest Community with any other Common Interest Community;

(7) The granting of any easements, leases, licenses and concessions through or over the Common Elements excluding, however, any utility easements serving or to serve the Common Interest Community and excluding any leases, licenses or concessions for no more than one (1) year;

(8) The assignment of the future income of the Association, including its right to receive Common Expense assessments; and

(9) Any action taken not to repair or replace the Property.

The foregoing consents do not apply to the exercise of any Development Right.

(C) The Association may not change the period for collection of regularly budgeted Common Expense assessments to other than monthly without the consent of all Eligible Mortgagees.

(D) The failure of an Eligible Mortgagee to respond within forty-five (45) days to any written request of the Association for approval of a material addition or amendment to the Documents shall constitute an implied approval of the addition or amendment.

(E) Any notices sent to a mortgagee shall be sent by certified or registered mail with return receipt requested.

**Section 18.5 - Development Rights.** No Development Rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment, or termination.

**Section 18.6 - Inspection of Books.** The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours.

**Section 18.7 - Financial Statements.** The Association shall provide any Eligible Mortgagee or Eligible Insurer which submits a written request, with a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if:

(A) The Common Interest Community contains fifty (50) or more Units, in which case the cost of the audit shall be a Common Expense; or

(B) Any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

**Section 18.8 - Enforcement.** The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

**Section 18.9 - Attendance at Meetings.** Any representatives of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

## **ARTICLE XIX**

### **Assessment and Collection of Common Expenses**

**Section 19.1 - Definition of Common Expenses.** Common Expenses shall include:

(A) Expenses of administration, maintenance, and repair or replacement of the Common Elements;

(B) Expenses declared to be Common Expenses by the Documents or by the Act;

(C) Expenses agreed upon as Common Expenses by the Association; and

(D) Such 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.

**Section 19.2 - Apportionment of Common Expenses.** Except as provided in Section 19.3, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses as shown on Schedule A-2 to this Declaration.

**Section 19.3 - Common Expenses Attributable to Fewer than all Units.**

(A) Any Common Expense associated with the repair or replacement of Limited Common elements, where the cost of the same is the responsibility of the Unit Owner, shall be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common element shall be assessed equally among the Units to which it is assigned.

(B) Any Common Expense 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.

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

(D) Assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was rendered, in proportion to their Common Expense liabilities.

(E) If any Common Expense is caused by the misconduct of a Unit owner, the Association may, after Notice and Hearing, assess that expense exclusively against his or her Unit.

(F) Fees, charges, late charges, fines and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

(G) If the Association, or anyone acting at the direction of the Association, incurs any expense for maintenance, repair or replacement of any portion of a Unit, made or

performed for the purpose correcting a condition threatening a Unit or the common Elements pursuant to Section 6.4 of the Declaration, the Association may assess that expense against the Unit Owner and the Unit, following Notice and Hearing to the affected Unit Owner.

(H) All reasonable attorney's fees and costs incurred by the Association, with or without litigation, in collecting any sums due from a Unit Owner or enforcing any provisions of the Documents against a Unit Owner or any occupant of his or her Unit are enforceable against his or her Unit as Common Expense assessments.

(I) If any tax is imposed on the Association or upon any goods or services purchased by the Association by virtue of the use or occupancy of less than all of the Units, including, but not limited to, the use of any Unit for the production of income, such tax shall be paid as a Common Expense assess exclusively against the Unit or Units whose use gives rise to the imposition of the tax. The assessment shall be allocated among the Units against which it is assessed in the same proportion as each Unit's share of liability for Common Expenses bears to the liability for Common Expenses of all Units against which the assessment is assessed.

(J) If any common expense is caused by the willful misconduct, failure to comply with a written maintenance standard promulgated by the Association or gross negligence of any Unit Owner or tenant or a guest or invitee of a Unit Owner or tenant, the Association may, after notice and hearing assess the portion of that common expense in excess of any insurance proceeds received by the Association under its insurance policy, whether that portion results from the application of a deductible or otherwise, exclusively against that Owner's Unit.

(K) Any common expense associated with the maintenance, repair or replacement of a Limited Common Element, where the cost of same is the responsibility of the Unit Owner pursuant to this Declaration, shall be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one (1) Unit, the common expenses attributable to the Limited Common element shall be assessed equally among the Units to which it is assigned.

