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**Updated by the Palmer Hills Place Condominium Owners' Board of Directors**

**November 30, 2016**

PURSUANT TO CHAPTER 499B OF THE CODE OF IOWA

FOR

PALMER HILLS PLACE CONDOMINIUMS

DEVELOPER:

S and J Development, L.L.P.

2231 E. 45th Street

Davenport, IA 52807

DEVELOPER'S ATTORNEY:

Ronald A. May

Jersey Ridge Rd

Davenport, IA 52807

**DECLARATION OF SUBMISSION OF PROPERTY  
TO HORIZONTAL REGIME ESTABLISHING A  
PLAN FOR CONDOMINIUM OWNERSHIP  
OF PREMISES**

This Declaration of Submission of Property to the Horizontal Property Regime established by Chapter 499E, The Code of Iowa, is made and executed in Davenport, Scott County,

Iowa this 16 day of September, 1999, by S and J Development, L.L.P., hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Davenport, Scott County, Iowa, legally described as follows, to wit:

Lot 1 of Versman Palmer Hills 2nd Addition, an Addition to the City of Bettendorf, Iowa,

and;

WHEREAS, Declarant is the owner of Lot 1 of Versman Palmer Hills 2nd Addition, an Addition to the City of Bettendorf, Iowa, and intends to improve such property by building ten (10) multi-family buildings totaling 149 units upon the real property described above and it is the desire and the intention of the Declarant to divide the project into condominiums and to sell and convey the condominium units to various purchasers pursuant to the provisions of the Horizontal Property Act, and to impose upon said property mutually beneficial restrictions, covenants, and conditions;

and

WHEREAS, Declarant desires and intends to submit all of the above described property and buildings and improvements to be constructed thereon, together with all appurtenances, to the provisions of the Horizontal Property Act as a condominium project;

NOW, THEREFORE, Declarant hereby publishes and declares that all property described above is held and shall be held and conveyed subject to the following covenants, conditions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominiums of said property and the division thereof into condominiums and shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, its grantees, successors, heirs, executors, administrators, devisees and assigns.

## **ARTICLE I**

### **Definitions**

1. **Declarant**. The term "Declarant" shall mean S and J Development, LLP, an Iowa Limited Liability Partnership, which has made and executed this Declaration.
2. **Declaration**. The term "Declaration" shall mean this instrument by which Palmer Hills Place Condominiums is established as provided under the Horizontal Property Act.
3. **Project**. The term "Project" shall mean the entire parcel of real property referred to in this Declaration to be divided into condominiums, including all structures thereon.
4. **Unit**. The term "Unit" shall mean one or more rooms occupying all or part of a floor or floors intended for use as a residence and not owned in common with other owners in the regime. The boundary lines of each unit are the interior surfaces of its perimeter walls, bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim, and includes the portions of the building so described and the air space so encompassed. The Regime will consist of ten (10) buildings, containing 149 units. A separate underground parking space goes with each unit.
5. **General Common Elements**. The term "General Common Elements" shall have the meaning as defined in Article IV of this Declaration.
6. **Limited Common Elements**. The term "Limited Common Elements" shall have the meaning as defined in Article V of this Declaration.
7. **Building**. The term "Building" shall mean the structural improvements to be built on the land, forming part of the real estate and containing units as more particularly described on Exhibit "B" and in paragraph 2 of Article II of this Declaration.
8. **Underground Parking Space**. The term "Underground Parking Space" means a parking space to be designated to each unit in the parking garage of the Regime, and intended for the storage of an automobile.
9. **Condominium**. The term "Condominium" means the entire estate in the real property owned by an Owner, consisting of an undivided interest in the Common Elements and ownership of a separate interest in a Unit.
10. **Owner**. The term "Owner" means any person with an ownership interest in a Unit in the Project.
11. **Council of Co-Owners**. The term "Council of Co-Owners" means all the co-owners of the building and is otherwise known and synonymous with the term "Association" and/or "Homeowners Association."
12. **Association**. The term "Association" means the same as the "Council of Co-Owners" as defined in Paragraph 11 of this Article I, and specifically refers to Palmer Hills Place Condominiums Owners Association and its successors.

13. Condominium Documents. The term "Condominium Documents" means this Declaration and all exhibits attached hereto, including the Bylaws of the Association.
14. Plural and Gender. Words and phrases herein shall be construed as in the singular or plural in number, and as masculine, feminine, or neuter, according to the context.
15. Severability. The invalidity of any covenant, restriction, agreement, undertaking, or other provisions of any condominium document shall not affect the validity of the remaining portions thereof.
16. Incorporation. Exhibits attached hereto and referred to herein are hereby made a part hereof with the same force and effect as other provisions of this document.

## **ARTICLE II**

### **Description of Land, Buildings and Units**

1. Description of Land. The land submitted to this Regime is located on Holiday Court in Bettendorf, Scott County, and is legally described as Lot 1 in Versman Hills 2nd Addition, an Addition to the City of Bettendorf, Iowa.
2. Description of Buildings. The Condominium Regime will consist of nine (9) buildings, containing 108 dwelling units. The buildings will be constructed to the following general specifications:

Footings & Floor: Footings are 10" x 20" concrete. Basement floor is 3-1/2" concrete over 4" rock and poly vapor barrier.

