



DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
AND
PARTY WALL AGREEMENT

LOTUS TOWNHOMES

This Declaration of Covenants, Conditions, Restrictions and Easements and Party Wall Agreement is made by W. E. Dinneen, Inc., a Wyoming corporation ("Declarant").

RECITALS

The Declarant is the owner of that certain real property located in Cheyenne, Laramie County, Wyoming, and described on Exhibit A attached hereto and incorporated herein by this reference ("Property").

The Declarant intends to construct semi-attached Dwelling Units on the Property to be known as the Lotus Townhomes, as shown on Exhibit B attached hereto and incorporated herein by this reference.

With this Declaration, the Declarant sets out covenants, conditions, restrictions, easements and other provisions with respect to the use, occupancy and enjoyment of the Property and the Dwelling Units constructed on the Property.

NOW THEREFORE, to further the general purposes herein expressed, the Declarant does hereby publish and declare that the Property, from and after the date of this Declaration is recorded in the official real estate records in and for Laramie County, Wyoming, shall be owned, held, conveyed, encumbered, improved, used, occupied and enjoyed subject to the provisions set out in this Declaration. The covenants, conditions, restrictions, easements and other provisions set out in this Declaration shall (i) run with the Property at law and as an equitable servitude, (ii) bind any Person having or acquiring any right, title or interest in any portion of the Property, (iii) inure to the benefit of and be binding upon every part of the Property and every interest therein, and (iv) inure to the benefit of and be binding upon and be enforceable by the Declarant and its successors in interest and assigns, and the Owners and their respective heirs, personal representatives, executors, administrators, devisees, successors and assigns.

ARTICLE I. DEFINITIONS

In addition to the terms defined above and terms defined in specific provisions of this Declaration, unless the context clearly indicates otherwise the following terms when capitalized shall have the meaning given:

A. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Homeowner Association.



B. "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Homeowner Association to maintain, repair, replace (as necessary) and manage the Common Facilities, and perform duties and obligations of the Homeowner Association pursuant to the Declaration.

C. "Common Facilities" (or "Common Facility") shall mean and refer to any improvement, equipment or system which serves more than one Lot, including specifically the Common Sanitary Sewer line, retaining wall, sidewalks, curbs and gutters, Landscaping and any irrigation system for Landscaping, signs, and the U.S. Mail box. The Common Facilities are not owned by the Homeowner Association.

D. "Common Sanitary Sewer" shall mean and refer to the pipeline running under and across the middle portion of the Property from east to west, connecting the sewer lines serving Lots 1 through 10 to the city sewer line in O'Neil Avenue.

E. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements and Party Wall Agreement, including any amendments hereto and also including the Plat of the Property recorded in the office of the clerk and recorder of Laramie County, Wyoming.

F. "Duplex" shall mean and refer to a single detached building designed and constructed on two contiguous Lots for two semi-attached Dwelling Units, each situated on an individual Lot.

G. "Homeowner Association" or "HOA" shall mean and refer to the Lotus Homeowners Association, a nonprofit corporation, incorporated under the laws of the State of Wyoming for the purpose of exercising the functions set out in the Declaration.

H. "HOA Documents" shall mean and refer to any documents, however denominated, which are duly adopted for the purpose of regulating and managing the Homeowner Association, including its articles of incorporation, bylaws, and rules and regulations, including any amendment to those documents.

I. "Landscaping" shall mean and refer to lawn, bushes, trees, shrubs, flowers, grass and other vegetation or medium (such as rock and mulch) originally planted or placed on the Property by the Declarant, or thereafter planted or placed on the Property by the Homeowner Association.

J. "Lot" shall mean and refer to any lot designated on the Plat. The Property is divided into eleven Lots; each Lot is assigned a number according to the Plat (Lots 1 through 11, Block 1, Nishigawa Annex). Each Lot is a separate fee simple estate, with all rights, appurtenances and privileges now or hereafter belonging or in any way pertaining to such Lot. The intent of the Declarant is to construct Dwelling Units on Lots 1 through 10. The term "Lot"



shall also include any Dwelling Unit constructed and situated on such Lot.

K. "Lot 11" shall mean and refer to Lot 11, Block 1, Nishigawa Annex. Lot 11 shall be owned by the Owners of Lots 9 and 10 in equal undivided interests, as tenants in common. Any conveyance of Lot 9 or Lot 10 shall expressly include the Owner's undivided interest in Lot 11. No Dwelling Unit shall be constructed on Lot 11.

L. "Occupant" shall mean and refer to the Owner or other Person residing in a Dwelling Unit.

M. "Owner" shall mean and refer to the Person who owns fee title to a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation. The Declarant is the Owner of every Lot until that Lot is transferred and conveyed to another Person.