#### **Section 19.4 - Lien.**

(A) The Association has a statutory lien on a Unit for any assessment levied against that Unit or fines imposed against its Unit Owner from the time the assessment or fine becomes delinquent. Fees, charges, late charges, fines and interest charged pursuant to the Act and the Documents 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.

(B) A lien under this Section is prior to all other liens and encumbrances on a Unit except:

(1) Liens and encumbrances recorded before the recordation of this Declaration;

(2) A first or second Security Interest in the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and

(3) Liens for real property taxes and other governmental assessments or charges against the Unit. The lien is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent of the Common Expense assessments based on the periodic budget adopted by the Association pursuant to Section 19.5 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 Subdivision (2) of this Subsection. This Subsection does not affect the priority of mechanic's or materialmen's liens, or the priority of liens for other assessments made by the Association.

(C) Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this Section is required.

(D) A lien for unpaid assessments is extinguished unless proceedings to enforce the 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.

(E) This Section does not prohibit actions to recover sums for which Subsection (A) of this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(F) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party.

(G) The Association's lien may be foreclosed in like manner as a mortgage on real property.

(H) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessment, the court may appoint a receiver of the Unit Owner pursuant to Section 52-504 of the Connecticut General Statutes 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 Common Expense assessments based on a periodic budget adopted by the Association pursuant to Section 19.5 of this Declaration.

(I) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessment against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection 19.4(b). Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(J) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

(K) The Association may not commence an action to foreclose a lien on a unit under this section unless:

(1) The Unit Owner, at the time the action is commenced owes a sum equal to at least two (2) months of common expense assessments based on the period budget last adopted by the Association pursuant to subsection (a) of Section 47-257 of the act, as amended;

(2) The Association has made a demand for payment in a record; and

(3) The Executive Board has either voted to commence a foreclosure action specifically against that unit or has adopted a standard policy that provides for foreclosure against that unit.

(L) Every aspect of a foreclosure, sale or other disposition under this section, including the method, advertising, time, date, place and terms, shall be commercially reasonable.

**Section 19.5 - Budget Adoption and Ratification.** Within thirty (30) days after adoption of any proposed budget for the Common Interest Community, the Executive

Board shall provide a summary of the budget to all the Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than ten (10) nor more than sixty (60) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

#### **Section 19.6 - Ratification of Non-budgeted Common Expense Assessments.**

(A) The Executive Board, at any time, may propose a special assessment. Not later than thirty (30) days after adoption of a proposed special assessment, the Executive Board shall provide to all Unit Owners a summary of the assessment. Unless the Declaration or Bylaws otherwise provide, if such special assessment, together with all other special and emergency assessments proposed by the Executive Board in the same calendar year, do not exceed fifteen percent (15%) of the Association's last adopted periodic budget for that calendar year, the special assessment is effective without approval of the Unit Owners. Otherwise, the Board shall set a date not less than ten (10) days or more than sixty (60) days after providing the summary for either a meeting of the Unit Owners or a vote by ballot without a meeting to consider approval of the special assessment. If, at such meeting or in the balloting, a majority of all Unit Owners, or any larger number specified in the Declaration, votes to reject the assessment, the assessment shall be rejected; otherwise the assessment shall be approved. The absence of a quorum at such meeting or participation in the vote by ballot shall not affect the rejection or approval of the assessment budget.

(B) If the Executive Board determines by a two-thirds vote that a special assessment is necessary to respond to an emergency:

(1) The special assessment becomes effective immediately in accordance with the terms of the vote:

(2) Notice of the emergency assessment must be provided promptly to all Unit Owners; and

(3) The Executive Board may spend the funds paid on account of the emergency assessment only for the purposes described in the vote.

**Section 19.7 - Certificate of Payment of Common Expense Assessments.** The Association on written request shall furnish to a Unit Owner a statement in recordable form setting forth the amount of unpaid assessments against the Unit. The statement shall



be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board and every Unit Owner.

**Section 19.8 - Monthly Payment of Common Expenses.** All Common Expenses assessed under Sections 19.2 and 19.3 shall be due and payable monthly unless the resolution adopting the assessment provides for some other schedule of payment.

**Section 19.9 - Acceleration of Common Expense Assessments.** In the event of default for a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against his or her Unit, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid assessment for the pertinent fiscal year to be immediately due and payable.

**Section 19.10 - Commencement of Common Expense Assessments.** Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

**Section 19.11 - No Waiver of Liability for Common Expenses.** No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

**Section 19.12 - Personal Liability of Unit Owners.** The Owner of a Unit at the time a Common Expense assessment or 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 he or she agrees to assume the obligation.