Exterior Walls: All Exterior walls are 2x6 w/ 7/16 OSB, Tyvek paper, 3-5/8" fiberglass insulation, poly vapor barrier and 5/8" sheet rock.

Floor Decks: Floor joists are web floor trusses covered with 3/4" oxboard and 3/4" Gyp-Crete barrier.

Interior Walls: All interior walls are 2 x 4 - 16" o.c. and are covered with 5/8" sheetrock with three (3) coats tape and texture. Sound walls are double 2 x 4 walls with four (4) layers of 1/2" sheetrock and two (2) layers of 3-5/8" fiberglass insulation separated by a 1/2" air space. Interior walls are finished with two (2) coats latex paint.

Ceilings: All ceilings are covered with 5/8" Sheetrock with three (3) coats tape and texture.

Insulation: All exterior walls are insulated with 5 1/2" fiberglass insulation with poly vapor barrier. The top ceiling insulated to R-40 with blown in cellulose fiber insulation.

Roof: Engineered roof trusses are placed 24" c.c. with 15/32" CDX plywood, 15# felt and 235# self-sealing asphalt shingles.

Exterior Trim: Soffits, gutters, ridge vents, and roof edge, are prefinished aluminum. Siding shall be double 4" vinyl siding.

Windows: All windows are white vinyl sliders, double-glazed with screens.

Exterior Doors: Exterior doors are 1-3/4" steel insulated with dead bolts and wide angle viewers.

Exterior Stairs and Corridors: All exterior stairs are poured in place concrete with steel rails.

Interior Doors & Trim: All interior doors are six panel Masonite with prefinished oak trim.

Kitchen Cabinets: Kitchen and vanity cabinets are Merrilat flat panel maple. Counter tops and vanity tops are postformed laminate.

Electrical: Electrical services are 400 amp for the twelve unit Building. Each individual unit will be wired for the following:

- (a) Vented range hood or microwave.
- (b) Bath exhaust fan.
- (c) Standard outlets and lights.
- (d) Smoke detector.
- (e) Three (3) telephone outlets.
- (f) Cable television outlets.
- (g) 40-gallon electric water heater.
- (h) Electric washer and dryer hookups.
- (i) Disposal.
- (j) Four ceiling fans (one in each bedroom, one in den, and one in the living room).

Heating and Air Conditioning: All units are heated with forced air gas and central air conditioning. Each unit is on a separate thermostat. The furnace to be installed in each unit shall be a high efficiency unit and the air conditioner to be installed each unit shall be 10 seer.

Plumbing: All underground plumbing is copper and cast iron. Waste and vent lines are plastic. All water lines are copper. Each unit has the following fixtures:

- (a) Two (2) white Mansfield stool and lavatory.
- (b) Two (2) tub/shower combination aqua glass unit.
- (c) Two (2) cultured marble vanity tops.
- (d) One (1) cast iron kitchen sink.
- (e) One (1) ISE Badger 5 disposal.
- (f) One (1) washer and dryer hookups.
- (g) One (1) forty (40) gallon glass lined water heater.

Painting: All exterior trim has vinyl siding and aluminum soffit and fascia. All interior wall surfaces have two (2) coats latex semigloss paint.

Floor Coverings: From Northwest Carpets in Davenport.

Appliances: All appliances are Kenmore as listed:

- (a) Refrigerator-optional
- (b) Range
- (c) Dishwasher
- (d) Microwave
- (e) Washer-optional
- (f) Dryer-optional

Each unit has its own electric meter. Each unit is equipped with its own 100 amp circuit breaker. Electrical outlets and lights are installed in each unit as required. Each unit is prewired to receive cable TV and telephone.

Parking Space: Each unit will have an assigned parking space in the parking garage per plans and specifications.

Elevator: Each building shall have an elevator per plans and specifications. At no time may someone stop or hold the elevator for any reason other than an emergency. This includes stopping the elevator for moving furniture, etc. when moving in or out of a unit.

3. Description of the Units. Attached hereto and made a part hereof as Exhibit "A" is a list of all Units in the Buildings, their Unit designations, fractional interest of each unit in the common elements, number of votes per unit in the Association, and pro rata share of common expenses. Attached hereto and made a part hereof as Exhibit "B" is a site plan showing the location of the buildings and the limited common elements to which each unit has immediate access. Annexed hereto and made a part hereof as Exhibit "C" are the building plans for Building 3 which together with the definition of the term "Unit" in Article I show the dimensions of each Unit in said Building 3. Such building plans for Buildings 1, 2 and 4 through 10 will be submitted when available in the form of an Amendment or Amendments to this Declaration.

### **ARTICLE III**

#### **Ownership Interests**

1. Exclusive Ownership and Possession by Owner. Each owner shall be entitled to exclusive ownership and possession of his Unit. Each owner shall be entitled to an undivided interest in the Common Elements in the fractional interest expressed in Exhibit A of this Declaration. The fractional interest of each owner in the Common Elements as expressed in Exhibit A shall have a permanent character and shall not be altered without the consent of all owners expressed in an amended Declaration duly recorded. The fractional interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or conveyance or other instrument. Each owner may use the Common Elements in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other owners. An owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, ceiling, framed openings of the windows and doors bounding his/her Unit, nor shall the owner be deemed to own the utilities running through his/her unit which are utilized for, or

serve more than one Unit, except as a fractional interest in the Common Elements. An owner, however, shall have the exclusive right to paint, re-paint, tile, wax, paper or otherwise refinish and decorate the interior surfaces of the walls, floors, ceilings, windows and doors bounding his/her Unit.