N. "Party Wall" shall mean and refer to the common party wall shared by the two Dwelling Units in any Duplex.

O. "Period of Declarant Control" shall mean and refer to the period of time commencing with the date the Declaration is recorded in the real estate records of Laramie County, Wyoming, and ending on date that is the first anniversary of such recording date or the date that the Declarant conveys the last (tenth) Dwelling Unit to an Owner, whichever date occurs sooner.

P. "Person" shall mean and refer to a natural person, a corporation, a partnership, a limited liability company, an association, a trust, or any other entity or combination thereof.

Q. "Plat" shall mean and refer to the plat of the Property, recorded October 19, 2018, in Book 11, Page 75, in the office of the clerk and recorder in and for Laramie County, Wyoming, as it may be amended, supplemented or restated from time-to-time.

R. "Unit" or "Dwelling Unit" shall mean and refer to one semi-attached dwelling unit situated and constructed on one Lot. The term "Lot" shall include the Dwelling Unit constructed and situated on such Lot.

S. "Utility Line" or "Utility Lines" shall mean and refer to any and all utility lines, wires, conduits and pipes located on or under the Property, and serving one or more Lots, including water lines, sewer lines, gas lines, electric lines, data and communication lines, and the Common Sanitary Sewer line.

ARTICLE II. OWNERSHIP OF LOTS

1. More than One Person. If two or more Persons together own fee title to a Lot, such Persons collectively shall be regarded as the Owner, and each such Person shall be jointly and



severally liable to perform all duties, observe all responsibilities and pay all obligations of the Owner with respect to their Lot. Each group of Persons comprising the Owner of a Lot shall be deemed a single Owner, and any one of such Persons may act for and bind all of the other Persons comprising such Owner in all matters relating to the Declaration, and the HOA Documents.

2. Agreement Among Persons as Owner. The Persons, if two or more, comprising the Owner of a Lot may agree among themselves how to share the rights and obligations of such ownership as among themselves, but no such agreement shall affect the right of the Owners of the other Lots to deal with any of such Persons in matters relating to the Declaration, and the HOA Documents, or limit their joint and several liability to the Owners of the other Lots to perform and observe all the duties and responsibilities of such Owner.

ARTICLE III. EASEMENTS

1. Declarant creates the following easements:

A. *Easement for Common Facilities.* A perpetual easement is hereby granted and established upon, across, over, under and through that portion of every Lot for the benefit of the other Lots, as necessary for installing, inspecting, maintaining, repairing, restoring and replacing the Common Facilities (see Article IV).

B. *Easement for Utility Lines.* A perpetual easement is hereby granted and established upon, across, over, under and through that portion of every Lot for the benefit of the other Lots, as necessary for installing, inspecting, maintaining, repairing, restoring and replacing the Utility Lines (see Article V). In no event, however, will an easement for any subsequently installed Utility Lines be deemed granted or established if such utility easement is materially detrimental to or interferes with the reasonable use and enjoyment of the Lots burdened by such utility easement.

C. *Easement for Party Walls.* Perpetual, reciprocal easements are hereby granted and established in and to that part of every Owner's Lot on which a Party Wall is located for the benefit of the other Owner, for party wall purposes, including inspection, maintenance and repair of the Party Wall (see Article VI).

D. *Easement for Maintenance.* A perpetual easement is hereby granted and established upon, across, over, under and through every Lot for the benefit of the other Lots, as necessary to inspect, repair, restore and maintain the other Lots, provided, however, that such easement shall be limited to those activities that cannot reasonably be performed from or on the Lot benefitting from such easement.

E. *Easement for Lateral and Subjacent Support.* A perpetual easement is hereby granted and established over every Lot for the benefit of the other Lots, as necessary for lateral



and subjacent support for the Dwelling Unit constructed on the other Lots.

F. *Other Easements.* Other easements are created in the Declaration (i) for the irrigation system for Landscaping (see Article IV, Section 4), (ii) for possible encroachments of Party Walls (see Article VI, Section 4), and (iii) for ingress / egress over the two driveways adjoining the common driveway (see Article VII, Section 5). Easements are also created in the Plat for access, drainage and utility maintenance.

2. *Non-Interference.* No Owner or Occupant of a Lot shall permit any act or omission, or permit any condition to exist, that would unreasonably burden, disturb, impair, impede, hinder or prevent proper and lawful exercise by any other Owner or Occupant of an easement mentioned under this Article. Without limiting the generality of the previous sentence, no structure, planting, dirt or debris shall be placed or permitted to remain if such property may change, damage or interfere with the direction or flow of drainage channels away from the Property and toward City of Cheyenne storm sewer system.

