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DECLARATION OF GARAGE CONDOMINIUM
FOR
CARRIAGE HOUSES OF JOHNSON COUNTY

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DECLARATION OF GARAGE CONDOMINIUM

FOR

CARRIAGE HOUSES OF JOHNSON COUNTY

THIS DECLARATION OF GARAGE CONDOMINIUM FOR CARRIAGE HOUSES OF JOHNSON COUNTY is made as of this 29th day of June, 2010, pursuant to the Kansas Apartment Ownership Act, K.S.A. §§ 58-3101 *et seq.*, and amendments thereto (the “**Act**”), by CARRIAGE HOUSES OF JOHNSON COUNTY, LLC, a Kansas limited liability company (the “**Declarant**”).

RECITALS:

A. The Declarant is the fee simple owner of the Submitted Land (herein defined) and the Expandable Land (defined below), and all improvements and appurtenances thereto.

B. The Declarant does hereby establish a plan for the ownership in fee simple of real property, consisting of the area or space contained in each Unit (defined below) in the Garage Condominium Project (defined below), and a plan for the co-ownership by the separate Unit owners of all of the remaining property within the Garage Condominium Project as tenants in common.

DECLARATION:

NOW, THEREFORE, the Declarant hereby declares that the Garage Condominium Project is and shall be held, conveyed, mortgaged, encumbered, owned, leased, used, occupied and improved subject to the following limitations, covenants, obligations, restrictions, conditions, reservations, easements, liens, charges, and assessments, all of which are established in order to carry out a general plan for the development, improvement, sale, ownership and use of the Units for nonresidential purposes, pursuant to the Act and each of which shall constitute covenants running with the land and shall bind and inure to the benefit of the Declarant, each Owner (defined below) of a Unit, and all parties who now have or may hereafter acquire any right, title or interest in the Garage Condominium Project or any part of the Garage Condominium Project, whether as sole owners, joint owners, tenants by the entireties, tenants in common, or otherwise, as well as their respective heirs, successors, executors, administrators and assigns.

ARTICLE I DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the following terms shall have the meanings set forth below:

Section 1.1. “**Act**” shall mean the Kansas Apartment Ownership Act, K.S.A. §§ 58-3101 *et seq.*, as may be amended from time to time, or any applicable statutes that may be

enacted in the future with respect to the ownership, operation and administration of commercial condominium-type projects.

Section 1.2. “Articles” and “Articles of Incorporation” shall mean the Articles of Incorporation, filed with the Secretary of State of the State of Kansas, incorporating the Association as a Kansas non-profit corporation, as amended from time to time.

Section 1.3. “Association” shall mean Carriage Houses of Johnson County Condominium Association, Inc., a Kansas non-profit corporation, which is the entity that shall administer this Garage Condominium Project, and the members of which shall consist of all of the Owners.

Section 1.4. “Board” or “Board of Directors” shall mean the Board of Directors of the Association.

Section 1.5. “Building” shall mean any building containing one or more Units.

Section 1.6. “Bylaws” shall mean the Bylaws of the Association, as attached to this Declaration as Exhibit C (as may be amended from time to time).

Section 1.7. “City” shall mean the City of De Soto, Kansas.

Section 1.8. “Clubhouse” shall mean any separate building that may be constructed by or for the Declarant containing one or more of a meeting room, restroom(s), and other rooms, and all water, electrical, cable or satellite television, internet and other utilities for such building, and any patio area associated with such building.

Section 1.9. “Common Elements” shall mean the entire Garage Condominium Project, but excluding the Units. Common Elements, as further described in Section 2.12 below, are one and the same as the “common areas and facilities” referenced in the Act.

Section 1.10. “Common Element Interest” shall mean the percentage assigned to each Unit (which shall be an equal amount for each Unit) that establishes such Unit’s and its Owner’s undivided interest in the Common Elements, and liability for Common Expenses, and voting power, as further described in Section 2.17 below and shown on Exhibit B attached hereto (as may be amended from time to time).

Section 1.11. “Common Expense Liability” shall mean the liability for Common Expenses assessed to each Unit and its Owner, which shall be in accordance with such Unit’s Common Element Interest, subject to any provisions of this Declaration specifying when a Unit becomes assessable.

Section 1.12. “Common Expenses” shall mean expenditures made by or financial liabilities of the Association, together with any allocations to reserves, including but not limited to: (a) all expenses of administration, maintenance, repair or replacement of the Common Elements, including, without limitation, the costs of salaries, expenses and fees of persons managing or administering the Association and/or Common Elements, fees of legal counsel to advise the Association, payments of any judgment against or other liabilities incurred by the

Association, settlement of any claims against the Association, insurance premiums and deductibles, any property taxes assessed against the Association, utilities for the Common Elements and other utilities to be provided by the Association, (b) expenses agreed upon as Common Expenses by the Association, and (c) all other expenses declared to be Common Expenses by the Act, this Declaration, or the Bylaws.

Section 1.13. “Declarant” shall mean Carriage Houses of Johnson County, LLC, a Kansas limited liability company, and its successors and assigns.

Section 1.14. “Declaration” shall mean this Declaration of Garage Condominium for Carriage Houses of Johnson County, as amended and supplemented from time to time and recorded in the Recording Office.

Section 1.15. “Development Rights” shall mean all rights granted to or reserved for the Declarant in this Declaration.

Section 1.16. “Expandable Land” shall mean that certain land legally described on Exhibit A-1 attached hereto and incorporated herein by reference, located in De Soto, Johnson County, Kansas and all incidents thereto and interests therein.

Section 1.17. “Garage Condominium Project” shall mean, collectively, the Submitted Land, all Buildings, and all other improvements and structures on the Submitted Land, all easements, rights and appurtenances belonging thereto, and all personal property of the Association intended for use in connection therewith.

Section 1.18. “Identifying Number” shall mean the numbers, letters or combination thereof which designate a specific Unit in the Garage Condominium Project, as set forth on Exhibit B attached hereto and on the Plans.

Section 1.19. “Limited Common Elements” shall mean those Common Elements designated in this Declaration or on the Plat or Plans as reserved for the exclusive use of one or more but fewer than all of the Units, as further described in Section 2.13 below.

Section 1.20. “Manager” shall mean a Person engaged by the Board to perform or direct the day-to-day operation and maintenance of the Garage Condominium Project.

Section 1.21. “Member” shall mean each Owner of a Unit. Each Owner (regardless of number of Persons) shall be deemed to have one (1) membership in the Association for each Unit owned.

Section 1.22. “Mortgage” shall mean a recorded mortgage covering all or any portion of a Unit.

Section 1.23. “Mortgagee” shall mean the holder of a Mortgage on any Unit.

Section 1.24. “Occupant” shall mean a person lawfully authorized to use a Unit as an Owner, tenant or otherwise.

Section 1.25. “Owner” shall mean the Declarant or other Person who owns a Unit in fee simple. A Person having an interest in a Unit solely as security for an obligation, such as a Mortgagee, shall not be an Owner. Ownership of a Unit shall include the ownership of certain other rights, titles, interests and estates described in the Act or this Declaration, as well as ownership of the Unit itself.

Section 1.26. “Person” shall mean any natural person, trust, partnership, limited liability company, corporation, estate, business trust, association, joint venture, government, governmental subdivision or agency, or other legal entity.

Section 1.27. “Plans” shall mean the set of floor plans of each Building of the Garage Condominium Project containing all information required by the applicable provisions of the Act and recorded or filed in the Recording Office, as may be amended from time to time.

Section 1.28. “Plat” shall mean, collectively and individually, the plats of the Garage Condominium Project and improvements thereon, containing all information required by the applicable provisions of the Act and recorded in the Recording Office, as may be amended from time to time. The Plat may also constitute and contain the information required in the Plans.

Section 1.29. “Private Ways” shall mean the entry area from 83rd Street, all paved driving aisles, any sidewalks, all surface parking areas, and other areas commonly used for vehicular or pedestrian traffic, as now or hereafter located on the Submitted Land, which are not dedicated as public ways on the Plat.

Section 1.30. “Recording Office” shall mean the Office of the Register of Deeds of Johnson County, Kansas, or other applicable governmental office in which documents related to ownership and encumbrance of real property in Johnson County, Kansas are filed of record in order to give public notice thereof.

Section 1.31. “Rules and Regulations” shall mean all rules and regulations, and amendments thereof, that may be adopted by the Board of Directors from time to time.

Section 1.32. “Size” shall mean, with respect to a Unit, the approximate number of square feet of floor space of the Unit computed by reference to this Declaration and the floor plans and rounded off to a whole number.

Section 1.33. “Special Unit Expenses” shall mean those costs and expenses specifically attributable to a specific Unit or Owner for his or her own benefit, including, but not limited to, the costs of certain maintenance, repair and replacement of Limited Common Elements appurtenant to a specific Unit (but not the other Common Elements), fines or penalties imposed by the Board upon a specific Owner from time to time, and other expenses and charges specified in this Declaration as being a “Special Unit Expense” of a specific Unit(s) or Owner(s), but not of all Units and Owners. For the sake of convenience, such costs may be billed to the Association but shall be payable by the applicable Owner(s) by assessment.

Section 1.34. “State” shall mean the State of Kansas.

Section 1.35. “Submitted Land” shall mean that certain land legally described on Exhibit A attached hereto (as may be amended) and incorporated herein by reference, located in De Soto, Johnson County, Kansas, and all incidents thereto or interests therein.

Section 1.36. “Turnover Date” shall mean the earlier of (i) the date as of which all of the potential Units (as contemplated by this Declaration) have been sold and a deed thereto delivered by the Declarant, or (ii) the date the Declarant selects as the Turnover Date for this Declaration.

Section 1.37. “Unit” or “Units” shall mean those physical portions of the Garage Condominium Project designated for separate ownership (not owned in common with other Owners) and intended for independent use, together with the other rights, titles, interests and estates described in this Declaration. Each individual Unit shall include:

(a) a separate fee simple interest in the air space within each Unit conveyed, any interior wallboard and interior surfaces of the exterior building walls and other perimeter walls of the Unit, the interior non-perimeter walls of the Unit, and the elements identified as relating to that Unit on the Plat or Plans or in Section 2.5 below;

(b) an undivided fee interest in the Common Elements as a tenant-in-common with other Owners, also referred to as a Common Element Interest, and a non-exclusive easement for the use of the Common Elements, including, without limitation, an unrestricted right of ingress and egress to the Unit that is perpetual and passes with the Unit upon transfer of ownership of the Unit; and

(c) exclusive use easements in, over, across and through those areas within those Common Elements designated as Limited Common Elements for the Unit on the Plat or the Plans or in this Declaration.

One (1) Unit shall include all contiguous interior spaces shown by the Plans which are accessible to one another without going through any Common Elements. A Unit is one and the same as an “apartment” or “condominium unit” referenced in the Act.

ARTICLE II DESCRIPTION OF THE GARAGE CONDOMINIUM PROJECT

Section 2.1. Name. The official name of the Garage Condominium Project is “Carriage Houses of Johnson County”, but the Garage Condominium Project may be marketed by the Declarant or otherwise generally known by another name designated by the Declarant.

Section 2.2. Submission of Garage Condominium Project to the Act and this Declaration. The Declarant hereby submits the Garage Condominium Project to the provisions of the Act, subject to the reservations, restrictions, easements and assessments contained in this Declaration, the Articles, and the Bylaws (including any and all supplements and amendments thereto which may be duly adopted from time to time).

Section 2.3. Plat and Plans. The Plat and Plans shall contain all information required by the Act, and are hereby incorporated herein by this reference.

Section 2.4. Maximum Number of Units. The Garage Condominium Project shall consist of a maximum of 22 Units, subject to the right of the Declarant to add more Units under Section 2.15 below and subject to Section 2.7 below.

Section 2.5. Composition of Units.

(a) Unit Boundaries. The boundaries of each Unit shall be the applicable perimeter walls, floors and ceilings, as shown on the Plans and Plat. Notwithstanding the location of a Unit on the Plat or Plans, the actual existing physical boundaries of each Unit shall be conclusively presumed to be its boundaries. All exterior doors in the Unit, and all lath, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the furnished surfaces of the applicable perimeter walls, floors and ceilings are a part of the Unit, while all other portions of such walls, floors and ceilings are part of the Common Elements. If any ducts, conduits, wires, pipes, bearing walls, bearing columns, or any other apparatus lies partially within and partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit are a part of that Unit, while any portions thereof serving more than one Unit or any portion of the Common Elements are a part of the Common Elements.

(b) Unit Composition. Subject to the last sentence of subsection (a) above, all space, interior non-perimeter walls and partitions, and other equipment, fixtures and improvements within the boundaries of a Unit are a part of the Unit. Without limiting the generality of the foregoing, or, as appropriate, in addition (but subject to the last sentence of subsection (a) above), each Unit shall include:

(i) all equipment and fixtures installed for the exclusive use of that Unit, including, without limiting the generality hereof, electrical and lighting fixtures, any installed (non-portable) heating and air conditioning units, and utility meters (even though located outside the boundaries of the Unit), and components of the foregoing, if any; and

(ii) all electric and other utility or service lines, pipes, wires, ducts, conduits, and apparatus, wherever located, to the extent serving only that Unit.

(c) Unit Sizes and Identifying Numbers. The Identifying Number and Size of each Unit built are shown on the attached Exhibit B, as amended from time to time.