2. Appurtenances. There shall pass with the ownership of each Unit as a part thereof, whether or not separately described, all appurtenances to such Unit, and no part of the appurtenant interest of any Unit may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other disposition of such Unit itself or of all Units in the Regime.

3. Undivided Fractional Interest. An undivided interest in the land and other Common Elements of the Regime, regardless of whether such elements are general or limited common elements, shall be appurtenant to each Unit. The amount of such undivided interest appurtenant to each unit is that fraction as set forth in Exhibit "A."

4. General Common Elements. Appurtenant to each unit shall be a right to use and enjoy the General Common Elements, Refer to IV and V.

5. Limited Common Elements. The exclusive use by owners of the Limited Common Elements, including decks and patios, shall be deemed an appurtenance of the Unit or Units for which said elements are reserved, provided, such use and enjoyment shall be limited to the uses permitted by this Declaration and other Condominium documents.

6. Association Membership and Voting Rights. Appurtenant to each Unit shall be membership in Palmer Hills Place Condominiums Owners Association and one vote in the affairs of the Association and of the Regime, provided, however, that the exercise of such voting and membership rights shall be subject to the applicable provisions of the Bylaws of the Association and of the other Condominium documents. The action of such Association shall be deemed the action of the Owners; and such action, when taken in accordance with the Bylaws of the Association and this Declaration shall be final and conclusive upon all Unit Owners.

7. Cross Easement. Appurtenant to each Unit shall be easements from each Unit Owner to each other Unit Owner and to the Association and from the Association to the perspective Unit Owners as follows:

- a) For ingress and egress through the common areas and for maintenance, repair, and replacement as authorized;
- b) Through the Units and common facilities for maintenance, repair and replacement or reconstruction of Common Elements, but access to Units shall be only during reasonable hours except in case of emergency;
- c) Every portion of a Unit contributing to the support of a Building is burdened with an easement of such support for the benefit of all such other Units;

- d) Through the Units and common areas for conduits, ducts, heating, plumbing, wiring and other facilities for the furnishing of utility or other services to the other Units in the common areas.

## **ARTICLE IV**

### **General Common Elements**

1. **Definition.** General Common Elements shall include all portions of the project (land and improvements thereon) not included within any Unit except such portions of the project which are defined as Limited Common Elements in the following Article. The General Common Elements also include, but are not limited to, the following:
  - (a) The land on which the Building is erected.
  - (b) The foundations, floors, exterior walls of each Unit and of the buildings, ceilings, and roofs, communication ways, and in general all devices or installations existing for common use, except as limited in the next Article. Refer to VIII.
  - (c) Installations for public utilities, including electric, gas and cold water for common use.
  - (d) Front, side, and rear yards; plantings, driveways, walks, and open parking spaces.
  - (e) Maintain signs, employees, independent contractors and equipment and materials on the premises, to use common elements (general and limited), and to show Units. All signs and all items and equipment pertaining to sales or construction in any Unit furnished by the Declarant for sales purposes shall not be considered common elements and shall remain Declarants separate property. Declarant retains the right to be and remain the owner of completed but unsold Units under the same terms and conditions as other Owners including membership in the Association save for its right to sell.
2. **Easements.** Declarant expressly reserves perpetual easements for ingress, egress and utility purposes as may be required across and under the land submitted hereby.
3. **Designation of Association Directors.** Declarant shall have the right to name all members of the Board of Directors of Palmer Hills Place Condominiums Owners Association until the first annual members' meeting of said Association which shall be held as provided for in the Bylaws. Thereafter, the Board of Directors shall be selected in the manner specified in the ByLaws of the Association.

## **ARTICLE V**



## Limited Common Elements

1. Definition. The term "Limited Common Elements" shall mean and such elements shall consist of those common elements which are reserved for the use of one or more Units by this Article and amendments hereto and such reservations shall be to the exclusion of all other Units.

- (a) All walls and partitions segregating Units from other Units, interior load-bearing walls and all other elements which are structural to a Unit are reserved for that Unit (or Units where partitions separate two Units contained in a Building).
- (b) Any patio, screened porch or deck (sometimes referred to as a balcony herein or in the Exhibits) if any, as well as a three foot area immediately adjacent thereto, on which gas grills or related equipment may be installed, and adjoining a Unit.
- (c) Mailboxes and storage area, if any, designated to a particular Unit.
- (d) That part of all sewer, water, electrical, gas, telephone, communication cable, and other utility or service lines, wiring, ducts, conduits, piping, facilities, systems, fixtures and attachments serving just one Unit and located entirely within the Unit.
- (e) The air conditioner pads and electrical power sources are appurtenant to each Unit.
- (f) The driveways immediately appurtenant to each Unit.

2. Exception. Notwithstanding the reservations made by this Article, the design of the buildings, grounds to be submitted, and the integrity and appearance of the Regime as a whole are the common interests of all owners and, as such, shall remain a part of the General Common Elements.