ARTICLE IV. COMMON FACILITIES

1. *Use of Common Facilities.* The Owners shall have the right to the full use of the Common Facilities, subject to any conditions and limitations set out in the Declaration and the HOA Documents.

2. *Maintenance of Common Facilities.* The Homeowner Association shall provide for all necessary care, maintenance, management, inspection, repair and replacement of the Common Facilities on behalf of the Owners. Specifically, the HOA shall be responsible to:

- (i) keep all of the Common Facilities in a state of good operation and repair;
- (ii) keep the Landscaping in a healthy, neat and clean condition; and
- (iii) shovel and remove snow from perimeter and interior sidewalks.

The Homeowner Association shall also shovel and remove snow from sidewalks and driveways which are not Common Facilities so as to maintain reasonably safe access to Dwelling Units in snowy weather, subject to any conditions and limitations set out in the HOA Documents.

All costs incurred by the HOA to maintain, manage, inspect, repair and replace the Common Facilities, and to carry out its responsibilities as set out above, are Common Expenses, unless necessitated by the willful or negligent act of an Owner, in which case such costs may be charged to the Owner and recovered as an extraordinary assessment (see Article X, Section 4).

3. *Easement for Common Facilities.* As granted in Article III, the Owners have an easement upon, across, over, under and through that portion of every Lot for the benefit of the



other Lots, as necessary for installing, inspecting, maintaining, repairing, restoring and replacing the Common Facilities. Without limiting the generality of this easement created for Common Facilities, there is also created in Section 4 of this Article a more specific easement on Lot 9 for control equipment of the irrigation system for Landscaping.

4. *Irrigation System.* The irrigation system for the Landscaping (in this Article “the irrigation system”) is a Common Facility, and as such the HOA shall be responsible to repair the irrigation system and keep it in good condition. The irrigation system shall be turned on in the spring when safe to do so without the risk of water pipes bursting due to freezing temperatures, and shall be turned off and blown out in the fall to prevent freezing of water pipes. The irrigation system shall be used and operated in such a manner as to maintain the Landscaping in a healthy condition. The cost of operating and maintaining the irrigation system is a Common Expense.

A. *Location of Control Equipment.* The control equipment for the irrigation system shall be located on Lot 9, in or immediately outside the Owner’s garage, to the extent practicable. The term “control equipment for the irrigation system” shall include, without limitation, the controller, the water supply line connection, sub-meter and shutoff valve, anti-siphon valves and blowout value.

B. *Easement for Control Equipment.* The Declarant hereby establishes and grants an easement in, on, over, under and across that portion of Lot 9 necessary for installation, operation, inspection, maintenance, repair and replacement of control equipment for the irrigation system for the benefit of all the Owners.

C. *Water Supply for Irrigation System.* The water supply for the irrigation system shall come through the Cheyenne Board of Public Utilities water meter and account in the name of the Owner of Lot 9. Water consumption for the irrigation system shall be measured periodically through a sub-meter installed at the point where the irrigation system connects to the Lot 9 water supply. The HOA shall reimburse the Owner of Lot 9 for the actual cost of the water consumed by the irrigation system as a Common Expense.

D. *Budget and Payment for the Cost of Water.* As part of its annual budget, the Homeowner Association shall include a separate line item for the estimated annual cost of water for the irrigation system for the ensuing calendar year. Periodic payments, no less often than quarterly, shall be made by the HOA to the Owner of Lot 9 as the parties shall agree. The Owner of Lot 9 may request payments from the HOA as either (i) reimbursements based on the actual cost of irrigation water used for irrigation as measured through the sub-meter, or (ii) payments based on the estimated cost of water used for irrigation, with occasional adjustments to “true-up” the estimated cost with the actual cost of irrigation water used as measured through the sub-meter.



ARTICLE V. UTILITY LINES

1. Ownership and Maintenance of Utility Lines. Any Utility Line now or hereafter located on the Property and used solely to supply a utility service to one Lot, to the extent not owned by the supplying utility company, is owned by the Owner of the Lot to which the utility service is provided, and shall be kept in a condition of good order and repair by such Owner. Utility Lines which are sanitary sewer lines are owned by the Owner of each Lot to which sanitary sewer service is provided, from the point where such line leaves the Dwelling Unit to the point where it attaches to the Common Sanitary Sewer line.

The costs incurred to inspect, maintain, repair or replace a Utility Line shall be paid for by the owner of such Utility Line as determined in the previous paragraph of this Section. Such work shall be performed in such a manner as to cause the least disturbance to the other Lots as may be reasonably practicable. After any inspection, maintenance, repair, restoration or replacement of a Utility Line, the Owner causing such work to be done shall be responsible for restoring the surface of the other Lots to its condition immediately prior to the performance of such work.