Section 2.6. Ownership. Each Unit, together with its undivided interest in the Common Elements, shall for all purposes constitute real property. A Unit shall be a fee simple estate and may be held and owned by any Person or Persons singularly, as joint tenants, as tenants in common, or in any other real property ownership relationship recognized under the laws of the State.

Section 2.7. Inseparability of a Unit. Each Unit, the Common Element Interest of that Unit, and the appurtenant Limited Common Elements shall together comprise one Unit, shall be inseparable, and may be conveyed, devised or encumbered only as one Unit. No Unit may be partitioned or in any way separated from the Garage Condominium Project, except as otherwise

expressly provided in the Act and this Declaration. A Unit may be divided by an Owner into separate spaces within the Unit, but no Unit may be legally subdivided into multiple Units, other than by the Declarant with the written consent of the Owner of the Unit or by the Owner of the Unit with the written consent of the Board, and compliance with any applicable provisions of the Act.

Section 2.8. Exclusiveness of Ownership. Each Owner shall be entitled to exclusive ownership and possession of his Unit. Subject to this Declaration, each Owner may use the Common Elements and the applicable Limited Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

Section 2.9. Legal Description of Units; Notice of Sale.

(a) A description of a Unit which sets forth the description of the Submitted Land, the recording data for this Declaration, the Identifying Number of the Unit, a reference that the Unit is intended for commercial use, and references to the undivided interest of the Unit in the Common Elements, is a sufficient legal description of the Unit and all rights, obligations, and interests, appurtenant to the Unit which were created by this Declaration. The Common Element Interest of a Unit shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(b) To enable the Association to maintain accurate records of the names and addresses of Owners, each Owner agrees to notify the Association, in writing, within five days after title to any interest in that Owner's Unit has been transferred to another person.

Section 2.10. Unit as Separate Tax Parcel. Each Unit and its percentage of undivided interest in the Common Elements shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each tax assessing governmental body and special district for all types of taxes and assessments authorized by law, including, but not limited to, general ad valorem taxes and special assessments.

Section 2.11. Encroachments.

(a) If any portion of the Common Elements encroaches upon, in or through a Unit or Units, or if a Unit encroaches upon, in or through the Common Elements or another Unit or Units, whether as a result of construction, reconstruction, repair, shifting, settlement or other movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same, shall and does exist. A valid easement also exists with respect to that portion of the Common Elements occupied by any part of a Unit not contained within the physical boundaries of such Unit, including, but not limited to, space occupied by heating and air conditioning equipment, utility lines, and similar equipment which serves only one Unit. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or the Units.

(b) None of the rights and obligations of the Owners created by this Declaration or by the various deeds creating ownership of the Units shall be altered in any way by encroachments attributable to the shifting or settling of the Building or any other cause. There shall be valid easements for the maintenance of such encroachments so long as they exist; provided, however, that in no event shall a valid easement be created in favor of any Owner if said encroachment occurred due to the willful conduct of such Owner in violation or breach of this Declaration.

Section 2.12. Common Elements. The Common Elements shall mean the entire Garage Condominium Project, excluding the Units, but specifically including, without limitation, the following areas intended for the common use and benefit of all Owners:

- (a) The Submitted Land.
- (b) All Private Ways, lawns and landscaped areas, monuments, lamppost lighting fixtures, fencing, gates and related security systems, and project signage, which are located within the Garage Condominium Project.
- (c) Any Clubhouse(s).
- (d) All foundations, columns, girders, beams, supports, bearing walls, gutters, downspouts, cupolas, exterior wall lighting, and roofs of the Buildings.
- (e) All electrical, plumbing, water, and other utility lines, apparatus and installations to the extent for common use.
- (f) All sanitary sewer lines and septic systems.

The Common Elements shall be owned by the Owners collectively. No Owner or any other Person shall bring any action for partition or division of any part of the Common Elements, unless the Garage Condominium Project has been removed from the provisions of the Act as provided in the Act and this Declaration. None of the Common Elements shall be subject to partition or division, except as provided in the Act and this Declaration. Any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements or Limited Common Elements, which is made apart from the conveyance, encumbrance, sale or transfer of the Unit or Units to which that interest is assigned or appurtenant, shall be void and of no effect.

Section 2.13. Limited Common Elements.

- (a) Certain parts of the Common Elements, designated as “Limited Common Elements,” shall be set aside and reserved for the exclusive use of the Owner(s) of specific Unit(s). The respective Owner(s) shall have an exclusive easement for the use of such Limited Common Elements designated as Limited Common Elements on the Plat or Plans or in this Declaration.
- (b) Each Unit shall have an overhead door(s) assigned exclusively to the Unit as a Limited Common Element.

(c) Any equipment, apparatus or improvement designed to serve a single Unit, but located outside of the boundaries of the Unit, is a Limited Common Element for that Unit exclusively.

(d) No part or component of any Limited Common Elements may be removed, altered, repaired or replaced, except by or with the consent of the Association or the Declarant; and then any such repairs, alterations or replacements shall be in conformity to this Declaration. Except as otherwise provided in Section 4.1 or elsewhere in this Declaration, the Association shall assess the costs of all such repairs, alterations or replacements of the Limited Common Elements as Special Unit Expenses attributable to the Unit(s) and Owner(s) to whom such Limited Common Elements are assigned.

Section 2.14. Private Ways. All Private Ways shall be private ways, and no dedication to the public of such ways for vehicular and pedestrian traffic is intended, but the same are hereby dedicated to the use and benefit of the Owners and their families, guests, invitees, and tenants, for ingress and egress over the Private Ways.

Section 2.15. Expandable Land.

(a) The legal description of the Expandable Land is set forth on Exhibit A-1 to this Declaration.

(b) The Declarant hereby reserves the right and option to expand the Submitted Land and the Garage Condominium Project from time to time in the future to include all or any part or parts of the Expandable Land. Such right and option shall be exercised by the Declarant amending Exhibit A and Exhibit A-1 to add to the Submitted Land such portion(s) of the Expandable Land that the Declarant then desires to add to the Submitted Land and the Garage Condominium Project. There are no limitations on this right and option of the Declarant, except as provided in this Section 2.15. In particular, no consent of the Board of Directors or any Owner shall be required for the Declarant to exercise such right and option or to so amend Exhibit A and Exhibit A-1.

(c) The Declarant's right and option to expand the Submitted Land and the Garage Condominium Project shall automatically expire seven (7) years after the initial recording of this Declaration in the Recording Office and may not be exercised by the Declarant at any time thereafter.

(d) There are no limitations as to which portions (if any) of the Expandable Land may be added by the Declarant to the Submitted Land and the Garage Condominium Project. Different portions of the Expandable Land may be added to the Garage Condominium Project at different times and there are no limitations fixing the boundaries of those portions by legal descriptions.

(e) The maximum number of Units that may be added to the Garage Condominium Project from the Expandable Land is 400.

(f) The structures to be erected on any Expandable Land added to the Submitted Land and the Garage Condominium Project are expected to be generally

compatible and consistent with structures on other portions of the Submitted Land in terms of structure type, quality of construction, the principal materials to be used, and architectural style; provided, however, no assurances are given with respect thereto and the Declarant reserves the right to make such changes with respect to future structures as the Declarant deems appropriate.

(g) In addition to construction of additional Buildings, other improvements may be made by the Declarant on the Expandable Land added to the Submitted Land and the Garage Condominium Project that are generally comparable to those improvements on the rest of the Submitted Land.

(h) Units to be constructed on any Expandable Land added to the Submitted Land and the Garage Condominium Project are expected to be substantially similar to the Units on other portions of the Submitted Land; provided, however, no assurances are given with respect thereto and the Declarant reserves the right to make such changes in the types and compositions of the Units as the Declarant deems appropriate.

(i) The Declarant reserves the right to create Limited Common Elements within the Expandable Land added to the Submitted Land and the Garage Condominium Project.

(j) Upon the development of Units on the Expandable Land added to the Submitted Land, the Declarant and the Association (acting with the approval of the Board of Directors) shall update and amend Exhibit B to this Declaration to add such Units and the related property to the Garage Condominium Project.

Section 2.16. Mechanics' and Materialmen's Liens. No labor performed or materials furnished and incorporated in a Unit, notwithstanding the consent or request of the Owner, his agent, contractor or subcontractor, shall be the basis for filing a lien against the Common Elements (other than the Unit's Common Element Interest). Each Owner shall indemnify, defend and hold harmless each of the other Owners and the Association from and against all losses, damages, costs and expenses, including, without limitation, reasonable attorneys' fees and settlement payments, arising from any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the indemnifying Owner's Unit at such Owner's request.

Section 2.17. Share of Common Element Interest and Common Expense Liability.

(a) Each Owner of a Unit shall have and be deemed to own, by virtue of its ownership of the Unit, an equal share or percentage of the undivided interests in all the Common Elements for the entire Garage Condominium Project based upon the total number of Units. The extent or amount of such ownership and liability for each Unit shall be expressed as a percentage of Common Element Interest which shall total 100% for all Units.

(b) The initial allocation of the Common Element Interest and (subject to Article VII below) Common Expense Liability to each Unit is set forth in Exhibit B attached hereto.

(c) As and when additional Units are constructed upon the Expandable Land added to the Submitted Land and become Units or a Unit(s) is subdivided or combined or boundaries are altered in accordance with this Declaration, the Declarant and the Association (acting through authorization of the Board) shall execute and record an amendment to this Declaration and Exhibit B to reallocate the Common Element Interest and Common Expense Liability of all Units to be an equal amount for each Unit. Any amendment to Exhibit B by the Declarant and the Association as contemplated by this Declaration shall not require the consent of any other Owner or any Mortgagee.

(d) Except as otherwise provided in this Section or elsewhere in this Declaration, the Common Element Interest and Common Expense Liability of each Unit shall not be altered without the consent of all Owners expressed in an amendment to the Declaration duly recorded.

(e) In the event one (1) or more of the Units are taken by condemnation, the proportionate interests of the remaining Owners in the Common Elements shall be readjusted appropriately, and appropriate amendments to this Declaration shall be made by the Association (acting through authorization of the Board).

Section 2.18. Liability for Special Unit Expenses. In addition to their liability for Common Expenses, Owners shall also pay any and all assessments by the Association for Special Unit Expenses in the amount attributable to their respective Units and Limited Common Elements as determined by the Board of Directors in its reasonable discretion. Special Unit Expenses may be based upon actual or estimated costs to the Association attributable to an Owner, upon independent billings of respective creditors, upon usage, estimated insurable values, insurance risks, on the basis of an equal amount for each applicable Unit, or on any other reasonable basis. In the event the Association incurs any special or unusual expense that is otherwise not specifically allocated by this Declaration and does not benefit all of the Owners, then those Owners benefiting from such expense shall solely be responsible to pay for that expense. In this regard, the Board in good faith shall decide whether any such expense is of a nature that it does not benefit all of the Owners and whether certain Owners are benefiting Owners and, if so, the appropriate amount of such cost to be assessed to each of the benefiting Owners as a Special Unit Expense. The Board's decisions relating to Special Unit Expenses shall be made in good faith and shall be final and binding on all Owners.

Section 2.19. Compliance with Declaration, Bylaws, Rules and Regulations. Each Owner shall comply strictly with the provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations of the Association, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover damages or for injunctive relief, or both, maintainable by the Declarant, by the Association and/or, to the extent permitted by law, by an aggrieved Owner. Whenever the Declarant owns an unsold Unit, the Declarant shall enjoy the same rights and assume the same duties, as an Owner, with respect to each individual unsold Unit, except as otherwise provided in this Declaration.

Section 2.20. Conveyance of Common Elements.

(a) Notwithstanding anything in this Declaration to the contrary, but subject to any requirements in the Act, fee title to portions of the Common Elements may be conveyed or subjected to a Mortgage or security interest by the Association if Owners owning at least 67% of the Common Element Interests agree to that action; provided that all the Owners to which any Limited Common Elements are assigned or appurtenant must also agree before that Limited Common Element may be conveyed or subjected to a Mortgage or security interest. All proceeds from any such sale shall constitute assets of the Association to be held or distributed in accordance with the terms of this Declaration.

(b) An agreement for the Association to convey Common Elements or subject them to a Mortgage or security interest shall be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the requisite number of Owners. The agreement shall specify a date after which the agreement will be void unless previously recorded. The agreement and all ratifications shall be effective only when recorded in the Recording Office.

(c) The Association may contract to convey fee title to the Common Elements, or subject them to a Mortgage or security interest, on behalf of the Owners, but no such contract shall be enforceable against the Association unless or until executed and recorded in the manner set forth above. Subject to the provisions of this Section, the Association shall have all powers necessary or appropriate to effect the conveyance or encumbrance of the Common Elements, including the power to execute deeds or other instruments. Any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of the Common Elements shall be void and of no effect, unless made in accordance with this Declaration. No conveyance or encumbrance of Common Elements pursuant to this Declaration shall deprive any Owner of its continued right of access and support or otherwise affect pre-existing encumbrances.

ARTICLE III THE ASSOCIATION

Section 3.1. Organization. The Declarant has formed the Association as a non-profit corporation, to provide for the maintenance and upkeep of the Common Elements of the Garage Condominium Project, to carry on the administration of the Garage Condominium Project, and to provide such other services as its Members desire for their common benefit.

Section 3.2. Membership.

(a) Each Owner shall be a Member of the Association.

(b) Membership shall be appurtenant to and may not be separated from ownership of the Unit, and transfer of ownership of a Unit shall automatically transfer membership to the transferee. The membership held by the Owner of a Unit shall not be transferred, pledged or alienated in any way, except upon the sale or disposition of the Unit, and then only to the purchaser or transferee of such Unit. Any attempt to make a

prohibited transfer shall be void and of no effect, and shall not be reflected upon the books or records of the Association.