**Section 19.13 – Association Funds.** All Association funds shall be deposited only in federally insured banks.

**Section 19.14 – Association Surplus Funds.** Any surplus funds of the Association remaining after payment of or provision for common expenses and any prepayment of reserves shall be deposited into the reserve account or incorporated into the next annual budget thereby reducing future common expense assessments.

## **ARTICLE XX**

### **Association Borrowing and Assignment of Future Income**

**Section 20.1 – Approval of Assignment.** The Association may borrow money and assign its right to future income as security for the loan only after:

(A) The loan transaction and the assignment have been approved by the Executive Board;

(B) A majority of the Unit Owners vote in favor of or agree to the assignment; and

(C) The Association has complied with the requirements of Section 19.2 of this Declaration.

**Section 20.2 – Notice of Proposed Borrowing.** At least fourteen (14) days before the closing of any loan to the Association, the executive Board shall:

(A) Disclose in a Record to all Unit Owners the amount and terms of the loan and the estimated effect of such loan on any Common Expense assessment; and

(B) Afford the Unit Owners a reasonable opportunity to submit comments in a Record to the executive Board with respect to such loan.

## **ARTICLE XXI**

### **Persons and Units Subject to Documents**

**Section 21.1 - Compliance with Documents.** All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions recorded on the Land Records of the Town of Southington are covenants running with the land and shall bind any Persons having at any time any interest or estate in such Unit.

**Section 21.2 - Adoption of Rules.** The Executive Board may adopt Rules regarding the use and occupancy of Units, Common Elements, and Limited Common Elements and the activities of occupants, subject to Notice and Comment.

## **ARTICLE XXII**

### **Insurance**

**Section 22.1 - Coverage.**

Commencing not later than the time of the first conveyance of a unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available and subject to reasonable deductibles:

**Section 22.2-Property Insurance.** Property insurance covering shall be maintained covering all real property owned by the Association. EACH UNIT OWNER SHALL BE RESPONSIBLE FOR INSURING HIS OR HER UNIT. The Associations' insurance will not cover dwelling Units but shall include street lights and any future real property added to the premises.

1. Amounts. The personal property owned by the Association shall be insured in an amount equal to 100% of its replacement cost. The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing the actual case value of the property, and the cost of such appraisals shall be a Common expense.

2. Risks Insured Against. The insurance shall afford "all risk" protection for direct physical loss commonly insured against only for property owned by the Association. THE ASSOCIATION SHALL NOT MAINTAIN A MASTER POLICY ON UNITS. The Unit Owner shall obtain insurance to protect his or her Unit from damage. A Unit Owner may maintain additional insurance on the Unit.

**Section 22.3- Liability Insurance.** The Association shall maintain liability insurance, including medical insurance payments, in an amount determined by the Executive Board, but in no event less than \$2,000,000.00 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.

Unit Owners may maintain liability insurance for insuring against death, bodily injury and property damage arising out of or in connection with use, ownership or maintenance of the Unit.

**Section 22.4-Fidelity Bonds.** The Association shall carry a blanket fidelity bond 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 shall name the Association as obligee and shall cover the maximum funds that will be in custody of the Association or the Manager at any time while the bond is in force, and in no event less than the sum of three (3) months' Common Expense assessments plus reserve funds. The bond shall include provisions that call for thirty (30) days written notice to the Association, to each holder of a Security Interest in a Unit and to each servicer that services

a FNMA-owned or FHLMC-owned mortgage on a Unit and to the insurance trustee, if any, before the bond can be canceled or substantially modified for any reason.

**Section 22.5 - 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.

**Section 22.6 - Other Insurance.** The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the Unit Owners. If any insurance described in this Article 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 sent postage prepaid by the United State Postal Service to all Unit Owners and eligible Mortgagees at the respective last known address.

**Section 22.7 - Premiums.** Insurance premiums shall be a Common Expense.

## ARTICLE XXIII

### Damage to or Destruction of Property

**Section 23.1 - Duty to Restore.** Any portion of the Property for which insurance is required under Section 47-255 of the Connecticut General Statutes or for which insurance carried by the Association is in effect, whichever is more extensive, shall be repaired or replaced promptly by the Association unless:

- (A) The Common Interest Community is terminated;
- (B) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (C) Eighty percent (80%) of the Unit Owners, including every owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

### **Section 23.2 - Cost.**

- (A) Except as provided in Subsections 18.3(J) and 22.2(B), the cost of Repair or Replacement in excess of insurance proceeds shall be a Common expense assessed against

all Units under Section 18.2 The cost of repair or replacement in excess of insurance proceeds shall be a Common Expense assessed against all units under Section 18.2.