2. Terms of Use. In the event that the Owner of a Lot causes any addition, inspection, maintenance, repair or replacement of a Utility Line within the scope of the Owner's duties set out in Section 1 of this Article V, such Owner shall do the following:

- (i) give reasonable prior notice of such work to the Owners any other Lots affected by such work (except in the case where immediate action is required and it would not be reasonable to do so under the circumstances);
- (ii) make diligent, good faith efforts to reach an agreement with the Owners of such other Lots as to the nature, scope, timing and other details of such work;
- (iii) cause such activities to be performed in a workmanlike manner, and diligently complete the work following commencement;
- (iv) promptly following completion of such activities, cause the easement area to be returned to substantially the condition that existed prior to such activities; and
- (v) indemnify the other Owners against all losses and expenses arising out of damage to the other Lots, or any mechanic's liens and other claims arising out of such activities, but excluding loss of use, inconvenience and similar temporary and normal losses incurred by the other Owners so long as the work is performed in a timely and reasonable manner.

3. Easement for Utility Lines. As granted in Article III, the Owners have an easement upon, across, over, under and through that portion of every Lot for purposes of installation,



existence, inspection, maintenance, repair and replacement of all Utility Lines, which will benefit the Lot served by Utility Lines and burden those Lots upon which Utility Lines are located. In no event, however, will an easement for any subsequently installed Utility Lines be deemed established or granted if such utility easement is materially detrimental to or interferes with the reasonable use and enjoyment of the Lots burdened by such utility easement.

ARTICLE VI. PARTY WALLS

1. Reciprocal Easements. Each Unit shares a Party Wall with the other Unit in a Duplex. It is intended that the centerline of a Party Wall will be located on the common boundary line of the two Lots on which the Duplex is situated. The Party Wall shall always remain in the same location as when erected. As granted in Article III, each Owner shall have a perpetual reciprocal easement in and to that part of the other Owner's Lot on which the Party Wall is located, for Party Wall purposes, including inspection, maintenance and repair of the Party Wall.

2. Use and Maintenance of Party Walls. Owners shall have the right to make use of their Party Wall, provided such use shall not alter, impair, change, compromise, weaken, damage, degrade or destroy the structural support and integrity of the Party Wall. Owners shall keep their Party Wall in good condition, and shall perform such inspection, maintenance and repair as may be necessary to keep the Party Wall in good condition. Any costs of inspection, maintenance and repair of the Party Wall is to be borne equally by its Owners.

3. Damage to Party Walls. In the event of damage to or destruction of the Party Wall, the Owners shall repair or rebuild the Party Wall to its previous location and condition at the Owners' joint expense, and such Owners shall have the right to the full use of their Party Wall so repaired and rebuilt. Notwithstanding anything to the contrary herein, if the negligence of an Owner or Occupant, or their agents shall cause damage to or destruction of the Party Wall, such Owner shall bear the costs to repair or rebuild the Party Wall.

4. Easement for Encroachments. Construction, shifting and settling may cause encroachments of a Unit onto the Lot on which the other Unit is located, or onto the other Unit. Therefore, the Declarant hereby establishes and grants an easement for encroachments resulting from the initial construction of any Unit, or arising thereafter as a result of settling or shifting of any Unit. In the event a Unit shall be damaged, or partially or totally destroyed, for any reason, and then repaired or rebuilt, encroachments of parts of the rebuilt Unit onto the Lot on which the other Unit is or was located, or onto the other Unit, due to such repairing or rebuilding, shall be permitted. An easement for an encroachment described in this section shall continue for so long as such encroachment exists and shall burden the Lot encroached upon and benefit the other Lot. In no event, however, shall an easement for any encroachment described in this Section be deemed established or granted if such encroachment is materially detrimental to or interferes with the reasonable use and enjoyment of the Lot burdened by such encroachment, or if such encroachment occurred due to willful and knowing misconduct on the part of, or with the knowledge and consent of, the Owner claiming the benefit of such easement.



ARTICLE VII. COMMON DRIVEWAY

1. Lot 11 as Common Driveway. The Owners of Lot 9 and Lot 10, as co-owners of Lot 11, have the right to use Lot 11 subject to the mutual ingress / egress, drainage, maintenance and utility easement granted according to the Plat.

2. Use of Common Driveway. The Occupants of Lots 9 and 10 shall share use of Lot 11 (in this Article sometimes "the common driveway") with each other for driveway purposes. Except for the retaining wall along its east border, the common driveway shall always be an improved surface, whether asphalt, concrete, brick pavers or another material suitable for driveway purposes. Such Occupants shall not unreasonably block, impair, hinder or prevent shared use of the common driveway, nor permit any condition to exist that would unreasonably block, impair, hinder or prevent shared use of the common driveway, at any time.