Section 3.3. Classes of Membership and Voting Rights. Until the Turnover Date, the Association shall have two classes of membership, namely Class A and Class B. The Declarant shall be the sole Class A Member. Each Owner of a Unit, including the Declarant as an Owner, shall be a Class B Member. Until the Turnover Date, all voting rights of the Members shall be held by the Class A Member, except that the Class B Members shall have the sole right to vote on or consent to matters described in Section 2.20 (conveyance of Common Elements); Section 6.10 (certain elections not to restore); Section 7.3(a)(vii)(B) (certain assessment increases); and Section 11.1 (certain amendments).

After the Turnover Date, there shall be only one class of membership which shall consist of the Owners of the Units, and every such Owner shall be a Member.

A Person who holds an interest merely as security for the performance of an obligation shall not be a Member by virtue thereof.

Where voting rights exist based on Unit ownership, each Member shall have one vote on all matters to be voted upon by the Owners as Members for the Unit for which he or she is the Owner. Ownership of each Unit shall entitle the record Owner to one membership in the Association, regardless of the number of Persons that comprise the ownership of such Unit (i.e., only one membership per Unit). When more than one Person is an Owner of any particular Unit, all such Persons shall constitute a single Member, and the one vote for such Unit shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Unit.

Subject to the foregoing, the Association shall be the sole judge of the qualifications of each Owner to vote and to participate in the Association's meetings and proceedings.

The Board, from time to time, may suspend the right of a Member to vote with respect to his or her Unit for failure to pay assessments when due, or for failure to observe any of the terms of this Declaration, the Bylaws or the Rules and Regulations duly adopted by the Board from time to time.

Section 3.4. Management. Subject to the provisions of applicable law, the management and administration of the Garage Condominium Project shall be governed and performed by the Association, acting in accordance with this Declaration, the Articles and the Bylaws.

Section 3.5. Board of Directors. The Board initially shall be the person(s) named as the initial director(s) pursuant to the provisions of the Articles, or such other natural person(s) as may from time to time be substituted by the Declarant. As soon as possible after the Turnover Date, the Association shall hold a meeting of its Members, and the Owners shall elect five directors to replace all of those directors earlier elected or designated by Declarant. The terms of the five directors shall be staggered so that the terms of two or three of the directors will expire and successors will be elected at each annual meeting of the Association. Thereafter, at such

annual meetings, successors to the directors whose terms then expire shall be elected to serve two-year terms.

Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more directors or to vote in an election of directors.

Section 3.6. Authority of Board. The Board shall have all authority to manage, maintain, repair, replace, alter and improve the Common Elements and assess and collect funds for the payment thereof, and to do all things, and exercise all rights provided by the Act, this Declaration, the Articles and/or the Bylaws, that are not specifically reserved to the Owners or the Declarant. In addition to the powers granted by other portions of this Declaration or by law but subject to all of the limitations set forth in this Declaration, the Association, acting through the Board, shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by the Board to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in the Association's name, any and all building, use or other restrictions, obligations, agreements, reservations or assessments which have been or hereafter may be imposed upon any of the Units; provided, however, that this right of enforcement shall not serve to prevent waivers, changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the Association or other parties having the right to make such waivers, changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth. The expense and cost of any such enforcement proceedings by the Association shall be paid out of the general funds of the Association, except as provided elsewhere in this Declaration. Nothing herein contained shall be deemed or construed to prevent the Declarant or any Owner from enforcing any building, use or other restrictions in his or her own name.

(b) To exercise control over, and to improve, maintain and replace the Common Elements, subject to the rights of any governmental authority, utility or any other similar person or entity therein or thereto.

(c) To maintain public liability, worker's compensation, fidelity, fire and extended coverage, director and officer liability, indemnification and other insurance with respect to the activities of the Association, the Common Elements and the property within the Garage Condominium Project.

(d) To levy the assessments and other charges which are provided for in this Declaration and to take all steps necessary or appropriate to collect such assessments and charges.

(e) To enter into and perform agreements from time to time with the Declarant and other parties regarding the performance of services and matters benefiting both the Declarant or other parties and the Association and its Members and the sharing of the expenses associated therewith.

(f) To enter into and perform agreements with the Declarant, other developers, other associations, and other parties relating to the joint use, operation and maintenance of facilities and other common areas, whether in or outside the Garage Condominium Project, and the sharing of expenses related thereto.

(g) To have employees and otherwise engage the services of a Manager to carry out and perform all or any part of the functions and powers of the Association, including, without limitation, keeping of books and records, operation and maintenance of Common Elements, and planning and coordination of activities.

(h) To engage the services of a security guard and/or security patrol service.

(i) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the Garage Condominium Project; to provide snow and ice clearing; and to do any other things necessary or desirable in the judgment of the Board to keep any property in the Garage Condominium Project neat in appearance and in good order.

(j) To exercise any architectural, aesthetic or other control and authority given and assigned to the Association in this Declaration or in any other deed, declaration or plat relating to all or any part of the Garage Condominium Project.

(k) To make, amend and revoke reasonable Rules and Regulations and to provide means to enforce such Rules and Regulations, including, without limitation, the establishment, levying and collection of monetary fines and other enforcement charges for violations of this Declaration and such Rules and Regulations. Notwithstanding the foregoing, the nonexclusive easement for each Unit with respect to the use of the Common Elements may be restricted or limited only on a temporary suspension basis because of the Owner's failure to pay assessments or to abide by the Rules and Regulations for use of the Common Elements.

(l) To exercise such other powers as may be set forth in the Act, this Declaration or the Articles or Bylaws of the Association.

Section 3.7. Delegation of Authority; Management Contracts. The Board may delegate all or any portion of its authority to a Manager, which may be the Declarant or an affiliate of the Declarant. This delegation of authority and responsibility to a Manager may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such Manager as a Common Expense; provided, however, that any agreement for management (i) shall be terminable by the Association for cause on not more than thirty (30) days' written notice; (ii) shall be terminable by either party, without cause, on not more than ninety (90) days' written notice; (iii) shall not exceed one year unless renewed by agreement of the parties for successive one-year periods; and (iv) shall be bona fide and commercially reasonable to the Association at the time entered into under the circumstances then prevailing. The Association also shall have the authority to enter into contracts with the Declarant or an affiliate of the Declarant for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of maintenance and

repair services, provided the same are bona fide and commercially reasonable to the Association at the time entered into under the circumstances then prevailing.

Section 3.8. Indemnification. To the fullest extent permitted by law, the Association shall indemnify each officer and director of the Association, and the Declarant (to the extent a claim may be brought against the Declarant by reason of its appointment, removal of or control over, or failure to control, any such officer or director) (each, an “Indemnified Party”) against all expenses and liabilities, including, without limitation, attorneys’ fees, reasonably incurred by or imposed upon the Indemnified Party in connection with any action or proceeding, or any settlement thereof, to which the Indemnified Party may be a party or in which the Indemnified Party may become involved by reason of serving or having served in such capacity (or, in the case of the Declarant, by reason of having appointed, removed or controlled or failed to control any officer or director of the Association), provided the Indemnified Party did not act, fail to act or refuse to act with fraudulent or criminal intent in the performance of the Indemnified Party’s duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which any Indemnified Party may be entitled at law or otherwise.

Section 3.9. Limitation on Liability. Neither the Association, the Declarant, the Manager, nor any of their respective employees, officers, directors, managers, representatives, or other agents, nor any member of any committee of the Association shall be liable to any Owner or to any other party, including the Association, for damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such party, provided that such Person or party has acted in good faith, and without fraudulent or criminal intent.

ARTICLE IV MAINTENANCE AND REPAIR

Section 4.1. Association Duties and Responsibilities. The Association shall, as a Common Expense, maintain and keep in good repair all Common Elements, but only as provided in the next sentence as to Limited Common Elements. The Association shall maintain and keep in good repair all Limited Common Elements, but the cost thereof for repairs and replacements shall be a Special Unit Expense of the applicable Unit(s) served by such Limited Common Elements, unless the need for the repair or replacement is due to the misconduct of the Owner or Occupant of another Unit, in which case the costs thereof shall be a Special Unit Expense of such other Unit. In connection with the foregoing, the Association shall:

(a) maintain, repair and replace all improvements constituting a part of the Common Elements (including, without limitation, any Clubhouse(s) and the Private Ways); all common or shared trunk and branch utility lines; all sanitary sewer lines and septic systems within the Garage Condominium Project; and all water meters;

(b) provide for the periodic painting and caulking of any exterior painted surfaces, for the cleaning, repair and replacement of gutters and downspouts, for the repair and replacement of roofs and cupolas, for the sealing of the applicable portions of the exterior of each Building, and for the repair and replacement of other parts of each Building that are not part of a feature to be maintained by the Owner of a Unit;

(c) provide lawn care, consisting of mowing, edging, fertilizing and weed control of grass areas, trimming and replacement of all bushes, and trimming and replacement of all trees;

(d) provide spring start-up, winterization, and repair, maintenance, water and electricity for the use of any lawn sprinkler system;

(e) provide snow (but not ice) clearing for the Private Ways as soon as practical when the accumulation reaches four (4) inches or more and the snow has stopped. The Association shall not be required to apply any salt, sand or other chemical treatments to any Private Ways or other surfaces; and

(f) establish, maintain and expend reserve funds for the future repair and replacement of the Private Ways, Buildings (excluding the Units) and other Common Elements.

The Board, in its discretion, shall determine the scope and timing of the foregoing services and functions of the Association and shall determine the amounts of the foregoing reserves. Neither the Declarant nor the Association nor any member of the Board shall have any liability to any Owner or other person if the reserves established or maintained are inadequate. The Board, in its discretion, may cause the Association to provide other services for the Units that are not part of the required services described above.

Except to the extent that a loss is actually covered by insurance proceeds from insurance maintained by the Association, the Association shall not have any responsibility to repair the interior of any Unit, or component thereof, or personal property within any Unit.

Section 4.2. Owner Responsibilities. Each Owner, at its expense, shall repair and maintain in good condition at all times the interior of the Unit, and all fixtures, equipment and components thereof, owned by that Owner and all exterior doors (including overhead doors) of the Unit. Each Owner shall maintain his or her Unit and Limited Common Elements in a clean, safe, sanitary and attractive condition. Without limiting the generality of the foregoing, this repair and maintenance responsibility of an Owner shall include, without limitation, repair, maintenance and replacement of all appliances, lighting fixtures, and electrical fixtures, and all doors, including the frames, sashes and jambs, and the hardware therefor. In the event an Owner fails to timely make a repair or replacement or perform any maintenance or cleaning required of that Owner, the Association may perform the applicable repair, maintenance, replacement or cleaning and the cost thereof (plus a reasonable overhead and supervisory fee) shall constitute a Special Unit Expense on such Owner's Unit and on such Owner. The determination of whether such maintenance, repair, replacement or cleaning is necessary shall be made by the Board in good faith and be final and binding on the Owner(s). All replacements of items by an Owner shall be made with comparable products approved by the Board.

Section 4.3. Liability for Negligence or Misconduct. To the extent not covered and paid for by insurance maintained by the Association, whether because of a deductible, exclusion or otherwise, each Owner shall be liable to the Association or another applicable Owner for any damage to the Common Elements or another Unit which may be sustained by reason of (i) the

negligence or misconduct of, or a violation of this Declaration or the Rules and Regulations of the Association by, the Owner, or his or her Occupants, family, guests, invitees, tenants, or animals; (ii) any faulty appliance or equipment that is part of the Owner's Unit; or (iii) in connection with any improvements made to a Unit; and the Board shall assess the Owner, as a Special Unit Expense, for all costs of any such necessary repairs or replacements (plus a reasonable overhead and supervisory fee), together with all attorneys' fees and other costs and expenses incurred by the Association. The determination of whether any such damage has been so caused by an Owner shall be made by the Board in good faith and shall be final and binding on the Owner(s).

ARTICLE V

RESTRICTIONS ON USE AND IMPROVEMENTS

In addition to limitations established by law and by the Rules and Regulations which may from time to time be promulgated by the Board, all Owners shall observe the restrictions set forth in this Article V.

Section 5.1. Restrictions. The Units, the Common Elements, and Limited Common Elements shall be subject to the following:

(a) Unit Uses. The Units shall be used only for uses permitted by this Declaration and the Rules and Regulations and in strict compliance with the permissible uses authorized by City ordinances. No activity shall be carried on which would constitute a violation of any City ordinance or any other provision of this Declaration or of any of the Rules and Regulations.

(b) Declarant and Association Uses. Notwithstanding the provisions of subsection (a) above or subsection (c) below or any of the Rules and Regulations:

(i) It shall be the right of Declarant to use and maintain, during the period of its sale or rental of Units, (A) one or more Units and/or any Common Elements as sales and rental models and offices, and for storage, construction and maintenance purposes, and (B) such other portions of the Garage Condominium Project as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the renovation, sale or rental of Unit(s) or the Garage Condominium Project, including, without limitation, the maintenance of a construction and/or sales trailer, which right may not be limited or revoked without the specific consent of Declarant. Any use of the Common Elements by the Declarant or the project marketing company shall be without the payment of rent or utilities (other than telephone) by the Declarant and the project marketing company to the Association; and

(ii) One or more Units may be maintained for the use of the Association in fulfilling its responsibilities.