(B) The cost of Repair or Replacement in excess of insurance proceeds resulting from a deductible in the property insurance coverage which does not exceed the limits set out in Subsection 21.2(B) or so much of the deductible that does not exceed that limit, shall be allocated as follows:

(1) If the Repair or Replacement is entirely to the Common Elements, the excess shall be a Common Expense assessed against all Units under Section 18.2.

**Section 23.3 - 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 (51%) percent of Eligible Mortgagees.

**Section 23.4 - Replacement of Less Than Entire Property.**

The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to their former condition.

**Section 23.5 - Insurance Proceeds.** The insurance trustee, or if there is no insurance trustee, then the Association, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Subsection 23.1(A) through Subsection 23.1(C), the proceeds shall be disbursed first for the repair or 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 completely repaired or restored, or the Common Interest Community is terminated.

**Section 23.6 - Certificates by the Executive Board.** A trustee, if any, may rely on the following certifications in writing made by the Executive Board:

(A) Whether or not damaged or destroyed Property is to be repaired or restored;

(B) The amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

**Section 23.7 - Certificates by Attorneys.** If payments are to be made to Unit Owners or mortgagees, the Executive Board, and the trustee, if any, shall obtain and may rely on an attorney's certificate of title or a title insurance policy based on a search of the Land Records of the Town of Southington from the date of the recording of the original Declaration stating the names of the Unit Owners and the mortgagees.

**Section 23.8 – Unit Owner Duty to Restore.** Each Unit Owner has the responsibility to insure his or her Unit and the duty to restore, repair or replace his or her Unit following any damage or destruction to the Unit.

## **ARTICLE XXIV**

### **Rights to Notice and Comment;**

#### **Notice and Hearing**

**Section 24.1 - Right to Notice and Comment.** Before the Executive Board amends the Bylaws or the Rules, whenever the documents require that an action be taken after "Notice and Comment", and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

**Section 24.2 - Right to Notice and Hearing.** Whenever the Documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

**Section 24.3 - Appeals.** Any Person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

**Section 24.4 – Access.** All meetings of the Board of Directors at which action is to be taken by vote at such meeting shall be open to the Unit Owners, except as hereafter provided.

**Section 24.5 – Notice.** Notice of every such meeting shall be given in accordance with the provisions of the Bylaws.

**Section 24.6 – Executive Sessions.** Meeting of the Board of Directors may be held in executive session, only in accordance with the provisions of the Bylaws concerning executive sessions and/or as provided by the Act.

## **ARTICLE XXV**

### **Executive Board**

**Section 25.1 - Minutes of Executive Board Meetings.** The Executive Board shall permit any Unit Owner to inspect the Minutes of Executive Board meetings during normal business hours. The Minutes shall be available for inspection within fifteen (15) days after any such meeting.

**Section 25.2 – Powers and Duties.** The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws, Rules and regulations, including, but not limited to those set forth in Sections 25.2(u) and 25.4 of the Declaration;
- (b) Adopt and amend budgets and adopt and amend special Assessments for revenues, expenditures and reserves;

- (c) Collect Assessments for Common Expenses from Unit Owners;
- (d) Invest the funds of the Association;
- (e) Hire and discharge managing agents;
- (f) Hire and discharge employees and agents, other than managing agents, and independent contractors;
- (g) Institute, defend or intervene in litigation, arbitration, mediation or administrative proceedings in the Association's name on behalf of the Association or two (2) or more Unit Owners on matters affecting the Common Interest Community, but subject to the limitations contained in the Act with respect to the commencement of lawsuits alleging a construction defect with respect to the Common Interest Community against the Declarant or a third party providing labor or materials to a Declarant;
- (h) Make contracts and incur liabilities;
- (i) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (j) Cause additional improvements to be made as a part of the Common Elements;
- (k) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real Property or personal Property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to Section 47-254 of the Connecticut General Statutes;
- (l) Grant easements for any period of time including permanent easements, and leases, licenses, and concessions for no more than one (1) year, through or over the Common Elements;
- (m) Impose and receive payments, fees or charges for the use, rental or operation of the Common Elements, other than Limited Common Elements described in Subsections (2) and (4) of section 47-221 of the Connecticut General Statutes, and for services provided to Unit Owners;
- (n) Impose charges or interest or both for late payment of Assessments and, after Notice and Hearing, levy reasonable fines for violations of this Declaration, and the Bylaws, Rules and regulations of the Association;