3. Maintenance of Common Driveway. The common driveway shall be kept in good condition by its co-owners. Inspection, maintenance and repair costs incurred for the common driveway shall be paid equally by its co-owners, except that the HOA is responsible to shovel and remove snow from the common driveway. The retaining wall along the east border of the common driveway is a Common Facility, and shall be maintained by the HOA (see Article IV).

4. Damage to Common Driveway. In the event of damage to or destruction of the common driveway, its co-owners shall repair or rebuild the common driveway at their joint expense, provided, however, that if the damage to or destruction of the common driveway is caused by the negligence of one Owner or Occupant, or their agents, then such Owner shall bear the costs to repair or rebuild the common driveway.

5. Easement over Adjoining Driveways. The Declarant hereby establishes and grants mutual and reciprocal easements for ingress and egress on, over and across that portion of the driveways on Lots 9 and 10 which adjoin the common driveway for the benefit of the Owners and Occupants of Lots 9 and 10. The Owner or Occupant of either of the said Lots shall not unduly interfere or permit undue interference with reasonable use of the mutual easements created by this paragraph.

ARTICLE VIII. MAINTENANCE AND SERVICE RESPONSIBILITY

1. Maintenance of Lots and Dwelling Units; Outdoor Lighting. Except as provided in Article IV with respect to Common Facilities, the Owner of each Lot shall keep and maintain the Lot in a condition of good order and repair at all times. Owners shall have the duty to inspect, maintain and repair the Dwelling Unit and all other improvements on the Lot, and keep the Unit and such other improvements in good condition at all times. This duty to maintain and repair extends to all exterior features of a Unit, including without limitation, paint, roof, exterior doors, windows, trim, brick, steel siding and fascia, down spouts, gutters, fences, patio and other improvements. All maintenance, repair and replacement of surface materials visible from the



exterior of a Unit, including all lighting fixtures, shall keep and respect the existing architectural style and design of the exterior of all Units, and shall be of substantially the same color, material and quality as existed immediately prior to such maintenance, repair or replacement.

Owners are deemed to understand that lighting fixtures attached to the exterior of Units are designed and installed to collectively provide the appropriate amount of light throughout the Property from dusk to dawn. To consistently provide such light, Owners shall have the duty to inspect, maintain and replace (as necessary) the lighting fixtures as originally attached to their Units, and keep such fixtures in good and operating condition.

2. Architectural Control. Owners shall not make any change, alteration or addition to a Dwelling Unit, including fences, which changes the architectural style and design on the exterior of the Unit as originally constructed, unless the Board shall have approved such change, alteration or addition. To gain approval of an exterior change, alteration or addition, the Owner seeking such approval shall submit an application to the Board showing the nature, kind, shape, dimension, location and materials of the proposed change, alteration or addition, and provide notice of the application for approval to all Owners. The Board shall rule on the application, either granting or denying approval, after notice and opportunity to be heard as provided in the Declaration and HOA Documents.

The Board may appoint an architectural advisory committee in accordance with the Homeowner Association bylaws to review and make recommendations to the Board regarding applications for change, alteration or addition.

ARTICLE IX. HOMEOWNER ASSOCIATION

1. Nonprofit. The Homeowner Association is not organized and shall not be operated for the purpose of pecuniary profit. No part of the earnings of the HOA shall inure to the benefit of or be distributed to the Owners, the Board or officers of the HOA, or other private persons, except that the HOA shall be authorized and empowered to pay reasonable compensation for services rendered to it and to make payments and distributions in furtherance of its purposes.

2. Purpose. Acting on behalf of the Owners, the purpose of the Homeowner Association is to:

(i) manage and regulate the business of and relations among the Owners with respect to their interests in the Property according to the duties and authorities set out in the Declaration and the HOA Documents;

(ii) keep the Common Facilities in a condition of good order and repair, and perform such maintenance, repair, inspection, restoration and replacement as may be necessary to keep the Common Facilities in such condition; and



(iii) perform other necessary services for the Owners' collective benefit, enjoyment, safety and security as shall be determined and authorized by the Board.

3. Membership. By purchasing a Lot, an Owner consents to become a member of the Homeowner Association for no additional consideration. HOA membership is appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot is the sole qualification for membership in the Homeowner Association. The membership of the Homeowner Association shall at all times consist exclusively of the Owners.

An Owner remains a member of the Homeowner Association for the period of ownership. Upon transfer of a Lot by sale or by operation of law, the Owner's HOA membership immediately terminates and transfers to the purchaser.