(c) Common Element Uses. Except as otherwise provided in this Declaration, the Common Elements shall be used in common by all Owners and Occupants and their agents, servants, invitees and licensees, in accordance with the purposes for which they

are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, and enjoyment of Units. The Private Ways shall be used exclusively for normal ingress and egress and no obstructions shall be placed within the Private Ways that would obstruct such normal ingress and egress, except with the express written consent of the Board.

(d) Replacements. All replacements of all or any portion of a completed structure because of age, casualty loss or other reason shall be of the same materials, location and elevation as the original structure unless and until the changes thereto have been submitted to and approved in writing by the Board. Any building erected to replace an existing building containing Units shall be of new construction, be of comparable structure type, size, design and construction to that replaced, and shall contain a like number of Units in the Building replaced.

(e) Alteration of Common Elements. No Common Element shall be altered, improved, decorated or removed and nothing shall be erected, planted, or constructed in or removed from the Common Elements, except by the Declarant or the Association, or with the written authorization of the Board.

(f) Discrimination/Handicapped Accommodation. No action shall at any time be taken by the Association or its Board which in any manner would unlawfully or unfairly discriminate against any Owner in favor of another. In addition, notwithstanding any provision hereof, or any rule or regulation, the Board shall make reasonable accommodation if necessary to afford a handicapped person equal opportunity to use and enjoy the Common Elements, provided, that nothing contained herein shall be construed to mean or imply that any such accommodation be at the cost of the Association.

(g) Rules and Regulations. In addition to adopting and enforcing Rules and Regulations in the instances specifically mentioned, the Board, on behalf of the Association, may, from time to time, adopt and enforce such further reasonable Rules and Regulations as it deems necessary or desirable, and not in conflict with this Declaration, to promote harmony, to serve the best interests of the Owners, as a whole, and the Association, and to protect and preserve the nature of the Garage Condominium Project. A copy of all Rules and Regulations, and amendments thereof, shall be furnished by the Board to the Owners of each Unit prior to the time when the same shall become effective.

(h) Fines and Other Enforcement. The Board may enforce all of the foregoing restrictions and all Rules and Regulations by establishing, levying and collecting fines and other enforcement charges, having vehicles, trailers or other apparatus towed away at the expense of the owner, and/or taking such other lawful actions as the Board, in its sole discretion, deems appropriate.

Section 5.2. Enforcement of Restrictions. Any violation by an Owner or Occupant or with respect to a Unit of any rule or regulation adopted by the Association, or the breach of any restriction, covenant or provisions contained in this Declaration, shall give each of the Declarant and the Association the right, in addition to all other rights set forth herein:

(i) To establish, levy and collect monetary fines as a Special Unit Expense upon the offending Owner in such amounts as the Board deems necessary to effect compliance with the requirements.

(ii) To enter upon the portion of the Garage Condominium Project upon which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the offending Owner as a Special Unit Expense, any structure, thing or condition which may exist thereon, contrary to the intent and meaning of the provisions hereof, and the Declarant, the Association, and their agents and representatives shall not thereby be deemed guilty in any manner of trespass. So long as the Association or the Declarant (as applicable), its agents, servants or employees exercise reasonable care in the performance of such repairs, maintenance or alterations, they shall not be liable to the offending Owner or any other person for any damages caused in so doing. The cost of such work shall be collected from the offending Owner as a Special Unit Expense in the same manner as other assessments. In addition, the Association and its agents and representatives, together with emergency personnel, shall have an immediate right of access to all Units in the Owners' absence under emergency conditions;

(iii) Whenever the Declarant or the Board determines that a violation of this Declaration has occurred and is continuing with respect to a Unit, to file with the Recording Office a certificate setting forth public notice of the nature of the breach and the Unit involved;

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

(v) To recover from the offending Owner, in any legal proceedings to enjoin, abate or remedy a breach or to collect any amounts due, all costs of such action, including, without limitation, court costs and reasonable attorneys' fees and expenses.

ARTICLE VI INSURANCE; LOSSES; CONDEMNATION

Section 6.1. Fire and Special Coverage Insurance. The Association shall obtain and maintain for all Buildings (other than, at the Board's discretion, those parts thereof under construction), structures, fixtures, and built-in appliances and equipment (whether as a Common Element, Limited Common Element or Unit), and for the Association's personal property and supplies, at the Association's cost and as a Common Expense, master or blanket standard special form insurance coverage against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard special form coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, in amounts at all times sufficient to prevent the Owners from becoming co-insurers under the terms of any applicable coinsurance clause or provision and not less than one hundred percent (100%) of the then estimated current insurable replacement cost of such items (exclusive of land,

foundations, footings, excavations and other items normally excluded from coverage). This insurance shall also:

(a) provide coverage for the Units to the extent of the drywall on and utilities in the perimeter walls of each Unit and as determined by the Board;

(b) be written in the name of the Board and the Association, as trustee for the Owners, for the use and benefit of the Association and the Owners, and provide for the payment of losses thereunder by the insurer to the Association (or its nominee) as insurance trustee for the benefit of the Association and each Owner and each first Mortgagee of record on the Units, as their interests appear and as set forth in this Declaration;

(c) contain or have attached the standard mortgagee clause commonly accepted by institutional first Mortgage holders, insurers, and guarantors, which must provide that the carrier shall notify the named insured and each first Mortgagee named in the mortgage clause at least 30 days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy;

(d) be paid for by the Association, as a Common Expense;

(e) contain a waiver of subrogation of rights by the carrier as to the Association, and its officers, directors and agents, and all Owners;

(f) provide that the insurance shall not be prejudiced by any acts or omissions of individual Owners or Occupants;

(g) be primary, even if an Owner has other insurance that covers the same loss, except that the Board, whenever it deems it to be in the best interests of the Association, may decide not to file a claim under the Association's policy and require that the applicable Owner(s) file a claim(s) under the Owner(s)' individual policy where coverage is available thereunder (in which case the Association's policy shall not be primary); and

(h) only the Board shall have the authority to file or authorize the filing by the Association of a claim under any insurance policy maintained by the Association.

Except for when another Owner is liable and pays as provided in Section 4.3 above, the Owner shall be responsible for the deductible or other noncovered loss under the Association's insurance on any property damage or casualty loss to the Owner's Unit. The amount of such deductible and all exclusions shall be uniform for all Units and shall be set by the Board from time to time in a reasonable amount.

Section 6.2. Liability Insurance. The Association shall obtain and maintain, at the Association's cost and as a Common Expense, a commercial policy of general liability insurance covering all Common Elements, public ways and any other areas under the Association's supervision, and Units, if any, owned by the Association, even if leased to others, insuring the Association, and its officers and directors, and the Owners and Occupants, with such limits as the

Board may determine, but no less than the greater of (a) the amounts generally required by institutional first Mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (b) \$1,000,000.00, for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board, or other Owners, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Each such policy must provide that it may not be canceled or substantially modified, by the insurer, without at least ten days' prior written notice to the Association.

Section 6.3. Fidelity Coverage. At the Association's cost and as a Common Expense, the Association shall obtain and maintain blanket fidelity insurance or bond providing coverage for the Association against dishonest and similar acts on the part of all directors, officers, managers, trustees, employees, agents, volunteers and all other similar persons responsible for or handling funds belonging to or administered by the Association. If a Manager handles funds for the Association, the Manager, at its expense, must have its own fidelity insurance policy or bond providing coverage for the Association against the dishonest and similar acts of the Manager's personnel.

Section 6.4. Hazard Insurance Carrier. Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Kansas which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports-International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBq" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service, if available, or if not available, the best rating available. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

Section 6.5. Other Association Insurance. In addition, the Association may purchase and maintain, as a Common Expense, sewer back up insurance, contractual liability insurance, directors and officers liability insurance, and such other insurance as the Board may determine.

Section 6.6. Nominee; Power of Attorney. There may be named, under any policy obtained by the Association, a nominee as an insured on behalf of the Association, who shall have exclusive authority to negotiate and settle losses under any such policy. Each Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or its nominee, as attorney-in-fact to represent the Owner for the purposes of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation and settlement of losses and execution of releases of liability; the execution of all documents; and the

performance of all other acts necessary or desirable to accomplish such purposes. The Association, or its nominee, shall receive, hold or otherwise properly dispose of any proceeds of insurance, in trust, for the Association, the Owners and their Mortgagees, as their interests may appear and as set forth in this Declaration. This power of attorney is for the benefit of each and every Owner, and their respective Mortgagees, the Association, and the Garage Condominium Project, runs with the land, is coupled with an interest, and is irrevocable.

Section 6.7. Owners' Insurance. Each Owner is encouraged (but not required) to obtain insurance against:

- (a) liability for bodily injuries, death, and similar premises liability events occurring within the Owner's Unit and Limited Common Elements in the amount of at least \$100,000.00;
- (b) losses by fire and other casualty with respect to personal property in the Owner's Unit and Limited Common Elements; and
- (c) losses by fire and other casualty with respect to the Unit of the type and nature of coverage commonly referred to as "tenants' improvements and betterments" policy or a condominium owner's policy with coverage for the Owner's improvements in the Unit for 100% of their then estimated current insurable replacement cost.

Any insurance carried by an Owner shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and directors, and all other Owners and Occupants, shall name the Association as an additional insured and shall not be cancelable or subject to reduction in coverage except after 30 days prior written notice to the Association. In the event a Unit shall suffer damage or destruction from any cause or peril, then the repair, restoration and reconstruction shall be undertaken by the Owner of the Unit (whether or not the Owner maintained any insurance), under the supervision and control of the Association; *provided, however,* that in the event that within 120 days after such damage or destruction the Owners and their first Mortgagees, if they are entitled to do so pursuant to the provisions of this Declaration, shall elect not to make the repair, restoration or reconstruction, then such repair, restoration or reconstruction shall not be undertaken. To the extent an Owner elects not to maintain any insurance coverage suggested above, the Owner shall indemnify and hold harmless the Declarant, the Association, and their respective managers, officers, directors and representatives, from any and all damages, losses and expenses (including, without limitation, legal fees and expenses and settlement costs) suffered or incurred by any of such indemnified parties resulting from any claims asserted against any of such indemnified parties by any party who would have benefited if such insurance had been maintained by the Owner.

Section 6.8. Sufficient Insurance. In the event the Common Elements or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association, and the insurance proceeds shall be used in payment therefor; *provided, however,* that in the event that within 120 days after such damage or destruction the Owners and their first Mortgagees, if they are entitled

to do so pursuant to the provisions of this Declaration, shall elect not to make the repair, restoration or reconstruction, then such repair, restoration or reconstruction shall not be undertaken.

Section 6.9. Insufficient Insurance. In the event the Common Elements or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the actual insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then (unless the Owners and their first Mortgagees, if they are entitled to do so pursuant to the provisions of this Declaration, shall elect within 120 days after such damage or destruction not to make such repair, restoration or reconstruction) the Association shall make repairs, restoration or reconstruction of the improvements so damaged or destroyed at the expense (to the extent not covered by actual insurance proceeds and to the extent no specific Owner is liable for and pays the insufficient amount) of all Owners as a Common Expense; provided, however, in the event of damage to Units or Limited Common Elements, only those Owners affected by such damage shall be assessed. Should any Owner refuse or fail after reasonable notice to pay that Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed against the Unit of such Owner and that assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments.

Section 6.10. Election Not to Restore. In the event of damage or destruction to any part of the Garage Condominium Project, the Association and the Owners shall be automatically deemed to have determined and agreed to repair, reconstruct and/or rebuild with respect thereto; provided, however, the Association may, with the written consent of all Owners and their first Mortgagees, both given within 120 days after the applicable damage or destruction, determine not to repair, restore or rebuild any damage or destruction, in which case the proceeds received by the Association shall be distributed to the applicable Owners and their respective Mortgagees as their interests may appear and appropriate amendments to this Declaration and the Bylaws shall be made.

Section 6.11. Condemnation. In the event all or a portion of the Garage Condominium Project (including Units and/or Common Elements) is taken or acquired by any public authority pursuant to the power of eminent domain or condemnation, the following shall apply.

(a) To the extent the taken or acquired portion of the Garage Condominium Project consists of Common Elements, the Association, acting through the Board, as agent for the Owners, shall have the exclusive right to negotiate, agree to, settle, accept and receive the amount of the proceeds to be paid for such taking. At the discretion of the Board, such proceeds shall be deposited into the reserves of the Association, used to make repairs or replacements for the taken or damaged Common Elements, or distributed to all Owners and their Mortgagees, as their interests may appear, in accordance with their respective Common Element Interests (or if a Limited Common Element is involved, distributed to the applicable Owner(s) and their respective Mortgagees, as their interests may appear, as to which that Limited Common Element was assigned or appurtenant at the time of the condemnation).

(b) To the extent the taken or acquired portion of the Garage Condominium Project consists of Units, the Association, acting through the Board, as agent for the applicable Owners, shall have the exclusive right to negotiate, agree to, accept and receive the amount of the proceeds to be paid for such taking. Such proceeds shall then be distributed among the applicable Owners and their respective Mortgagees whose Units are partially or wholly taken as their respective interests may appear. Thereafter, the interests in the Garage Condominium Project of those Owners whose entire Units are condemned shall cease, and such Owners shall execute all documents deemed necessary or appropriate by the Board to dispose of their interests. In the event one (1) or more of the Units are taken by condemnation, the proportionate interests of the remaining Owners in the Common Elements and Common Expense Liability shall be readjusted appropriately, and appropriate amendments to this Declaration and the Bylaws shall be made by the Association, acting through the Board.