- (o) Impose reasonable charges for the preparation and recordation of amendments to this Declaration, resale certificates required by Section 47-270 of the Connecticut General Statutes or statements of unpaid Assessments;
- (p) Provide for the indemnification of the Association's officers and Executive Board and maintain Directors' and officers' liability insurance;
- (q) Borrow money (upon authorization by the Unit Owners as provided herein) when necessary for the operation of the Common Interest Community, provided that at least fourteen (14) days prior to the entering into any loan agreement on behalf of the Association, the Executive Board shall (1) disclose in a Record to all Unit Owners the amount and terms of the loan and the estimated effect of such loan on any Common Expense Assessment; and (2) afford the Unit Owners a reasonable opportunity to submit comments in a Record to Executive Board with respect to such loan;
- (r) Assign the Association's right to future income, including the right to receive Common Expenses, but subject to any other provision contained in this Declaration, including but not limited to Article XX;
- (s) Exercise any other powers conferred by this Declaration or the Bylaws;
- (t) Exercise all other powers that may be exercised in this State by legal entities of the same type as the Association;
- (u) Exercise any other powers necessary and proper for the governance and operation of the Association;
- (v) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing a committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting;
- (w) By regulation, require that disputes between Executive Board and Unit Owners or between two or more Unit Owners regarding the Common Interest Community must be submitted to nonbinding alternative dispute resolution in the manner described in the regulations as a prerequisite to commencement of a judicial proceeding;

(x) May suspend any right or privilege of a Unit Owner who fails to pay an Assessment, but may not:

(i) Deny a Unit Owner or any other occupant access to the Unit Owner's Unit or its Limited Common Elements.

(ii) Suspend a Unit Owner's right to vote and participate in meetings of the Association.

(iii) Prevent a Unit Owner from seeking election as a Director or Officer of the Association.

(iv) Withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety or Property of any Person.

(y) Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of reserves may be applied by the Executive Board as additions to the Association's reserves, or may be returned to the Unit Owners in proportion to their Common Expenses or credited to the Unit Owners to reduce their future Common Expense Assessments as the Executive Board may determine.

(z) Operate, maintain, repair and improve the community water and sewerage systems in accordance with all applicable requirements and in a manner which will prevent pollution to the water of the State of Connecticut, and as provided in Section 7-246f. of the Connecticut General Statutes.

**Section 25.3 – Executive Board Limitations.** The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect members of the Executive Board, except that the Executive Board may fill vacancies in its membership for the unexpired portion of any term, or if earlier, until the next regularly scheduled election of Executive Board members, or determine the qualifications, powers and duties, or terms of office of Executive Board members.

**Section 25.4 - Rules and Regulations Affecting Use and Occupancy of Units.**

(a) At least ten (10) days before adopting, amending or repealing any rule, the Executive Board shall give all Unit Owners notice of: (1) its intention to adopt, amend or repeal a rule and shall provide the text of the rule or the proposed change; and (2) a date on which the Executive Board will act on the proposed rule or amendment after considering comments from Unit Owners.

(b) Following adoption, amendment or repeal of a rule, the Association shall notify the Unit Owners of its action and provide a copy of any new or revised rule.

(c) Subject to the provision of the Declaration, the Association may adopt Rules to establish and enforce construction and design criteria and aesthetic standards. If the Association adopts such Rules the Association shall adopt procedures for enforcement of those Rules and for approval of construction applications, including a reasonable time within which the Association must act after an application is submitted and the consequences of its failure to act.

(d) A rule regulation display of the flag of the United States must be consistent with federal law. In addition, the Association may not prohibit display on a unit or on a Limited Common element adjoining a Unit, of the flag of this State, or signs regarding candidates for public or Association office or ballot questions, but the Association may adopt Rules governing the time, place, size, number and manner of those displays.

(e) Unit Owners may peacefully assemble on the Common elements to consider matters related to the Common Interest Community, but the Association may adopt Rules governing the time, place and manner of those assemblies.