4. Voting. One equal vote in the Homeowner Association is allocated to Lots 1 through 10. The Owners of each of those ten Lots shall exercise the right to vote on Homeowner Association matters pursuant to the HOA Documents.

5. Powers. The Homeowner Association shall have the power to:

- (i) adopt and amend bylaws, rules and regulations, and policies and procedures;
- (ii) adopt and amend budgets for revenues, expenditures and reserves, and determine assessments for Common Expenses;
- (iii) collect assessments for Common Expenses from Owners;
- (iv) hire and terminate employees, independent contractors and management companies, provided, however, that any contract for the services of independent contractors and management companies shall not be for a term in excess of three years and shall provide that the contract may be terminated on 60 days' written notice, with or without cause, and without payment of any termination fee;
- (v) institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Property;
- (vi) make contracts and incur liabilities;
- (vii) regulate the use, maintenance, repair, replacement and modification of Common Facilities;
- (viii) cause additional improvements to be made as a part of the Common Facilities;



(ix) grant easements, leases, licenses and concessions through or over the Property;

(x) impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Homeowner Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration and HOA Documents;

(xi) impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;

(xii) provide for the indemnification of its officers and the Board, and maintain directors' and officers' liability insurance;

(xiii) exercise any other powers conferred by the Declaration or the HOA Documents;

(xiv) exercise all other powers that may be exercised in Wyoming by legal entities of the same type as the Homeowner Association; and

(xv) exercise any other powers necessary and proper for the governance and operation of the Homeowner Association.

6. Bylaws. No later than the date the first Lot is conveyed to a purchaser, bylaws shall be duly adopted by the Homeowner Association. The initial bylaws shall:

(i) state the number of persons to serve as members of the Board of Directors of the Homeowner Association;

(ii) specify and describe officers of the Homeowner Association, including a president, treasurer and secretary;

(iii) state qualifications, powers and duties, and terms of office of, and manner of electing and removing, members of the Board and officers, and the manner of filling vacancies;

(iv) specify and describe a method for establishing standing and special committees of the Board;

(v) provide for regular meetings of the Board and a process for calling special meetings of the Board, and define a quorum for the Board to lawfully conduct business;



(vi) provide for regular annual meetings of the Owners in December of each year and the process for calling special meetings of the Owners, and define a quorum for the Owners to lawfully conduct their meetings (except where a quorum is defined by the Declaration for meetings of Owners called for the purpose of ratifying annual or supplemental assessments, or approving special assessments (see Article X, Section 3, Paragraph E);

(vii) provide for voting by the Owners, including voting by proxy;

(viii) establish requirements concerning the manner in which notices of meetings and other matters affecting the Property may be given to Owners by the Homeowner Association, to Owners by other Owners, or to the Homeowner Association by Owners; and

(ix) specify and describe a method for amending the bylaws.

The initial Homeowner Association bylaws may include other provisions which the Board deems necessary and appropriate for bylaws.

7. Appointment of Directors by Declarant. Notwithstanding any other term, condition or provision of the Declaration or the HOA Documents, the Declarant shall have the sole and absolute right to appoint the members of the Board of Directors during the Period of Declarant Control. The Declarant may waive and release its right to appoint the members of the Board of Directors at any time upon written notice to the Owners. Thereafter the members of the Board of Directors shall be elected by the Owners pursuant to and in accordance with the bylaws.

8. Other HOA Documents. No later than the date of termination of the Period of Declarant Control, the Homeowner Association shall adopt policies, procedures, or rules and regulations setting out standards and practices for how the Homeowner Association will:

(i) keep financial records and permanent records;

(ii) collect unpaid assessments, and establish the interest rate and any additional charges for late payments of assessments or installments thereof;

(iii) handle conflicts of interest involving board directors;

(iv) conduct meetings;

(v) enforce covenants, rules and regulations, including notice and hearing procedures and a schedule of fines;

(vi) respond to requests by Owners to inspect Homeowner Association records;



- (vii) invest reserve funds;
- (viii) regulate pets owned by Occupants and kept on the Property;
- (ix) regulate leasing of Units and conducting home-based business in Units by Owners;
- (x) regulate antennas and satellite dishes installed and used on the Property;
- (xi) establish criteria for buying any general liability insurance, or directors and officers liability insurance;
- (xii) establish and recommend to the Owners a routine inspection and maintenance schedule for their Units, and identify which tasks, if any, might best be performed in a cost-effective manner by the HOA for the Owners' collective benefit, for example annual inspections of roofs, and maintenance of certain parts of the fences;
- (xiii) handle disputes arising between the Homeowner Association and Owners, or involving one or more Owners or the Homeowner Association, and the Declarant, its architect or contractor, or the contractors, subcontractors or consultants of any of them; and
- (xiv) adopt and amend policies, procedures, and rules and regulations.