Each Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association and its Board, as attorney-in-fact to represent the Owner, settle losses and damages, receive and utilize the awards and proceeds of settlement and do all things necessary or desirable for such attorney-in-fact to exercise the rights and fulfill the responsibilities of the Association with respect to condemnation or eminent domain proceedings. This power of attorney is for the benefit of each and every Owner, each Mortgagee, the Association, and the Garage Condominium Project, runs with the land, is coupled with an interest, and is irrevocable.

ARTICLE VII

ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS

Section 7.1. Types of Assessments. Assessments shall be determined and assessed against the Units by the Board, in its discretion, subject to the requirements and procedures set forth in this Declaration and the Bylaws. Each Owner shall be obligated, and by acceptance of a deed to a Unit (whether or not it be so expressed in such deed) is deemed to covenant and agree, to pay to the Association: (a) annual operating assessments to pay Common Expenses, (b) special assessments to pay Common Expenses and for capital improvements, and (c) Special Unit Expenses, all of which assessments shall be established and collected as provided in this Declaration.

Section 7.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote and provide for the health, safety and welfare of Owners and Occupants and the best interests of the Garage Condominium Project.

Section 7.3. Types; Apportionments; Due Dates.

(a) **Annual Operating Assessments.**

(i) Beginning with the closing of the first sale of a Unit by the Declarant, annual operating assessments to pay Common Expenses shall be payable and shall be assessed against all Units. The first annual operating assessment for each such Unit shall be prorated based upon when it became a Unit during the year.

(ii) Annually, in advance where practical, the Board shall estimate, and allocate among all Units and their Owners, on the basis of an equal amount per Unit, the “Common Expenses” of the Association, consisting of the following:

(A) the estimated fiscal year’s cost of the maintenance, repair, and other services to be provided or paid for by the Association (in excess of reserves to be expended therefor);

(B) the estimated fiscal year’s costs for insurance premiums to be provided and paid for by the Association;

(C) the estimated fiscal year’s costs for utility services not separately metered or charged to Owners;

(D) the estimated amount required to be collected to maintain a working capital reserve fund, to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board;

(E) an amount deemed adequate by the Board to establish and maintain a capital reserve for future repairs and replacements by the Association to the Common Elements; and

(F) the estimated fiscal year’s costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs constituting Common Expenses not otherwise herein specifically excluded.

(iii) The Board shall thereupon allocate the estimated total Common Expenses to each Unit on the basis of an equal amount per Unit, and thereby establish the annual operating assessment for each separate Unit.

(iv) The due date of each annual assessment installments shall be established by the Board, or, if it fails to do so, the annual operating assessment for a Unit shall be due and payable on the first day of the fiscal year.

(v) If the amounts so collected (together with any voluntary payments by or from the Declarant) are, at any time, insufficient to meet all obligations for which those funds are to be used (such as, without limitation, when actual expenditures exceed budgeted expenditures), the deficiency shall be assessed by the Board as a special operating assessment among the Units on the basis of their relative Common Element Interests, and shall become due and payable on such date or dates as the Board determines.

(vi) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, or as reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Owners.

(vii) The rate of annual assessment shall be in addition to any other assessments chargeable to a particular Unit and in addition to the reserve fee described in Section 7.8. The rate of annual assessment per Unit for the initial year of assessments shall be set by the Board. Thereafter, the rate of annual assessment upon each Unit may be increased (A) by the Board from time to time, without a vote of the Members, by up to 20% over the rate of annual assessment in effect for the preceding year, or (B) at any time by any amount by a vote of the Members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the Members duly called and held for that purpose in accordance with the Bylaws when a majority in interest of the Members present at such meeting and entitled to vote thereon authorize such increase by an affirmative vote for the proposed increase. Notwithstanding the foregoing limits on annual assessments, the Board, without a vote or approval of the Members, shall always have the power to set, and shall set, the rate of annual assessment at an amount that will permit the Association to perform its duties as specified in this Declaration.

(b) Special Assessments for Capital Improvements.

(i) In addition to the annual operating assessments and any special operating assessments, the Board may levy, at any time, special assessments to construct, reconstruct or replace capital improvements to the extent that reserves therefor and any applicable insurance proceeds with respect thereto are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply with applicable law or governmental regulation or to correct any deficiency or defect creating a safety or health hazard) shall not be constructed, nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to ten percent (10%) or more of that fiscal year's budget, without the prior consent of Owners owning at least 60% of all Units.

(ii) Any such special assessment shall be prorated among all Units on the basis of an equal amount per Unit and shall become due and payable on such date or dates as the Board determines.

(c) Special Unit Expenses. The Board shall levy assessments of Special Unit Expenses against an individual Unit or Units, and the Owner or Owners thereof, to reimburse or pay the Association for those costs or charges incurred in connection with that Unit or Units properly chargeable by the terms of this Declaration to a particular Unit or Units (such as, but not limited to, the cost of making repairs and replacements which

are the responsibility of an Owner, and an Owner's interest, late charges, fines, enforcement and collection charges). Any such assessment for Special Unit Expenses shall become due and payable on such date as the Board determines and shall be a lien on the applicable Unit.

(d) Defense of Claims. If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Association, the Board, or any committee, or any individual director, officer or committee member of the Association, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Association, Board, committee, or individual director, officer or committee member sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees. Such recovery right shall constitute a Special Unit Expense against the Owner's Unit and the Owner and shall be enforceable as provided herein.

Section 7.4. Effective Date of Assessment. Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Association to the Owner subject thereto. Written notice mailed or delivered to the Owner's Unit shall constitute notice to that Owner, unless the Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Owner.

Section 7.5. Effect of Nonpayment of Assessment; Remedies of the Association.

(a) If any installment of an assessment is not paid within ten (10) days after the same is due, the entire unpaid balance of the assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installments.

(b) If any installment of an assessment is not paid within ten (10) days after the same is due, (i) interest shall accrue on the entire unpaid balance (including the accelerated portion thereof) at 10% per annum, compounded monthly (or at such other rate as the Board, from time to time, may establish by rule) (or, if lower, the maximum rate permitted by law), (ii) a late fee shall be charged in the amount of 5% of the delinquent amount (or such other reasonable, uniform late fee as the Board, from time to time, may establish by rule), (iii) the cost of collection, including attorney fees and expenses and other out-of-pocket expenses shall be charged, and/or (iv) at the option of the Board, it may cut off or restrict the services to be provided to the Unit by the Association and the use of the Common Elements (other than the Private Ways).

(c) All assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge and lien in favor of the Association upon the Unit against which each such assessment is made.

(d) At any time after any assessment or an installment of an assessment levied pursuant hereto remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that assessment, including

all future installments thereof, interest, late fees, and costs, including attorney fees, may be filed by the Association with the Recording Office pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name of the Owner (if known), and the amount of the unpaid portion of the assessments and charges, and shall be signed by an officer or other agent of the Association. For each certificate so filed, the Association shall be entitled to collect from the Owner of the Unit described therein a fee of \$200.00, which fee shall be added to the amount of the delinquent assessment and the lien on the Unit and which fee amount may be increased by the Board from time to time to reflect cumulative increases in an appropriate consumer price index (as selected by the Board) from and after December 31, 2012.

(e) The lien provided for herein shall become effective from the time a certificate of lien was duly filed therefor, and shall continue for a period of five (5) years unless sooner released or satisfied in the same manner provided by law in the State for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(f) Each assessment together with interest, late fees, and costs, including attorney fees, shall be the joint and several personal obligation of the Owners who owned the Unit at the time when the assessment became due and (except as provided in the Act) all subsequent Owners of the Unit.

(g) In addition to the other remedies available to it, the Association, as authorized by the Board, may bring or join in an action at law against the Owner or Owners of a Unit personally obligated to pay the same, and an action to foreclose a lien. In any foreclosure action, the applicable Owner or Owners shall be required to pay to the Association a reasonable market rate rental for that Unit during the pendency of such action. The Association in any foreclosure action involving a Unit or Units shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by State law.

(h) No claim of the Association for assessments and charges shall be subject to any setoffs or counterclaims made by any Owner. To the extent permitted by law, each Owner hereby waives the benefit of any redemption, homestead and exemption laws now or hereafter in effect, with respect to the liens created pursuant to this Declaration.

(i) No Owner may waive or otherwise avoid liability for the assessments provided for in this Declaration by non-use or by waiving use or enjoyment of the Common Elements or the services provided by the Association, or any part thereof, or by abandonment of the Unit. No Owner shall be entitled to a reduction or abatement of any assessment as a result of any failure or interruption of any utility or other service or any damage to or destruction of or the making of any repairs or replacements to any Common Element or to any Unit.

(j) Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Units and their interests in the Garage Condominium Project, and are necessary to continue to provide services, and, accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

Section 7.6. Subordination of the Lien to First Mortgages. To the extent provided in the Act, the lien of the assessments provided for herein shall be subject and subordinate to the lien of a first Mortgage on the Unit recorded prior to the date on which such lien of the Association arises, and any holder of such first Mortgage or other purchaser which comes into title of a Unit pursuant to foreclosure of the Mortgage shall take the property free of the lien for any such unpaid installments of such assessments against the mortgaged Unit to the extent relating to periods prior to the date of such acquisition of title by such mortgagee or purchaser. The foregoing will not relieve any such mortgagee or purchaser from the obligation for assessments accruing thereafter. If the Owner subsequently redeems the Unit from the foreclosure sale, the lien hereunder shall automatically be reinstated retroactively in full.

Section 7.7. Certificate Regarding Assessments. The Board shall, upon request, for a reasonable charge, furnish a certificate, signed by an officer or other designated representative of the Association, setting forth whether the assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7.8. Initiation Fee. Upon the closing of the sale of each Unit by the Declarant and upon each subsequent transfer of the Unit for value, the new Owner shall pay to the Association a one-time initiation fee equal to \$100.00, which payment shall be added to the general funds of the Association. This fee shall be in addition to the first regular annual operating assessment.

Section 7.9. Assignment or Sale. Upon assignment, sale or other transfer of his or her Unit to a new Owner, the transferring Owner shall be relieved of liability for any new assessments levied on such Unit by the Association after the closing date of such assignment, sale or transfer.

ARTICLE VIII UTILITIES

Each Owner shall be required to pay for all utility services that are or may be separately metered or submetered to the Owner's Unit. All other utility costs provided through the Association shall be Common Expenses and paid by the Association.

ARTICLE IX EASEMENTS

Section 9.1. Nonexclusive Easements. In addition to any exclusive easements established in the Limited Common Elements, each of the Units and Common Elements shall also be subject to the following nonexclusive easements which shall be easements appurtenant to and running with the land, perpetually in full force and effect, and at all times inuring to the

benefit of and being binding upon the Declarant, its successors and assigns, and any Owner, Mortgagee, purchaser, and other person having an interest in any part or portion of the Garage Condominium Project:

(a) Appurtenant to each Unit shall exist a nonexclusive easement: (1) over all the Common Elements for use thereof by the Owner and for ingress, egress, utility services, support, maintenance and repairs to the Units; (2) over the Limited Common Elements as necessary for structural support, utility services, maintenance and repairs; and (3) over all other parts of the Garage Condominium Project (including all other Units and Limited Common Elements) for structural support.

(b) Should any part of the Common Elements encroach upon any Unit or Limited Common Element, a valid nonexclusive easement shall exist for such encroachment and its maintenance. In the event any improvements constituting part of the Garage Condominium Project shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the Common Elements due to construction shall be permitted, and valid nonexclusive easements shall exist for such encroachments and their maintenance.

(c) The Declarant and the Association shall have, and are hereby granted the right and easement to enter any Unit and any Limited Common Elements from time to time during reasonable hours, provided at least twenty-four (24) hours advance notice is given to the particular Owner (except that access may be had at any time in case of emergency), (1) for maintenance, repair or replacement of any Common Elements therein or accessible therefrom, (2) for operation and maintenance of the Garage Condominium Project, or (3) to prevent damage to any other Units or Common Elements.

(d) The Garage Condominium Project shall be subject to, and each Owner shall be deemed to have granted, a perpetual non-exclusive easement for the benefit of the Association, the Board, the Manager, and their respective employees, agents, successors and assigns, for ingress and egress upon any portions of the Garage Condominium Project for the purpose of performing their respective rights, obligations and duties under this Declaration, the Articles, the Bylaws, and the Act.

Section 9.2. Exclusive Driveway Easements. Appurtenant to the ownership of his or her Unit, each Owner is hereby granted and shall have an exclusive easement for ingress, egress and the use of the portion of the Private Ways directly in front of the Owner's Unit, subject only to the easement rights granted elsewhere in this Declaration in favor of the Association or the Declarant.

Section 9.3. Right to Grant Easements; Other Easements. Each of the Declarant and the Association shall have the right and power to grant and maintain appropriate permits, licenses, and easements for public utilities over, under and through the Common Elements for utilities, roads and other purposes necessary for the proper operation of the Garage Condominium Project. The rights and duties of the Owners of each Unit with respect to sanitary sewer, water, electricity, gas, telephone lines, cable television and similar facilities shall be governed by the following:

(a) Whenever electricity, gas, telephone, television, internet or other utility lines are installed within the Garage Condominium Project, which connections or any portion thereof lie in or upon Units owned by other than the Owner of the Unit served by said connection, each of the Declarant and the Association shall have the right, and is hereby granted, upon twenty-four (24) hours advance notice to the Owner of such Unit (except in the case of an emergency as to which no advance notice shall be required), an easement to enter or to permit the utility companies to enter any Unit within, upon or adjacent to which said connections, or any portion thereof lie, for the purpose of repairing, replacing, and generally maintaining said connections, as and when necessary.