(f) The Association may adopt Rules that affect the use of or behavior in Units that may be used for residential purposes, only to:

(1) Implement a provision of the Declaration;

(2) Regulate any behavior in or occupancy of a Unit which violates the Declaration or adversely affects the use and enjoyment of other Units or the Common Elements by other Unit Owners: or

(3) Restrict the leasing of residential Units to the extent those Rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on Units in the Common Interest Community or regularly purchase those mortgages.

(g) The Association's internal business operating procedures need not be adopted as Rules.

(h) Each Rule of the Association must be reasonable.

**Section 25.5 – Determination by the Executive Board to Take Enforcement Action.**

The Executive Board may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commence an action for violation of the Declaration, Bylaws and Rules, including whether to compromise any claim for unpaid Assessments or other claim made by or against it. The Executive Board does not have a duty to take enforcement action if it determines that, under the facts and circumstances Presented:

(1) the Association's legal position is not justified taking any further enforcement action, or (2) the covenant, restriction or rule being enforced is or is likely to be construed as inconsistent with law, or (3) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable Person or to justify expending the Association's resources, or (4) is not in the Association's best interest to pursue an enforcement action.

The Executive Board's decision not to pursue action under one set of circumstances does not prevent the Executive Board from taking enforcement action under another set of circumstances, except that the Executive Board may not be arbitrary or capricious in taking enforcement actions.

**Section 25.6 - Tenants.** If a tenant of a Unit Owner violates the Declaration, Bylaws or Rules and regulations of the Association, in addition to exercising any of its powers against the Unit Owner, the Association may:

(A) Exercise directly against the tenant the powers described in Section 25.2 of this Article,

(B) After providing Notice and Hearing to the tenant and the Unit Owner, levy reasonable fines against the tenant or Unit Owner or both for the violation; and

(C) Enforce any other rights against the tenants for violation which the Unit Owner as landlord could lawfully have exercised under the lease, including any such right to bring a summary process action under Chapter 832 of the General Statutes.

The rights granted under this paragraph may only be exercised if the tenant or Unit Owner fails to cure the violation within 10 days after the Association notifies the tenant and Unit Owner of that violation pursuant to the procedures for Notice and Hearing.

Unless the lease otherwise provides, this section does not:

(1) Affect rights that the Unit Owner has to enforce the lease or that the Association has under other law; or

(2) Permit the Association to enforce the lease to which it is not a party except to the extent that there is a violation of Declaration, Bylaws, or Rules and regulations.

## **ARTICLE XXVI**

### **Condemnation**

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 47-206 of the Connecticut General Statutes.

## **ARTICLE XXVII**

### **Miscellaneous**

**Section 27.1 - Captions.** The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

**Section 27.2 - Gender.** The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural and vice versa, whenever the context of the Documents so require.

**Section 27.3 - Waiver.** No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 27.4 - Invalidity.** The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

**Section 27.5 - Conflict.** The Documents are intended to comply with the requirements of Chapter 828 and Chapter 600 of the Connecticut General Statutes. In the event of any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

In Witness Whereof, the Declarant has caused this Declaration to be executed this \_\_\_\_ day of June, 2021.

\_\_\_\_\_

LOVLEY DEVELOPMENT, INC.

\_\_\_\_\_

By: Mark Lovley, its President

STATE OF CONNECTICUT)

)

ss. Southington

COUNTY OF HARTFORD )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of June 2021, by Mark Lovley, President of Lovley Development, Inc. as his free act and deed, and the free act and deed of said corporation, acting herein by him as President, executed for the purposed contained therein.

\_\_\_\_\_  
Richard M. Bailey  
Commissioner of the Superior Court

## DESCRIPTION AND SURVEY OF LAND

(Declaration Schedule A-1) Page 1

All that certain piece or parcel of land together with all buildings and improvements thereon, if any, situated in the Town of Southington, County of Hartford and State of Connecticut consisting of 5.76 acres, more or less, situated on the westerly side of Pacer Lane, known as 45 Pacer Lane, and more particularly shown on a certain map entitled "SCHEDULE A-3 AS-BUILT MAP FOR DECLARATION OF MUIRFIELD ESTATES, A PLANNED COMMUNITY FOR UNIT #7 FOR LOVLEY DEVELOPMENT, INC. #45 PACER LANE PLANTSVILLE, CT Scale: 1"= 30' Date: December 11, 2020 KJA File No.: 219-104 Drawing No.: A-3.1" by Kratzert, Jones & Associates, Inc. Civil Engineers Land Surveyors Site Planners Building Engineers, which map is to be recorded in the Southington Land Records.