The Homeowner Association may from time-to-time adopt such other policies, procedures, or rules and regulations the Board deems necessary for good governance and best practices.

ARTICLE X. ASSESSMENT FOR COMMON EXPENSES

1. Covenant to Pay Assessments. Each Owner, by acceptance of the deed to a Dwelling Unit, whether or not it is expressed in such deed, covenants and agrees to pay the Homeowner Association all assessments for Common Expenses as provided in this Article.

2. Purpose and Use of Assessments. The Homeowner Association shall make and collect assessments for the purpose of providing funds for Common Expenses, which include ordinary and regular expenses to maintain the Common Facilities, periodic and scheduled expenses to protect, repair, maintain and replace the Common Facilities, and emergency or extraordinary expenses to protect, repair and replace the Common Facilities, as well as establishing and maintaining reserve funds for such expenses in amounts that the Board shall determine is prudent and desirable. Common Expenses also include expenditures made and liabilities incurred for the normal operations of the Homeowner Association, including insurance premiums, management fees, office costs, water, gas and electricity furnished to the Common Facilities, amounts



necessary to pay deficits or debts incurred by the Homeowner Association, and funds for any other purposes of the Homeowner Association as stated in the Declaration.

3. Periodic Assessments.

A. *Initial Annual Assessment.* Unless suspended by the Board as provided in this Paragraph "A", the initial assessment amount shall be One Hundred Dollars (\$100) per Unit, payable on the day of the first conveyance of a Dwelling Unit to an Owner, and continuing on the first day of each and every month thereafter until the annual assessment is determined as provided in Paragraph "B" of this Section. During the said period of time, the initial assessment amount due and payable by the Declarant shall be Fifty Dollars (\$50) per month for each completed Unit. At any time and from time-to-time until the annual assessment is determined as provided in Paragraph "B" of this Section, the Board may suspend the initial assessment.

B. *Annual Assessment.* Annual assessments determined under this Paragraph shall begin with the first calendar year immediately following the first conveyance of a Dwelling Unit to an Owner, and continue every calendar year thereafter. The Board shall determine the total amount of money required to be raised by assessment in the coming calendar year in order to pay the Common Expenses estimated to be incurred in such calendar year, pay any deficit from the prior calendar year, provide reasonable reserves for replacement and emergency costs, and provide a carryover reserve for the following calendar year. To determine such an annual assessment amount, the Board shall prepare and adopt an annual budget showing, in reasonable detail, the various items proposed to be covered by the budget and the estimated costs assigned to such items, less the estimated income and other funds which will be available in that calendar year, leaving the estimated total amount of money required to be raised by annual assessment. Notice of the annual budget as adopted by the Board shall be given to the Owners at least 30 days prior to commencement of each calendar year. The Owners shall consider ratification of the annual budget and assessment amount at their annual meeting. The total annual assessment amount as ratified by the Owners shall be levied and collected equally from the Owners of each Unit for such calendar year at a uniform rate for all Units, payable in equal monthly installments due on the first day of each month beginning January 1st and ending December 1st of the calendar year.

C. *Supplemental Assessment.* If the Board shall determine at any time or from time-to-time that the amount of the annual assessment described in Paragraph "B" of this Section is not adequate for the purpose of funding the normal obligations of the Homeowner Association for such calendar year, then it may propose a supplemental assessment for the purpose of providing additional funds for the remainder of such calendar year. The Board shall prepare and adopt a revised annual budget for such calendar year setting out the amount required to be raised by such a supplemental assessment, and set a date and time for a special meeting of the Owners to consider ratification of the revised budget and assessment amount. Notice of the supplemental budget as adopted by the Board, and the date and time of the special meeting to consider the supplemental budget and assessment shall be given to the Owners, who shall consider ratification



of the supplemental budget and assessment amount at a special meeting. The total supplemental assessment amount as ratified by the Owners shall be levied and collected equally from the Owners of each Unit for such period at a uniform rate for all Units, payable in equal monthly installments due on the first day of the month following ratification of the revised budget, and continuing the first day of each month for the remainder of the calendar year.

D. *Special Assessment.* The Board may recommend that a special assessment be levied for the purpose paying, in whole or in part, the cost to construct, reconstruct, repair or replace a Common Facility. The Board shall prepare and adopt a budget describing the Common Facility, the work likely involved in the project, and the estimated costs assigned to the project, less the estimated income and other funds which may be available for the project, leaving the estimated total amount of money required to be raised by special assessment. Notice of the Common Facility budget adopted and the special assessment recommended by the Board, and the date and time of the special meeting to consider the budget and special assessment shall be given to the Owners, who shall consider approving the Common Facility budget and special assessment amount at a special meeting. The total special assessment amount approved by the Owners shall be levied and collected equally from the Owners of each Unit, payable as provided in the resolution approving the special assessment, provided that any special assessment shall be collected in 12 months or less.