(b) Whenever electricity or other utility lines are installed within the Garage Condominium Project, which connections serve more than one (1) Unit, the Owner of each Unit served by said connections shall be entitled to the full use and enjoyment of those portions of said connections which service his or her Unit.

(c) In the event of a dispute among Owners with respect to the sharing of any shared lines or any costs related to use, repair or maintenance of such shared lines, then, upon written request to the Association from one (1) of such Owners, the matter shall be submitted to the Board, who shall resolve the dispute. The decision of the Board shall be final and conclusive upon the parties. If any of the disputing Owners is a member of the Board, he or she shall not be entitled to vote on such issue. The remaining non-disputing Board members shall appoint another Owner to serve temporarily on the Board solely for the purpose of voting on such dispute.

(d) Easements over the entire Garage Condominium Project for the installation and maintenance of electric, telephone, water, gas, television, sanitary sewer and other utility lines and facilities, and for drainage facilities, and as may be required from time to time to service the Garage Condominium Project, are hereby reserved by Declarant for itself and the Association, together with the right to grant and transfer the same.

Section 9.4. Construction Easement. The Declarant hereby reserves in favor of itself, its successors and assigns, its general contractor, architect, engineer, government inspectors, the Association and the Manager and any other Person authorized by the Board, any and all easements and rights-of-way through, under, over and across the Garage Condominium Project for construction purposes and for the construction, installation, maintenance and inspection of the Buildings, the Units, and any and all improvements, structures and landscaping located on or about the Garage Condominium Project.

Section 9.5. Keys to Units. Each Owner shall at all times provide the Association or the Manager with a current set of keys (or garage entry code) to the Owner's Unit, except as may be expressly waived by the Board.

ARTICLE X DEVELOPMENT RIGHTS

Section 10.1. General Reservation. Upon the filing of this Declaration, the Declarant shall be the Owner of each of the Units thereby created and, subject to the terms of this Declaration, shall retain all rights, benefits and obligations as Owner of each Unit, which may be created hereunder until such Unit is sold and title transferred to some other Person. If applicable, upon the sole discretion of the Declarant, any Development Right reserved in this Declaration may be exercised with respect to different Buildings, parcels or areas at different times. In addition to those rights reserved elsewhere in this Declaration to or for the Declarant, the Declarant reserves for itself and its assigns the following Development Rights with respect to the Garage Condominium Project:

(a) The right to use the Common Elements or easements through the Common Elements for the purposes of making improvements and performing maintenance and repairs within the Garage Condominium Project.

(b) Notwithstanding any other provisions in this Declaration, the right during the period of original construction of the Garage Condominium Project and sale or leasing of the Units in the Garage Condominium Project by the Declarant: (1) to complete the development, improvement and sale of the Units and the construction, excavating, grading and finishing of the Garage Condominium Project, including the landscaping, Private Ways and any other facilities, together with the improvement of any unsold or model Units; (2) to maintain and operate model Units for sales, construction and administrative purposes; (3) to show the Garage Condominium Project or any unsold Units, including the right to use, without charge or other payment, such Common Elements and facilities as the Declarant deems appropriate, convenient or incidental to the sale of Units, in its sole discretion, including, but without limitation, the exclusive right to use, without charge or other payment, any portion of the Garage Condominium Project as a business and/or sales office, the right to display "For Sale" or "For Rent" and other appropriate signs in aid of the sale or rental of all Units, and the right to use and operate sales and leasing offices in such other portions of the Garage Condominium Project including the Common Elements as may be necessary or convenient under the circumstances; and (4) to amend the Plat and Plans and request and obtain City approval for variances, minor subdivisions, lot splits, combinations of Units and other adjustments of boundaries between Units, at the Declarant's sole and exclusive discretion, as desirable or convenient in order to reflect modified Unit legal descriptions, floor plans, and square footages pursuant to actual sales of Units in the Garage Condominium Project. The foregoing rights shall continue and remain effective until the completion of all original sales of all the Units within the Garage Condominium Project to Owners other than the Declarant.

Notwithstanding the provisions of any State law or City ordinances to the contrary, the Declarant shall have and may freely exercise each of the foregoing rights and privileges described above without notice to or consent of any kind from the Association or other Owners; and the Association and each and every Owner and his or her heirs, successors and assigns shall be conclusively presumed to have waived any and all rights afforded under State law or City

ordinances for notice or consent to any lot split, minor subdivision, Plat or Plan amendment, variance, or other right or privilege described herein, by virtue of his or her ownership or acquisition of a Unit, whether by sale or by operation of law.

Section 10.2. Successors in Interest. Each and every Owner and his or her respective Mortgagees, grantees, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns shall be deemed to have expressly agreed and consented to each of the provisions of this Declaration relating to the Development Rights and shall be deemed to have constituted and irrevocably appointed the Declarant as the Owner's lawful attorney-in-fact to carry out the Development Rights, and such power of attorney shall be deemed to be coupled with an interest and shall be irrevocable.

Section 10.3. No Ownership Interest in Common Elements. The Declarant, in its capacity as the Declarant (as opposed to its capacity as an Owner), shall have no ownership interest in the Common Elements and, except as expressly provided in this Declaration, shall have no other rights to or in the Common Elements.

ARTICLE XI AMENDMENTS

Section 11.1. Power to Amend. Except as otherwise specifically provided in this Declaration, additions to, changes in, or amendment, of this Declaration shall require the consent of Owners owning at least 60% of the Units and, until the sale by the Declarant of the last contemplated Unit, the Declarant; provided, however, that wherever a provision to be amended specifies a larger percentage of the Units for action to be taken under that provision, the minimum percentage necessary to amend that provision shall be the percentage so specified in the provision to be amended. Notwithstanding the foregoing:

(a) Subject to the provisions of the Act, the consent of Owners owning all of the Units and the written consent of the City shall be required to terminate the legal status of the Garage Condominium Project and this Declaration.

(b) In addition to the Declarant's rights to amend this Declaration and Exhibits as provided elsewhere in this Declaration, the Declarant reserves and shall have the absolute unilateral right and power to amend this Declaration to the extent necessary to (i) cause the Declaration to comply with the Act or any other applicable law or to conform to the requirements then governing the making of a Mortgage loan or the purchase, guaranty, or insurance of Mortgages by an institutional lender or an institutional guarantor or insurer of a Mortgage on a Unit, (ii) update or correct Exhibit A, Exhibit A-1, or Exhibit B (subject to Section 2.17(b)) of this Declaration, (iii) comply with any requirement the City makes as a condition to approval by the City of some matter relating to the development of the Garage Condominium Project, (iv) correct any typographical error, or factual error or omission that needs to be corrected in the opinion of the Declarant, (v) make any alteration or change that the Declarant determines to be necessary or appropriate in connection with any replat of any part of the Garage Condominium Project or (vi) to the extent permitted by the Act, until December 31, 2015

to make any other amendment the Declarant determines to be necessary or appropriate. No such amendment by the Declarant shall require the consent of any Owner or the Board or any Mortgagee.

Section 11.2. Method to Amend. An amendment to this Declaration, adopted with the consents of Owners or the Board, shall be executed with the same formalities as to execution as this Declaration by two officers of the Association and shall contain a certification that such amendment was duly adopted in accordance with the provisions of this Article. Any amendment adopted by the Declarant pursuant to authority granted it pursuant to this Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain a certification that such amendment is made pursuant to authority vested in the Declarant by this Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Recording Office.

Section 11.3. Form of Consent of Owners. The consent of Owners to any amendment of this Declaration may be obtained in the form of written consent(s) executed by Owners owning at least the specified percentage of the Common Element Interests or in the form of a formal resolution approved by the affirmative vote of Owners owning at least the specified percentage of the Common Element Interests at a duly held meeting of the Members.

ARTICLE XII GENERAL PROVISIONS

Section 12.1. Security. THE ASSOCIATION, THE DECLARANT AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, REPRESENTATIVES AND AGENTS SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE GARAGE CONDOMINIUM PROJECT. NEITHER THE ASSOCIATION NOR THE DECLARANT NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, REPRESENTATIVES OR AGENTS SHALL BE HELD LIABLE FOR ANY LOSS, DAMAGE, INJURY OR DEATH BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH OWNER, OCCUPANT, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS, DAMAGE, INJURY OR DEATH TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE DECLARANT, THE ASSOCIATION, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, REPRESENTATIVES AND AGENTS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN OR NOT UNDERTAKEN.

Section 12.2. No Liability for Utility Failure and Certain Personal and Real Property Damage. Except to the extent covered by insurance maintained by the party to be charged, neither the Declarant, the Board, the Association nor the Owners shall be liable for injury or damage to persons or property caused by the elements or other events of nature, or resulting from utility failures or from water, rain, dust or sand which may leak

or flow from outside of the building, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of assessments shall be claimed or allowed for such injury or damage or for such inconvenience or discomfort.

Section 12.3. Binding Effect and Duration. This Declaration and all covenants, conditions, restrictions, terms, provisions, rights, obligations and easements hereunder (a) are made for the direct, mutual and reciprocal benefit of each portion of the Garage Condominium Project, each Owner and any Mortgagees thereof, the Association and the Declarant; (b) create mutual equitable servitudes upon each portion of the Garage Condominium Project in favor of every other portion; (c) constitute covenants running with the land; (d) bind and inure to the benefit of the Association, the Declarant, all Owners and all future Owners, and the heirs, personal representatives, successors and assigns of each of the foregoing; and (e) shall continue in full force and effect for a term of twenty years after the date of this Declaration, after which time they shall be automatically renewed and extended for successive periods of ten years. Notwithstanding the foregoing, this Declaration may be amended or terminated at any time as set forth in this Declaration.

Section 12.4. Enforcement. Each of the Association and the Declarant and each Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, terms, provisions, duties, obligations, rights, privileges and liens now or hereafter imposed or created by or pursuant to the provisions of this Declaration. In particular, and without limitation, legal relief may be sought by the Association against any Owner, or by an aggrieved Owner against the Association or another Owner, to enforce compliance with this Declaration, the Articles, the Bylaws, the Rules and Regulations of the Association and the decisions of the Association. The failure of any of the foregoing to enforce any provision of this Declaration at any time or for any period of time shall not be deemed a waiver of the right to do so thereafter.

Section 12.5. Notices and Service of Process.

(a) Any notice to be given hereunder shall be deemed to be duly given when it has been deposited in the United States mail, postage and all fees prepaid, by certified or registered mail or after deposit with Federal Express or other overnight courier with a comparable national reputation for reliability or the day of delivery with respect to personal service (except for notices of meetings and assessments, which may be sent by regular mail without certification or registration) and addressed to the Association at its principal business office (as to which notice thereof shall have been given to the Owners), to an Owner at the most recent address of such Owner appearing on the records of the Association, or to the Declarant at c/o Greg Earlenbaugh, 6032 Brownridge Drive, Shawnee, Kansas 66218. The address for receipt of notices by the Association, the Declarant or any Owner shall be deemed changed as to any of the foregoing who receive written notice of such change from the party whose address has changed.

(b) The person to receive service of process in cases provided in the Act and the address of such person is: Greg Earlenbaugh, 6032 Brownridge Drive, Shawnee, Kansas 66218. Notwithstanding any other provision of this Declaration to the contrary,

the Board shall have the right to amend this Declaration to change the identity and/or address of such notice party at any time and without the consent or approval of the Declarant or any Owner.

Section 12.6. Severability. If any covenant, restriction, obligation, term or condition of this Declaration, or the application thereof to any Person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration, or the application of such covenant, restriction, obligation, term or condition to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each such covenant, restriction, obligation, term or condition of this Declaration shall be valid and fully enforceable.

Section 12.7. Section Headings. The headings of Articles and Sections of this Declaration are for convenience only and shall not be considered in construing or interpreting its provisions.

Section 12.8. Kansas Apartment Ownership Act. The provisions of this Declaration shall be in addition and supplemental to the Act and all other provisions of applicable law.

Section 12.9. Gender and Number. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

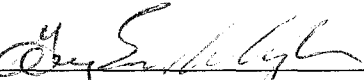
Section 12.10. Board as Attorney-in-Fact. Wherever in this Declaration the Association or the Board is given the power and right to grant easements, the Owner of each Unit does hereby appoint the Board as his or her attorney-in-fact for the purpose of granting and effecting the same, and the appointment of the Board as attorney-in-fact shall be deemed confirmed, adopted and ratified by the actions of each Owner in accepting the deed and closing on the purchase of his or her Unit. This power of attorney is for the benefit of each and every Owner, the Association, and the Garage Condominium Project, runs with the land, is coupled with an interest, and is irrevocable.

Section 12.11. Interpretation. This Declaration shall be governed under the laws of the State of Kansas. The provisions of this Declaration shall be construed liberally to effect its purpose of creating a uniform plan for the development, operation and administration of the Garage Condominium Project. Failure to enforce any provision shall not constitute a waiver of the right to enforce the same or any other provision of this Declaration at a later date.

Section 12.12. Conflict Among Documents. In the event of any conflict between the provisions of this Declaration and the provisions of the Association's Articles or the Bylaws, then, subject to applicable law, the provisions of this Declaration shall supersede and be controlling over the conflicting provisions of the Association's Articles or the Bylaws.