3. Rights of Association. The reservation of the Limited Common Elements herein shall not limit any right the Association and its agents may otherwise have to alter such Limited Common Elements or enter upon such Limited Common Elements.

## ARTICLE VI

### Declarants Reserved Rights and Powers

1. Declarants Activities. Declarant is irrevocably and perpetually empowered, notwithstanding any use, restriction or other provision hereof to the contrary, to sell Units to any person and shall have the right to transact on the condominium property and business relating to construction, repair, remodeling, sale, lease or rental of Units, including but not limited to, the right to maintain signs, employees, independent contractors and equipment and materials on the premises, to use Common Elements (General and Limited), and to show Units. All signs and all items and equipment pertaining to sales or rentals or construction in any Unit

furnished by the Declarant for sales purposes shall not be considered Common Elements and shall remain Declarants separate property. Declarant retains the right to be and remain the owner of completed but unsold Units under the same terms and conditions as other Owners including membership in the Association save for its right to sell.

## **ARTICLE VII**

### **Management of The Regime**

1. Association: Council of Co-owners. The operation of the Condominium shall be by a non-profit membership corporation organized and existing under Chapter 504A, Code of Iowa. The name of the Association shall be Palmer Hills Place Condominiums Owners Association. Copies of its Articles of Incorporation and By-Laws are attached hereto as Exhibits "D" and "E", respectively and Rules and Regulations. Whenever a vote or other action of Unit Owners as a group is required, the mechanics of conducting such a vote or taking such action shall be under the control and supervision of the Association. The action of the Association shall constitute the action of the Owners or the Council of Co-owners whenever such action is permitted or required herein or by Chapter 499B of the Code of Iowa.
2. Compliance. All owners, tenants, families, guests and other persona using or occupying the Regime shall be bound by and strictly comply with the provisions of the Bylaws of the Association and applicable provisions of other determinations lawfully made by the Association and its directors, officers or agents shall be binding on all such Owners and other persons. A failure to comply with the Bylaws or the provisions of the other Condominium documents or any agreement or determination thus lawfully made shall be grounds for an action to recover sums due for damages on the part of the Association or any Owner as applicable and any mandatory or other injunctive relief without waiving either remedy.
3. Power of Association. Each Owner agrees that the Association has and shall exercise all powers, rights and authority granted unto it, the Council of Co-owners and the Owners as a group by Chapters 499B and 504A of the Code of Iowa, and such as are more particularly set forth in the Condominium documents, including but not limited to the making of assessments chargeable to Owners and the creation of a lien on Unit thereof, and acquiring a Unit at foreclosure sale and holding, leasing, mortgaging or conveying the same. Each Owner hereby waives any rights to delay or prevent such foreclosure by the Association which he/she may have by reason of a homestead exemption.
4. Partition. All Unit Owners shall be deemed to have waived all rights of partition, if any, in connection with such acquisition.
5. Membership, Voting Rights. The members of the Association shall consist of all of the record Owners of Units. After receiving the approval of the Association elsewhere

required, change of membership in the Association shall be established by recording in the public records of Scott County, Iowa, a deed or other instrument establishing a record title to a Unit in the Condominium. The membership of the prior Owner shall be thereby terminated. The members of the Association shall have voting rights as defined herein. Members shall be entitled to one vote for each Unit in which they are the record Owner of a fee or undivided interest, including contract sellers and purchasers. The vote for any Unit shall be exercised collectively as the Owners shall determine and as provided in the Bylaws, but in no event shall a fractional vote be cast nor more than one vote be cast with respect to any Unit.

6. Restraint upon Assignee. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.
7. Board of Directors. The affairs of the Association shall be conducted by a Board of who shall be designated and/or elected in the manner provided in the Bylaws. Elected Directors shall be elected at the first annual meeting of the Council and shall have such powers and duties specified by this Declaration and the Bylaws. The first annual meeting of the Council shall take place when 80% of the Units are conveyed by the Declarant to purchasers as provided in the Bylaws. The Board may employ a manager or managerial service company and delegate various responsibilities to such person as more particularly described in the By-Laws. The management fee shall be a common expense.
8. Discharge of Liability. All Owners shall promptly discharge any lien which may hereafter be filed against their condominium Unit.
9. Limitation of Association's Liability. The Association shall not be liable for any injury or damage to property whatsoever unless caused by the gross negligence of the Association. No diminution or abatement of common expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements of the Common Elements or from any action taken to comply with any law, ordinance or orders of a government authority.
10. Indemnification of Directors and Officers. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including legal fees, reasonably incurred by or imposed upon him/her in connection with any proceeding to which he/she may be a party, or in which he/she may become involved, by reason of his/her being or having been a director or officer of the Association, or any settlement thereof, whether or not he/she is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his/her duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.
11. Agent to Receive Service of Process. The current President of the Palmer Hills Place Board of Directors who is a resident of the State of Iowa, is designated as

agent to receive service of process upon the Association: See the cork boards in the lobbies of the buildings: Address: P. O. Box 496, Bettendorf, IA 52722.

## **ARTICLE VIII**

### **Maintenance, Alteration and Improvement**

1. **Definitions.** Certain terms used in this Article shall have a meaning as follows, provided any dispute over the characterization of work within one of the following meanings shall be conclusively decided by the Board of Directors of the Association.