(DECLARATION SCHEDULE A-1) Page (2)

Encumbrances

1. The terms, conditions, notes and easements shown on that certain Declaration of Planned Unit Community by Lovley Development, Inc. dated June 16, 2021 and recorded June 17, 2021 in Volume \_\_\_\_\_ at Page \_\_\_\_\_ of the Southington Land Records.
2. Notes, easements and restrictions and other matters as shown on said map.
3. An Affordability Plan for Workforce Housing Units by Lovley Development, Inc. dated June 16, 2021 and recorded June 17, 2021 in Volume \_\_\_\_\_ at Page \_\_\_\_\_, Southington Land Records.
4. Easement in favor of the American Telephone & Telegraph Company dated 11/02/1904 and recorded in 11/23/1904 in Volume 50, Page 243, Southington Land Records.
5. Easement in favor of the Housatonic Power Company dated 1/25/1904 and recorded 5/13/1904 in Volume 50, Page 163, Southington Land Records.
6. Easement in favor of the Connecticut Light & Power Company dated 5/3/1923 and recorded 5/12/1923 in Volume 66, Page 562, Southington Land Records.
7. Easement in favor of the Connecticut Light & Power Company dated 1/07/1924 and recorded 1/12/1924 in Volume 69, Page 162, Southington Land Records.
8. Drainage easement in favor of the Town of Southington dated 3/23/1956 and recorded 5/18/1956 in Volume 139, Page 459, Southington Land Records.
9. Drainage easement in favor of Santo Lagana dated 2/14/1958 in and recorded 2/14/1958 in Volume 151, Page 78 Southington Land Records.
10. An Electrical Easement from Lovley Development, Inc. to The Connecticut Light and Power Co. dated March 10, 2021 and recorded on March 16, 2021 in Volume 1516, Page 795, Southington Land Records.
11. A Gas Distribution Easement from Lovley Development, Inc. to The Connecticut Light and Power Company dated March 10, 2021 and recorded March 16, 2021 in Volume 1516, Page 797, Southington Land Records.
12. A. Sewer Agreement by and between the Town of Southington and Lovley Development, Inc. dated June 16, 2021 and recorded June 16, 2021 in Volume 1527, Page 924, Southington Land Records.



## TABLE OF INTERESTS

### DECLARATION SCHEDULE A-2

Unit Number	Percentage Share of Common Expenses	Vote in the Affairs of the Association
7	100%	1

## **SURVEY AND PLANS**

**(Declaration Schedules A-3 and A-4)**

### **Certificate**

I hereby certify that the above Plans, together with the information shown on the Survey, and other information contained in the Declaration, contain all of the information required by Conn. Gen. Stat. § 47-228.

\_\_\_\_\_  
Registered Engineer

Registration No. \_\_\_\_\_

I hereby certify that the above Survey, together with the other information contained in the Declaration, contains all of the information required by Subsection 29(d) of the Common Interest Ownership Act to the extent that any such information is not shown on the above Plans.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Registered Surveyor

Registration No. \_\_\_\_\_

## ENGINEERS CERTIFICATE OF COMPLETION

(Declaration Schedule A-5)

This Certificate is given with respect to the Plans of MUIRFIELD ESTATES, A PLANNED UNIT COMMUNITY by LOVLEY DEVELOPMENT, INC.

I hereby certify, to the best of my knowledge and belief:

1. That all structural components of Unit #7 of Muirfield Estates are substantially completed in accordance with the Survey attached to the Declaration as Schedule A-3 entitled "SCHEDULE A-3 AS-BUILT MAP FOR DECLARATION OF MUIRFIELD ESTATES, A PLANNED COMMUNITY FOR UNIT #7 for LOVLEY DEVELOPMENT, INC. #45 PACER LANE SOUTHLINGTON, CT Scale: 1" = 30' Date: December 11, 2020 revised to 6/9/21 KJA File No: 219-104 Drawing No. A-3.1 by kratzert, jones & associates, inc. " and the Plans attached entitled "House Plans Lovley Development Unit 7, Plan C Muirfield Estates Southington, CT dated 1/21/2021.
2. That said Certificate is made pursuant to the provisions of Section 21 of the Common Interest Ownership Act, Connecticut General Statutes Section 47-220 (b).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Registered Engineer,

Registration No. \_\_\_\_\_