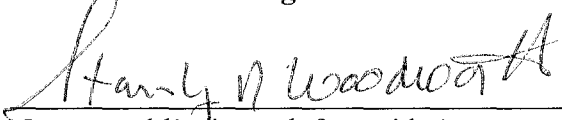
IN WITNESS WHEREOF, the Declarant has duly executed this Declaration.

CARRIAGE HOUSES OF JOHNSON
COUNTY, LLC

By: 
Name: Greg Earlenbaugh
Title: Chief Executive Officer

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

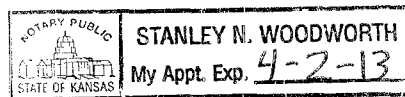
This instrument was acknowledged before me on June 29, 2011, by **Greg Earlenbaugh** in his capacity as Chief Executive Officer of and on behalf of **Carriage Houses of Johnson County, LLC**, a Kansas limited liability company.


Notary Public in and for said County and
State

My Commission Expires:

Print Name: _____

[SEAL]



Legal Description of Submitted Land

Pre-Condominium Plat

Lot 1 and Tract A of CARRIAGE HOUSES OF JOHNSON COUNTY, a subdivision in City of De Soto, Johnson County, Kansas.

Post-Condominium Plat

Building 1 (Unit 1, Unit 2, Unit 3, Unit 4, Unit 5, Unit 6, Unit 7, Unit 8, Unit 9, Unit 10, Unit 11, Unit 12, Unit 13, Unit 14, Unit 15, Unit 16, Unit 17, Unit 18, Unit 19, Unit 20, Unit 21 and Unit 22), and Tract A, CARRIAGE HOUSES OF JOHNSON COUNTY #1, a condominium subdivision in the City of De Soto, Johnson County, Kansas.

**LEGAL DESCRIPTION
OF
EXPANDABLE LAND**

A tract of land in the Northwest Quarter of Section 25, Township 12 South, Range 22 East, in Johnson County, Kansas, more specifically described as follows: Beginning at the Southwest corner of the Northwest Quarter of Section 25, Township 12 South, Range 22 East; thence South 89 degrees 11 minutes East, 25.0 feet to the true point of beginning; thence Easterly 964.0 feet along the South line of the Northwest Quarter of said Section 25; thence Northerly 505.0 feet to the Southerly right-of-way line of the Burlington Northern Santa Fe Railroad; thence along said Southerly right-of-way line on a curve of 02 degrees 35 minutes and delta 47 degrees 36 minutes to the right with a chord which bears South 76 degrees 11 minutes West, 40.0 feet; thence South 83 degrees 58 minutes West, 408.0 feet; thence North 85 degrees 14 minutes West, 300.8 feet; thence North 85 degrees 14 minutes West, 227.1 feet; thence South 217.55 feet parallel to the West line of said Northwest Quarter; thence South 90 degrees 00 minutes 00 seconds West, 20.0 feet; thence South 00 degrees 00 minutes 00 seconds West, 250.0 feet to the point of beginning.

EXCEPT that part thereof platted as Carriage Houses of Johnson County #1, a subdivision in City of De Soto, Johnson County, Kansas.

EXHIBIT B**SPECIFIC UNIT INFORMATION****(6/29/11)**

IDENTIFYING NUMBERS		COMMON ELEMENT INTEREST/COMMON EXPENSE LIABILITY (FRACTION)
BUILDING NO.	UNIT NO.	
1	1	1/22
1	2	1/22
1	3	1/22
1	4	1/22
1	5	1/22
1	6	1/22
1	7	1/22
1	8	1/22
1	9	1/22
1	10	1/22
1	11	1/22
1	12	1/22
1	13	1/22
1	14	1/22
1	15	1/22
1	16	1/22
1	17	1/22
1	18	1/22
1	19	1/22
1	20	1/22
1	21	1/22
1	22	1/22

**BYLAWS
OF
CARRIAGE HOUSES OF JOHNSON COUNTY
GARAGE CONDOMINIUM ASSOCIATION, INC.**

**ARTICLE I
OFFICES**

Section 1.1. Name. The name of the corporation is Carriage Houses of Johnson County Garage Condominium Association, Inc. It is incorporated under the laws of the State of Kansas as a not-for-profit, non-stock corporation. The corporation is the association referenced in the Declaration (as defined below).

Section 1.2. Location. The principal office of the corporation shall be located at such places in Johnson County, Kansas as may be designated by the Board of Directors from time to time in accordance with applicable law.

**ARTICLE II
DEFINITIONS**

Section 2.1. “Association” means Carriage Houses of Johnson County Garage Condominium Association, Inc., a Kansas non-profit corporation, and its successors and assigns.

Section 2.2. “Board of Directors” or “Board” means the Board of Directors of the Association.

Section 2.3. “Declaration” shall mean the Declaration of Garage Condominium for Carriage Houses of Johnson County recorded in the Office of the Register of Deeds of Johnson County, Kansas, as such may be amended and supplemented from time to time.

Section 2.4. Other Definitions. The following terms used in these Bylaws shall have the meanings ascribed thereto in the Declaration:

Common Elements
Common Element Interest
Declarant
Garage Condominium Project
Limited Common Elements
Owner
Private Ways
Rules and Regulations
Special Unit Expenses
Turnover Date
Unit

ARTICLE III MEMBERSHIP

Section 3.1. Membership Generally. Except for the Declarant as provided in the Declaration, membership in the Association shall be limited to persons or entities who are the Owners of the fee interest in any Unit which is now or hereafter within the jurisdiction of the Association. Persons or entities (other than a contract seller) who hold an interest merely as security for the payment or performance of an obligation shall not be members. Membership shall be appurtenant to and may not be separated from ownership of a Unit. Until the Turnover Date, the Association shall have two classes of membership, namely Class A and Class B. The Declarant shall be the sole Class A member. Each Owner of a Unit, including the Declarant as an Owner, shall be a Class B member. After the Turnover Date, there shall be only one class of membership which shall consist of the Owners of the Units, and every such Owner shall be a Member.

Section 3.2. Suspension of Membership. During any period in which a member shall be delinquent by more than 30 days in the payment of any assessment levied by the Association as provided in the Declaration, the voting rights of such member and the right to use any Common Elements in or available to the Garage Condominium Project (other than the Limited Common Elements assigned to that Unit and the Private Ways or other means of ingress and egress to the Owner's Unit) may, to the fullest extent provided by law, be suspended by the Board of Directors until such assessment has been paid. Such rights of a member may, in accordance with applicable law, also be suspended by the Board of Directors, after notice and a right to a hearing before the Board, for a period not to exceed 90 days, for violation of the Declaration or any of the Rules and Regulations established by the Board of Directors governing the use of the Common Elements.

ARTICLE IV VOTING RIGHTS

Section 4.1. Voting. Until the Turnover Date, all voting rights of the Members shall be held by the Class A Member, except that the Class B Members shall have the sole right to vote on or consent to matters described in Section 3.3 of the Declaration. After the Turnover Date, each member shall have one vote for the Unit for which he or she is the Owner. When more than one person holds such interest or interests in any Unit, all such persons shall constitute a single member, and the one vote for such Unit shall be exercised as they, among themselves, shall determine, but in no event shall more than the one vote be cast with respect to any such Unit. The vote of a Unit must be cast as a single lot, and fractional votes of such Unit's allocated vote shall not be allowed. Any one of the joint Owners of a Unit may cast their vote. In the event differing votes are cast for a particular Unit, none of said votes shall be counted and said votes shall be deemed void.

Section 4.2. Representatives. Where a Unit is owned by a corporation, partnership or other entity, such entity shall designate a person who is entitled to vote respecting such Unit and to serve, if elected or appointed, as a director of the Association. Such designation shall be made by filing a written instrument to that effect with the Association.

ARTICLE V BOARD OF DIRECTORS

Section 5.1. Number.

(a) Prior to the Turnover Date, the affairs of the Association shall be managed by a Board of Directors composed of three (3) directors, who shall be elected or appointed solely by the Declarant. The directors named in the Articles of Incorporation shall hold office until the first annual election of directors or until his or her earlier resignation or removal.

(b) After the Turnover Date, the affairs of the Association shall be managed by a Board of Directors composed of five (5) directors. The directors elected or otherwise appointed after the Turnover Date shall, by means decided upon by the directors, divide into two groups of two (2) and three (3), respectively, for the purpose of initiating a staggered election of the Board of Directors. Each member of the first group of two (2) so chosen by the Board of Directors shall hold office for the initial term of two years or until his or her earlier resignation or removal. Each member of the second group of three (3) shall hold office for the initial term of one year or until his or her earlier resignation or removal. Thereafter, at the annual meeting to elect directors for the positions with terms expiring in that year, each individual elected as a director shall serve for a term of two years.

(c) Each individual elected as a director shall serve until the next applicable annual election and until his or her successor is duly elected and has commenced his or her term of office or until his or her earlier resignation or removal.

Section 5.2. Qualification. After the Turnover Date, each director must be and remain a member (or representative of an entity that is a member) of the Association in good standing in order to be elected and remain as a director.

Section 5.3. Removal. Except as provided by applicable law, any director may be removed from the Board of Directors, with or without cause, by a majority vote of the members of the Association then entitled to vote on the election of directors. Except for those directors elected or appointed by the Declarant pursuant to Section 5.1(a), in the event of the death, resignation or removal of a director, his or her successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his or her predecessor.

Section 5.4. Compensation. No director shall receive compensation for the services he or she may render to the Association as a director. However, any director may be reimbursed for his or her reasonable out-of-pocket expenses incurred in the performance of his or her duties.

Section 5.5. Newly Created Directorships. Newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, unless it is otherwise provided in the Articles of Incorporation or these Bylaws, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, or

until their earlier resignation or removal. If there are no directors in office, then an election of directors may be held in the manner provided by statute.

ARTICLE VI MEETINGS OF DIRECTORS

Section 6.1. Annual Meetings. Annual meetings of the Board of Directors shall be held within 15 days following the annual meeting of the members. Such annual meetings shall be held at such place as may be fixed by the Board in accordance with applicable law.

Section 6.2. Regular Meetings. Regular meetings of the Board of Directors may be held at such place and time as may be fixed from time to time by the Board of Directors.

Section 6.3. Special Meetings. Special meetings of the Board of Directors shall be held at such place and time as may be specified by and when called by the president of the Association or by any director.

Section 6.4. Notice of Special Meetings. Written notice stating the time, date, and place of a meeting of the Board of Directors and, for any special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each director not less than five (5) days before the date of the meeting, either by hand delivery, by mail or by e-mail, by or at the direction of the person(s) calling the meeting; provided that notices may be sent by e-mail only to directors who have provided a written consent to the Association indicating their desire to receive notices at a specific e-mail address. Such notice shall be deemed to be delivered when hand-delivered, when deposited in the United States mail addressed to the director at his or her address as it appears on the records of the Association, with postage thereon prepaid, or when e-mailed to the director at his or her designated e-mail address.

Section 6.5. Quorum. Unless otherwise required by law, a majority of the total number of directors shall constitute a quorum for the transaction of business. Except as otherwise required by law, every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 6.6. Adjournment. If a quorum shall not be present at any such meeting, the directors present shall have the power successively to adjourn the meeting, without notice other than announcement at the meeting, to a specified date. At any such adjourned meeting at which a quorum shall be present any business may be transacted which could have been transacted at the original session of the meeting.

Section 6.7. Meetings by Conference Telephone or Similar Communications Equipment. Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

Section 6.8. Action Taken Without a Meeting. To the extent permitted by applicable law, any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if written consent thereto is signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 6.9. Meetings Open to Members. All meetings of the Board of Directors shall be open for attendance by all members of the Association to the extent required by law.

Section 6.10. Conduct of Meeting. Meetings of the Board of Directors shall not be required to be conducted in accordance with Robert's Rules of Order.

ARTICLE VII NOMINATION AND ELECTION OF DIRECTORS

Section 7.1. Nomination. After the Turnover Date, nomination for election to the Board of Directors may be made in writing by any member delivered to the secretary of the Association in advance of the annual meeting or from the floor at the annual meeting of the members.

Section 7.2. Election. After the Turnover Date, election to the Board of Directors shall be by written ballot. At any such election, the members entitled to vote or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of Article IV hereof. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

Section 7.3. Commencement of Term of Office. A director shall be deemed elected at the time of his or her election, but he or she shall not be deemed to have commenced his or her term of office or to have any of the powers or responsibilities of a director until the time he accepts the office of director either by a written acceptance or by participating in the affairs of the Association at a meeting of the Board of Directors.

ARTICLE VIII POWERS OF THE BOARD OF DIRECTORS

The Board of Directors shall have the power to:

(a) Scope. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.

(b) Rules and Regulations. Adopt, amend and enforce Rules and Regulations governing the use of the Common Elements and the Units and the personal conduct of the members and their guests thereon and governing other matters described or contemplated in the Declaration, and to establish, levy, collect and enforce fines and penalties for the infraction thereof; provided, however, that (i) copies of such Rules and Regulations shall be furnished to all members at the time of adoption, and (ii) the Board of Directors may

not, in any event, revoke, limit, restrict, or suspend in any way, the right of any Owner to use and enjoy any Private Way or other ingress and egress access to the Owner's Unit.

(c) Amend Declaration. To the extent permitted by applicable law, adopt or otherwise approve amendments to the Declaration and authorize the President and Secretary of the Association to prepare, execute, certify and record such amendments to the Declaration.

(d) Employment. Employ and engage agents, independent contractors, managers and employees, and to prescribe their duties and responsibilities.