- (a) "Maintenance" or "repair" shall mean the act of maintaining, restoration, renovation, reconstruction, replacement, rebuilding and similar work necessary to preserve a Unit or the property in its original condition as completed.
- (b) "Improvement" shall mean the addition of a new structure, element or facility, other than a structure, element or facility otherwise provided for by this Declaration or any Supplementary Declaration.

2. **Maintenance by Association.**

- (a) The Association shall maintain all Common Elements, whether limited or general, and shall make assessments therefor as a common expense except where maintenance has been specifically made the responsibility of each Unit.
- (b) The Association shall repair incidental damage caused to a Unit through maintenance by the Association and shall assess the cost thereof as a common expense.
- (c) If a Unit owner defaults on his/her responsibilities of maintenance, the Association shall assume such responsibilities and shall assess the costs thereof against the Unit of each Owner and such assessment shall be collectible as if it were an assessment for common expenses.
- (d) The Association may, in its discretion, assume responsibility for any maintenance project which required reconstruction, repair, rebuilding, conservation, restoration or similar work to more than one Unit and the costs thereof may be, in the discretion of the Association, either assessed against each Unit on which such costs were incurred or assessed against all Units as a common expense according to the circumstances.

3. **Maintenance by Owner.**

- (a) Each Unit Owner at his/her own expense shall maintain the interior, including the boundary surfaces, of such Unit and its equipment; shall keep the interior in a clean and sanitary condition; shall do all redecorating, painting and other finishing

which may at any time be necessary to maintain his/her Unit; and shall be responsible for the maintenance and replacement of all personal property including carpets, other floor coverings, furnishings, and appliances within such Unit.

- (b) The Owner of each Unit shall be responsible for maintaining and replacing the plumbing fixtures within the Unit and the regular maintenance of their furnace and air conditioning unit serving such Unit together with heating ducts and all other utilities including electrical and electrical fixtures or portions thereof located within the boundaries of his/her Unit. This includes all ducts leading in or out of the Units from the owners' washer/dryer, heating and fireplace vents. The Unit Owner is responsible for the staining of their decks—specific type and color as outlined in the Rules and Regulations—to be used for uniformity. The owner shall also, at his/her own expense, keep in a clean and sanitary condition his/her Unit, and any patio or storage place which is for the exclusive use of his/her Unit. Neither the Association nor the Regime shall be liable or responsible for any loss or damage caused by theft or otherwise of articles which may be stored by the Owner in such storage places.
- (c) The Unit Owner shall maintain, at his/her expense, any improvement or alteration made by him/her. The maintenance and replacement of windows and sliding doors are the responsibility of the condo owners. Windows/sliding doors that must be replaced because of any kind of damage will be the sole responsibility of that owner. If an owner wishes to replace their windows/sliding doors, it will be the owner's responsibility. However, the Property Manager must be notified to insure the accepted window company is used for continuity in the complex. Screen replacement is also the responsibility of the owner. Skylights are the responsibility of the Association, as they are part of the roofs. Owners are also responsible for damage made to the Gyp-Greater Barrier below the floor covering either by contractors replacing floor tile, carpeting and/or heavy abuse of use such as overweight items and equipment. Owners are also responsible for water or other damage caused to their unit and any other adjacent units or common areas. See Article X: Insurance and Casualty.
- (d) The Owner of each Unit shall promptly report to the Association any defects or other maintenance needs which are the responsibility of the Association.

4. Alterations or Improvements by Owner. No Unit Owner shall make or permit to be made any structural alteration to the building without first obtaining written consent of the Board of Directors of the Association (which consent may be given by general rule or regulation) which shall determine the proper insurance of such improvement or other alteration, and the effect of such improvement or alteration, on insurance of other property of the Regime, and which shall arrange with such Unit Owner for the payment of the cost of any additional insurance thereby required. Alterations to the exterior of any Building or Common Element shall not be made if, in the opinion of the Board of Directors of the Association, such alteration would be detrimental to the integrity or appearance of the Regime as a whole. Unit Owners shall do no act or work which will impair the structural soundness or integrity of the building or safety of the property or impair any easement. The improvement or alteration of a Unit shall cause no increase or decrease in the number of ownership interests appurtenant to such Unit.

5. Alterations or Improvements by the Association will be determined by the Board of Directors of the Association in the budget. Whenever in the judgment of the Board, the Common Elements shall require additions, alterations, or improvements, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all unit owners for the costs thereof as a common charge. Any additions, alterations or improvements not in the budget, but deemed necessary by the Board of Directors, the Board will have the authority to proceed with those changes, and the costs thereof shall constitute part of the common expenses.

## **ARTICLE IX**

### **Conditions of and Restrictions on**

#### **Ownership, Use and Enjoyment**

1. Property Subject to Certain Provisions. The ownership, use, occupation, and enjoyment of each Unit and of the Common Elements of the Regime shall be subject to the provisions of the Bylaws of the Association and this Declaration, all of which provisions, irrespective of where set forth or classified, shall have equal status and shall be enforceable and binding as a Covenant, condition, restriction, or requirement running with the land and shall be binding on and enforceable against each and all Units and the Owners thereof and their respective assigns, lessees, tenants, occupants and successors in interest.