(e) Supervision. Supervise all officers, agents, employees and independent contractors of the Association, and see that their duties are properly performed.

(f) Management Company. Engage a management company to assist in the day-to-day management and administration of the Association and the Garage Condominium Project.

(g) Records and Reports. Cause to be kept a complete record of all its acts and of the corporate affairs of the Association and to present reports thereof to the members.

(h) Assessments. As more fully provided in the Declaration, provide for the establishment, levying and collection of assessments (including, without limitation, annual or monthly assessments, special assessments and Special Unit Expenses) against each Unit and take all actions necessary or appropriate to collect the same, in accordance with applicable law.

(i) Certificates. Issue, or cause an appropriate officer to issue, upon request by any member, a certificate setting forth whether or not an assessment has been paid with respect to the member's Unit. A reasonable charge may be made by the Association for the issuance of these certificates.

(j) Insurance. Procure and maintain public liability insurance, fire and extended coverage hazard insurance and other insurance on property owned or controlled by the Association, and other insurance coverages, all with such coverages and in such sums as may be required by the Declaration or deemed appropriate by the Board of Directors.

(k) Bonding. Cause officers or employees having fiscal responsibility to be bonded, as may be required by the Declaration or deemed appropriate by the Board of Directors.

(l) Maintenance. Cause the Common Elements and Limited Common Elements and other areas to be maintained, repaired and replaced as provided in the Declaration.

(m) Committees. Appoint and empower one or more committees. Any such committee shall be composed of at least one (1) director and any other individuals as the Board of Directors shall designate. Not all members of a committee need be directors unless otherwise provided in the Declaration, Articles of Incorporation or by law. A quorum of any committee so designated by the Board of Directors shall be any number of the members designated by the Board of Directors, but that quorum shall not consist of less than one-half (1/2) of the total number of members appointed to such committee. The Board may designate one (1) or more individuals as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

(n) Indebtedness of Association. Unless otherwise prohibited by the Declaration, borrow money and incur indebtedness for purposes of the Association and cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor; provided, however, that the repayment of any such indebtedness shall not be or become the personal obligation of any Owner or any director.

(o) Alternative Dispute Resolution. Require that disputes between the Association and a member(s) be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding.

(p) Performance. Perform all acts and do all things required or permitted to be done by the Association by the Declaration or otherwise; and perform all acts and do all things permitted or required of a Board of Directors of a non-profit corporation under the laws of the State of Kansas.

ARTICLE IX MEETINGS OF MEMBERS

Section 9.1. Annual Meetings. The annual meeting of the members of the Association shall be held in October, November or December of each year, on such date and at such place and time as may be fixed by the Board of Directors. Except as may be required by law, no annual meeting of the members shall be required prior to the Turnover Date. At the annual meeting, directors shall be elected, reports of the affairs of the Association shall be considered, and any other business within the powers of the membership may be transacted.

Section 9.2. Special Meetings. Special meetings of the members may be called at any time by the president or by a majority of the Board of Directors, or upon written request of members holding at least one-tenth (1/10th) of the votes of the members.

Section 9.3. Place and Notice of Meetings. All meetings of the members shall be held in Johnson County, Kansas at such place as may be designated in the notice of the meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the person(s) duly calling the meeting, by hand delivering, by mailing or by e-mailing a copy of such notice not less than ten (10) days nor more than sixty (60) days prior to such meeting to each

member, addressed to the member's address or e-mail address last appearing on the books of the Association; provided, however, notices may be sent by e-mail only to members who have provided a written consent to the Association indicating their desire to receive notices at a specific e-mail address. Such notice shall specify the time, date, and place of the meeting and, in the case of a special meeting, the specific matters to be addressed at the meeting. Such notice shall be deemed to be delivered when it is hand delivered, or deposited in the United States mail with postage thereon so addressed to the member, or when it is e-mailed to the member at his or her designated e-mail address.

Section 9.4. Quorum. The presence at a meeting, in person or by proxy, of members entitled to cast at least 20% of the total votes of the membership on the specific actions shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be obtained. Except as otherwise provided in these Bylaws, the Declaration or the Articles of Incorporation or by law, a majority vote of those entitled to vote and present at a meeting at which a quorum is present shall be necessary to transact any business entitled to be transacted by the members.

Section 9.5. Proxies. At all meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing, dated and filed with the secretary of the Association before the start of the meeting. Every proxy shall be revocable (by giving notice of revocation) and shall automatically cease to be effective, if not sooner terminated by its terms or revoked, upon the expiration of eleven (11) months from the date of its issuance or upon conveyance by the member of his or her Unit, whichever event shall occur first.

Section 9.6. Conduct of Meetings. Meetings of the members shall be conducted as authorized by the Board of Directors. Meetings of the members shall not be required to be conducted in accordance with Roberts Rules of Order unless specified by the Board of Directors for the specific meeting of the members.

ARTICLE X OFFICERS AND THEIR DUTIES

Section 10.1. Enumeration of Offices. The officers of the Association shall be a president, a vice-president, a secretary and a treasurer. The president and vice president shall be elected from among the members of the Board of Directors. The Association may have such other officers as the Board of Directors may from time to time elect.

Section 10.2. Election of Officers. Initially, the officers shall be elected by the Board of Directors named in the Articles of Incorporation at the first meeting of that body, to serve at the pleasure of the Board until the first annual meeting of the Board and until their successors are duly elected and qualified or until their earlier resignation or removal.

At the first and each subsequent annual meeting of the Board of Directors, the newly elected Board shall elect officers to serve at the pleasure of the Board until the next annual

meeting of the Board and until their successors are duly elected and qualified or until their earlier resignation or removal.

An officer shall be deemed qualified when he or she enters upon the duties of the office to which he or she has been elected or appointed and furnishes any bond required by the Board of Directors or these Bylaws; but the Board of Directors may also require of such person his or her written acceptance and promise faithfully to discharge the duties of such office.

Section 10.3. Special Appointments. The Board of Directors may appoint such other officers and agents as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties consistent with these Bylaws as the Board may, from time to time, determine.

Section 10.4. Resignation and Removal. Any officer may be removed from office by the Board of Directors whenever, in the Board's judgment, the best interests of the Association will be served thereby. Any officer may resign at any time by giving written notice to the Board (which may be delivered to the president or the secretary). Such resignation shall take effect on the date of receipt of such notice by the Board or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 10.5. Vacancies. A vacancy in any office may be filled by the Board of Directors at any time. The officer elected to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 10.6. Multiple Offices. Any two (2) or more offices may be held by the same person.

Section 10.7. Duties. The duties of the officers are as follows:

President. The president shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the affairs and officers of the Association. He or she shall preside at all meetings of the membership and at all meetings of the Board of Directors. He or she shall be a non-voting *ex officio* member of all standing committees (and may also be a voting member of any such committee, in the capacity of an official appointee, as the case may be) and shall have the general powers and duties of management usually vested in the office of president and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

Vice President. The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties and have such other powers as may be prescribed by the Board of Directors.

Secretary. The secretary shall record the votes and keep the minutes and resolutions of all meetings and proceedings of the Board of Directors and of the members in a minute book, shall keep the corporate seal, if any, of the Association and affix it on

all papers required to have the seal affixed thereto, shall serve notice of meetings of the board and of the members, shall keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties, and have such other powers as may be prescribed by the Board of Directors or usually vested in the office of secretary.

Treasurer. The treasurer shall have responsibility for the safekeeping of the funds of the Association, shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Association and such other books of account and accounting records as may be appropriate, and shall perform such other duties and have such other powers as may be prescribed by the Board of Directors or usually vested in the office of treasurer. The books of account and accounting records shall at all reasonable times be open to inspection by any director.

Section 10.8. Compensation. Officers of the Association shall not receive any compensation or salary for their services, but may be reimbursed for their reasonable out-of-pocket expenses incurred in the performance of the duties of their offices.

ARTICLE XI ASSESSMENTS AND BUDGETS

Section 11.1. Purpose. The assessments (including, without limitation, annual or monthly assessments, special assessments and Special Unit Expenses) levied by the Association shall be used to provide funds to enable the Association to exercise the powers, maintain the improvements and render the services provided for in these Bylaws, the Declaration and the Articles of Incorporation.

Section 11.2. Provisions Governing Assessments. Assessments shall be levied against and collected from the members in the manner provided in the Declaration and any applicable law.

Section 11.3. Annual Operating Budget. The Board of Directors shall prepare and adopt an annual budget covering the estimated costs of operating and administering the Garage Condominium Project during the following fiscal year and determine the level of assessments. The Board shall cause the budget and notice of assessments to be levied against each Unit for the following fiscal year to be delivered to each member at least thirty (30) days prior to the beginning of the Association's fiscal year, but in all events a copy of the annual budget shall be made available, within 30 days after adoption, to each member of the Association upon the request of such member.

Section 11.4. Rent Upon Foreclosure. In the event the Association forecloses on a lien for unpaid assessments, the Owner of the Unit shall be required to pay a reasonable fair market rental to the Association for the Unit (as determined by the Board) and the Association shall be entitled to the appointment of a receiver to collect the same.

ARTICLE XII BOOKS AND RECORDS

Section 12.1. Records and Inspection Rights. The Board shall cause to be kept at such place as the Board may determine current copies of the Declaration, the Articles of Incorporation of the Association, these Bylaws, any Rules and Regulations, and other rules concerning the Condominium Project, as well as records of minutes of the meetings of the Board, minutes of the meetings of the members, names of the members, and detailed and accurate records of the receipts and expenditures of the Association. With the exception of records that may be privileged or confidential information, all Association records, including receipts and expenditures and any vouchers authorizing payments, shall be available for examination by the Owners and by holders, insurers and guarantors of first mortgages secured by Units, for lawful purposes, upon reasonable notice and during normal business hours. Separate accounts shall be maintained for each Unit setting forth the amount of the assessments against the Unit, the date when due, the amount paid thereon and the balance remaining unpaid.

Section 12.2. Financial Statements. The Association shall furnish each Owner with an annual financial statement of the Association, consisting of at least a balance sheet and income statement, within 120 days after the end of each fiscal year of the Association. Such financial statement shall be prepared by an independent certified public accountant and, if required by the Board, shall be prepared on an audited basis. The Association shall make a copy of the financial statement available to any holders, insurers and guarantors of first mortgages secured by Units upon submission to the Association of a written request for it.

ARTICLE XIII CORPORATE SEAL

If adopted by the Board of Directors, the Association shall have a corporate seal in a circular form having inscribed thereon the name of the Association and the words "Corporate Seal--Kansas". The corporate seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise attached.

ARTICLE XIV GENERAL PROVISIONS

Section 14.1. Depositories and Checks. The moneys of the Association shall be deposited in such banks or financial institutions and shall be drawn out by checks signed in such manner as may be provided by resolution adopted by the Board of Directors from time to time.

Section 14.2. Certain Loans Prohibited. The Association shall not make any loan to any officer or director of the Association.

Section 14.3. Absence of Personal Liability. The directors, officers and members of the Association shall not be individually or personally liable for the debts, liabilities or obligations of the Association.

Section 14.4. Indemnification.

(a) Indemnification and Advancement of Expenses. The directors and officers of the Association shall be indemnified to the maximum extent permitted by law. Expenses incurred by a director or officer of the Association in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it is ultimately determined that the director or officer is not entitled to be indemnified by the Association as authorized by the Kansas General Corporation Code. The foregoing right of indemnification and advancement of expenses shall in no way be exclusive of any other rights of indemnification and advancement of expenses to which any such director or officer may be entitled by agreement, vote of members or of disinterested directors, or otherwise.

(b) Continuation of Rights. All rights of indemnification and advancement of expenses under these Bylaws and under the Kansas General Corporation Code shall continue as to a person who has ceased to be an officer or director and shall inure to the benefit of the heirs, executors and administrators of such a director or officer.

(c) Indemnification Insurance. The Association may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Association against any such expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under the Kansas General Corporation Code.

ARTICLE XV AMENDMENT

Subject to any provisions of the Declaration regarding special requirements for adoption of certain amendments to these Bylaws, these Bylaws may from time to time be altered, amended, or repealed, only by a two-thirds (2/3rd) vote of the members of the Association entitled to vote who are present, in person or by proxy, at a meeting at which a quorum is present, in person or by proxy. No modification or amendment to these Bylaws shall be valid unless set forth in an amendment to the Declaration and such amendment is duly recorded. Notwithstanding the foregoing, these Bylaws may not be amended in any manner that would cause the provisions hereof to conflict with any of the lawful provisions of the Declaration or the Articles of Incorporation or conflict with any applicable law.

ARTICLE XVI CONFLICT

In the case of any conflict between any lawful provision of the Articles of Incorporation of the Association and these Bylaws, the Articles of Incorporation shall control. In the case of any conflict between any lawful provision of the Declaration and these Bylaws, the Declaration shall control. In the case of any conflict between these Bylaws and any applicable statute, the applicable statute shall control.

ARTICLE XVII FISCAL YEAR

The Board of Directors shall have power to fix and from time to time change the fiscal year of the Association. In the absence of action by the Board of Directors, the fiscal year of the Association shall end each year on the date which the Association treated as the close of its first fiscal year, until such time, if any, as the fiscal year shall be changed by the Board of Directors.

ARTICLE XVIII WAIVER OF NOTICE

Whenever any notice is required to be given under the provisions of the statutes of Kansas, or of the Articles of Incorporation or of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the members, directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the Articles of Incorporation or these Bylaws.

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