2. Use of Property. The use of the property shall be in accordance with and subject to the following provisions:

a. A Unit shall be used or occupied for single family dwelling purposes only.

b. As amended and approved as of August 1, 2013, (b) A Condominium Unit cannot be rented or leased by the owner (lessor). This will take effect August 1, 2013. All condominiums presently rented or leased are exempted until such time the Unit is sold, thereby making this exemption null and void and will no longer be eligible for lease or rent.

c. Nothing shall be altered in, constructed in, or removed from, the Common Elements, Limited or General, except upon written consent of the Board of Directors of the Association, which may be given through regulations of the Association, and further provided that any holder of a first mortgage which acquires possession of a Unit by foreclosure or by deed in lieu of foreclosure shall have the right to post signs for the sale or rental of such Unit until such Unit is sold or a lease is entered into.

- d. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Unit Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.
  - e. Nothing shall be done or kept in any Unit or in the common area which will increase the rate of insurance on the common area, without the written consent of the Association. No Owner shall permit anything to be done or kept in his 'Unit or in the common area which will result in the cancellation of insurance on any Unit or any part of the common area, or which would be in violation of any law.
  - f. No Unit Owner shall be permitted to erect a TV antenna or any other fixture, item or appurtenance on any building roof.
  - g. The Board of Directors shall have the authority to adopt rules and regulations governing the use of the property and such rules shall be observed and obeyed by the owners, their guests and licensees.
  - f. No Unit Owner shall be allowed to install additional parking slabs on any part of the property, nor shall parking of any vehicles be allowed except on designated driveways and garages.
  - g. Agents of or contractors hired by the Association may enter any Unit when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, providing such entry shall be made with as little inconvenience to the Owners as practicable.
  - h. A Unit Owner shall give notice to the Association of every lien against his/her Unit other than permitted mortgages, taxes and association assessments, and of any suit or other proceeding which may affect the title to his/her Unit within ten (10) days after the lien attaches or the Owner receives notice of such suit.
  - i. A Unit Owner shall be liable to the Association for the expense of any maintenance, repair or replacement rendered necessary by his/her act, neglect, or carelessness, or by that of his/her family, guests, employees, agents or lessees which liability shall include any increase in insurance rates resulting therefrom.
  - l. No Unit shall house more than one (1) dog no more than 25#s—except for service dogs allowed with medical proof of need; current owners are exempt from the lower weight limit; not to be aggressive towards residents”) and no more than two (2) cats—one or the other. Any person within the project keeping a pet shall immediately clean and remove any messes created or caused by said pet. Further, no unleashed pets whatsoever shall be allowed upon the Limited or General Common Elements. See Rules and Regulations —Paragraph (7) for further information.
3. No Waiver. Failure of the Association or any Owner to enforce any covenant, condition, restriction or other provision of Chapter 499B of the Code of Iowa, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

4. Limitation to Parking Vehicles. No person shall block any entry or exit and must, at all times, park their vehicle within designated parking spots. Any vehicle found in noncompliance is subject to immediate towing.

## **ARTICLE X**

### **Insurance and Casualty**

1. General Liability and Property Damage. Comprehensive general liability and property damage insurance shall be purchased by the Board as promptly as possible following its election, and shall be maintained in force at all times, the premiums thereon to be paid by assessments of monthly condominium association fees. Prior to the organizational meeting, such insurance shall be procured by Declarant. The insurance shall be carried with reputable companies authorized to do business in the State of Iowa in such amounts as the Board may determine. The policy or policies shall name as insured the Owners and the Association. Declarant shall be named as an additional insured on such policy or policies until such time as Declarant shall have conveyed all of the condominium Units in the project. The policy or policies shall insure against loss arising from perils in both the common areas and the units and shall include contractual liability coverage to protect against such liabilities as may arise under the contractual exposures of the Association and/or the Board.
2. Fire and Casualty. Fire and other hazard insurance shall be purchased by the Board as promptly as possible following its election and shall thereafter be maintained in force at all times, the premiums thereon to be paid out of the monthly condominiums association fees. Policies shall provide for the issuance of certificates or such endorsement evidencing the insurance as it may be required by the respective mortgagees. The policy, and certificates so issued, will bear a mortgage clause naming the mortgagees interested in said property. The policy or policies shall insure against loss from perils therein covered to all of the improvements in the project, except as may be separately insured. Such policy or policies shall contain extended coverage, vandalism, and malicious mischief endorsements. The improvements to be insured under this clause shall be continually insured to value, and the policy or policies shall contain replacement cost insurance. If reasonably available, the policy or policies shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild. The policy or policies shall be named as insured all of the Owners, the Association and Declarant, so long as Declarant is the owner of any of the Units in the project. The Declarant shall notify the insurance carrier of any change in ownership of a unit until such time as the Declarant shall no longer own ten percent (10%) or more of the Units, at which time it shall be the responsibility of the Association to notify the insurance carrier of a change in the ownership of any Unit. The policy or policies shall also cover personal property owned in common, and shall further contain waiver of subrogation rights by the carrier as to negligent owners.
3. Fire and Casualty on Individual Unit. Except as expressly provided in this paragraph and in paragraph 4, no Owner shall separately insure his condominium Unit or any part thereof against loss by fire or other casualty covered by the insurance carrier under paragraph 2. Should any Owner violate this provision, any diminution in insurance proceeds resulting from the existence of such other insurance, and or



failure to have the proceeds of such other insurance payable pursuant to the provisions of paragraph 2, shall be chargeable to the Owner who acquired such other insurance, who shall be liable to the Association to the extent of any such diminution and/or loss of proceeds.

4. Personal Property on Individual Units. An Owner may carry such personal liability insurance, in addition to that herein required, as he/she may desire. In addition, such fixtures and mechanical equipment located within a Unit such as plumbing fixtures, electrical lighting fixtures, kitchen and bathroom cabinets and counter tops, furnace, air conditioning and water heater, together with additions thereto and replacements thereof, as well as the personal property of the Unit Owner, may be separately insured by such Owner, such insurance to be limited to the type and nature of coverage often referred to as "Condominium Unit-Owners Insurance." All such insurance separately carried shall contain waiver of subrogation rights by the carrier as to negligent owners. All owners are required to carry water seepage or leakage insurance. Owner occupied units are to carry a H06 Form Policy. Rental owners are to carry a Dwelling Fire 3 Policy. If accidental discharge takes place in a unit, the owner of the unit where the incident originated must carry a policy that states that the unit where the incident originated is liable for damages of other units (side, above or below units) and common areas.
5. Additional Coverage. The Board may purchase and maintain in force at the expense of the common maintenance fund, debris removal insurance, fidelity bonds, and other insurance and/or bonds that it deems necessary. The Board shall purchase and maintain worker's compensation insurance to the extent that the same shall be required by law respecting employees of the Association. The Board shall also maintain "all risk" insurance coverage on the project to insure against water damage and like kind of casualties, if such insurance would be reasonably available.
6. Loss Adjustment. The Board is hereby appointed the attorney-in-fact for all Owners to negotiate loss adjustments on the policy or policies carried by the Association.
7. Association as Trustee for Proceeds. In the event of damage or destruction by fire or other casualty affecting a Unit or Units, and/or if any portion of the common area is damaged or destroyed by fire or other casualty, all insurance proceeds paid in satisfaction of claims for said loss or losses shall be segregated according to losses suffered by each Unit or Units and/or the common area, and shall be paid to the Association as trustee for the Owner or Owners and for the encumbrancer or encumbrances, as their respective interests may appear. Said insurance proceeds, and the proceeds of any special assessment as hereinafter provided, whether or not subject to liens of mortgages or deeds of trust, shall be collected and disbursed by said trustee through a separate trust account on the following terms and conditions:
  - a. Partial Destruction of Common Elements. If the damaged improvement is a common element, the Board of Directors of the Association may, without further authorization, contract to repair or rebuild the damaged portion of the common elements substantially in accordance with the original plans and specifications thereof.
  - b. Partial Destruction of Units and Common Elements. In the event of damage to, or destruction of, any Unit or Units with accompanying damage to the Common

Elements but the total destruction or damage does not represent sixty percent (60%) or more of the Buildings in the Regime and the costs of repairing or re-building said damaged area does not exceed the amount of available insurance proceeds for said loss by more than \$20,000.00, the Board of Directors of the Association shall immediately contract to repair or rebuild the damaged portion of the Unit or Units and the Common Elements substantially in accordance with the original plans and specifications. If the cost to repair or rebuild exceeds available insurance by \$20,000.00, then Owners of the individual Units, by vote of not less than a majority of those present and entitled to vote, in person or by proxy, at a duly constituted Owners' meeting held within thirty (30) days from the date of such damage or destruction, shall determine whether the Board of Directors shall be authorized to proceed with repair or reconstruction.

- c. Total Destruction. In the event of sixty percent (60%) or more damage to, or destruction of, the Buildings in the Regime by fire or other casualty, the Owners of the individual Units, by vote of not less than a majority of those present and entitled to vote, in person or by proxy, at a duly constituted owners' meeting held within thirty (30) days from the date of such damage or destruction, shall determine whether the Board of Directors shall be authorized to proceed with repair or reconstruction, or whether said project shall be sold; provided, however, that such determination shall be subject to the express written approval of all record owners of mortgages upon any part of the Regime. In the event of a determination to rebuild or repair, the Board shall have prepared the necessary plans, specifications and maps and shall execute the necessary documents to effect such reconstruction or repair as promptly as practicable and in a lawful and workmanlike manner. In the event of a determination not to rebuild, the Board shall offer the project for sale forthwith, at the highest and best price obtainable, either in its damaged condition, or after damaged structures have been razed. The net proceeds of such sale, and the proceeds, if any, of insurance carried by the Association, and/or by the Owners as a whole on the project, including coverage on the Units the common area, except for Unit coverages under paragraph 4 of this Article X, shall be distributed proportionately to the Unit Owners in the same proportion that the Unit in which they have an interest shares in the common elements, except that where there is a mortgage of record or other valid encumbrance on any one Unit then, and in that event, with respect to said Unit, the Association will distribute said proceeds as follows: First to the record owner of the mortgages upon Units and Common Elements in the Regime in satisfaction of the balance currently due on said encumbrances and then the remaining proceeds, if any, to the Unit Owner of record.
- d. In the event that the common area is repaired or reconstructed pursuant to the provisions of paragraphs (a) (b) or (c) of this paragraph and there is any deficiency between the insurance proceeds paid for the damage to the common area and the contract price for repairing or rebuilding the common area, the Board shall levy a special assessment against each Owner in proportion to his/ her fractional interest of ownership in the common area to make up such deficiency. If any Owner shall fail to pay said special assessment or assessments within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the maintenance fund, and the remaining Owners shall be

entitled to the same remedies as those provided in Article VII of this Declaration, covering a default of any Owner in the payment of maintenance charges.

- e. In the event of a dispute among the Owners and/or mortgagees respecting the provisions of this paragraph, any such party may cause the same to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, the party requesting the arbitration will give immediate notice thereof to the Board, which shall notify all other Owners and mortgagees as promptly as possible after the reference to arbitration is made, giving all such parties an opportunity to appear at such arbitration proceedings. The decision of the arbitrator in this matter shall be final and conclusive upon all of the parties. The arbitrator may include in his/her determination an award for costs and/or attorney fees against any one or more parties to the arbitration.
8. Abatement of Common Expenses. The Board is authorized to provide coverage for payment of maintenance charges which are abated hereunder in behalf of an Owner whose Unit is rendered uninhabitable for a peril insured against.
9. Review of Insurance Need. Insurance coverages will be analyzed by the Board, or its representative, at least every year from the date hereof and the insurance program revised accordingly. This information must be received ninety (90) days prior to expiration.

## **ARTICLE XI**

### **Termination**

1. Procedure. The Condominium may be terminated in the following manner in addition to the manner provided by the Horizontal Property Act!
  - a. Destruction. In the event it is determined in the manner elsewhere provided that the Building shall not be reconstructed because of major damage, the condominium plan of ownership will be thereby terminated in compliance to the provisions of Section 499B.8 of the Code of Iowa (1-93)
  - b. Agreement. The Condominium may be terminated at any time by the approval in writing of all of the Owners of the Condominium and by holders of all liens affecting any of the Units by filing an instrument to that effect, duly recorded, as provided in Section 499B.8 of the Code of Iowa. It shall be the duty of every Unit Owner and his/her respective lien holder to execute and deliver such instrument and to perform all acts as in manner and form may be necessary to effect the sale of the project when at a meeting duly convened of the Association, the Owners of 100% of the voting power, and all record owners of mortgages upon Units in the Regime, elect to terminate and/or sell the project.
  - c. Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association

executed by all members of the Association and their respective holders of all liens affecting their interest in the Condominium, certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the office of the Scott County Recorder in Davenport, Iowa.

2. Form of Ownership after Termination. After termination of the Condominium, the project will be held as follows:

- (a) The property (land and improvements) shall be deemed to be owned in common by the owners;
- (b) The undivided interest in the property owned in common which shall appertain to each unit owner shall be the fractional interest previously owned by such owner in the common area and facilities;
- (c) Any liens affecting any of the Condominiums shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the owner in the property;
- (d) After termination, the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the owners in a percentage equal to the fractional interest owned by each owner in the common elements, after first paying out of the respective shares of the owners, to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each owner.

## **ARTICLE XII**

### **Amendments and Miscellaneous**

1. Procedure. Except as otherwise provided in this Declaration, this Declaration may be amended and such amendment shall be made in the following manner:

a) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. All owners shall receive notice of such proposed amendment/updates as provided in the Bylaws of the Association. Holders of a first mortgage of record are required to provide their mortgage lenders of the revised/approved Declaration and Bylaws--at owners' expense.

b) Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by any member of the Association. Except as provided elsewhere, the resolution must be adopted by a vote of a majority of all owners and entitled to vote, in person or by proxy; provided, however, no amendment effecting a substantial change in this Declaration or the Bylaws of the Association shall affect

the rights of the holder of any such mortgage recorded prior to the recording of such amendment who does not join in the execution thereof and who does not approve said amendment in writing.

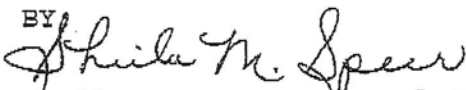
c) Bylaw. In the case of an amendment to this Declaration by reason of an amendment to the Bylaws of the Association, then in the manner specified in such Bylaws.

d) Execution and Recording. An amendment adopted pursuant to (b) or (c) above shall be executed by an officer specifically delegated to do so with the formalities required by Chapter 499E of the Code of Iowa. Upon the recording of such instrument in the office of the Recorder of Scott County, Iowa, the same shall be effective against any persons owning an interest in a Unit or the Regime.

2. Amendment of Ownership Interest. No amendment shall change the fractional interest of ownership in the Common Elements appurtenant to a Unit, nor increase the owner's share of the common expenses unless the record owner of the Unit concerned and all record owners of mortgages thereon shall affirmatively join in the adoption of such amendment.

N WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

BY:   
Judy Steinke, General Partner

BY:   
Sheila M. Speer, General Partner

STATE OF IOWA ) ss.

SCOTT COUNTY )

On this 16th day of September, 1999, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Judy Steinke and Sheila M. Speer to me personally known, who being by me duly sworn, did say that they are the partners of S&J Development, L.L.P., an Iowa Limited Liability Partnership, and that the instrument was signed on behalf of the partnership by authority of the

partners; and the partners acknowledge that the execution of this instrument to be the voluntary act and deed of the partnership by it and by them voluntarily executed.



*Gerald P. Schutte*  
\_\_\_\_\_  
Notary Public