E. *Ratification of Periodic Assessments by Owners.* At an Owners' meeting called for the purpose of ratifying any annual or supplemental assessment, or approving a special assessment, and the related budgets, at least 70% of all Owners represented in person or by proxy shall constitute a quorum.

The annual budget or supplemental budget, and related assessment amount approved by the Board must be ratified by the affirmative votes of a majority of the Owners voting in person or by proxy at a meeting duly called where a quorum present. If the number of affirmative votes at such an Owners' meeting is not enough for ratification of an annual or supplemental budget and assessment amount, then the periodic budget and assessment amount last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget approved by the Board.

Any special assessment amount recommended by the Board must be approved by the affirmative votes of at least two-thirds (2/3) of the Owners voting in person or by proxy at a meeting duly called where a quorum present.

4. *Extraordinary Assessment.* If the need for repair of any Common Facility is caused by the willful or negligent act of an Owner, or by the willful or negligent act of any member of such Owner's family, or by a guest, invitee, employee, agent, contractor or subcontractor of such Owner or any tenant or member of a tenant's family, then any costs incurred by the Homeowner Association for repair of such Common Facility, plus an amount to be determined by the Board not to exceed twenty-five percent (25%) of the actual amount expended to recover overhead and



administrative costs incurred by the Homeowner Association, shall be charged to the such Owner and recovered as an extraordinary assessment. The determination of the willful or negligent act, and the amount of the Owner's liability therefore, shall be determined by the Board after notice to the Owner and the opportunity to be heard before the Board in connection therewith as provided in the Declaration and HOA Documents.

The Board may also make an extraordinary assessment against an Owner and the Owner's Unit to recover fees, fines or other amounts properly charged to any Owner as provided in the Declaration or HOA Documents.

An extraordinary assessment levied against one or more, but less than all Owners shall not be deemed to be periodic assessments and no ratification shall be required. An extraordinary assessment shall be due and payable in full, immediately upon the Board's adoption of the resolution imposing such assessment.

5. Interest, Late Charges and Collection Costs. Any assessment or installment thereof not fully paid within 30 days of the due date shall bear interest at a rate determined by the Board. In addition, the Board may assess charges for late payments of assessments or installments thereof. An Owner who fails to pay any assessment shall also be obligated to pay to the Homeowner Association, on demand, all costs and expenses incurred by the HOA in attempting to collect the delinquent amount, including reasonable attorney's fees.

6. Lien; Personal Obligation of Owners. All assessments and related interest, late charges and collection costs described in this Article shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made. Such assessments, interest, late charges and collection costs shall also be the personal obligation of the Owner of such Unit at the time each assessment becomes due. Assessments shall not be waived or otherwise avoided by non-use or abandonment of the Unit by its Owner. The personal obligation for past due assessments shall not shall not pass to successors in title to the Unit.

7. Money Judgement. An action at law by the Homeowner Association against a delinquent Owner to recover a money judgment for unpaid assessments, interest, late charges and collection costs may be commenced and pursued by the HOA without foreclosing or in any way waiving a lien arising under the Declaration.

ARTICLE XI. LIEN FOR ASSESSMENTS AND OTHER CHARGES

1. Lien. All assessments and related interest, late charges and collection costs described in Article X shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made. If an assessment is payable in installments, each installment is a lien from the time such installment becomes due.

The Homeowner Association shall also have a continuing lien upon the Unit of an Owner



for fees, fines or other amounts properly charged to such Owner pursuant to the Declaration, from the time such items become due.

Sale or transfer of any Unit shall not affect a lien arising under the Declaration.

2. Record Notice. Recording of the Declaration constitutes record notice and perfection of the lien claimed in this Article. No further recordation of any claim of lien arising under this Article is required.

3. Security Interest. For the purposes of this Article, "Security Interest" shall mean and refer to an interest in a Unit created by contract or conveyance which secures payment or performance of an obligation. The term includes a mortgage, contract for deed, land sales contract, lease intended as security, and any other consensual lien or title retention contract intended as security for an obligation. "First Security Interest" shall mean and refer to a Security Interest in a Unit prior to all other Security Interests except liens for real estate taxes and other governmental assessments or taxes against the Unit.

4. Subordination of Lien. A lien arising under the Declaration is prior to all other liens and encumbrances on a Unit except: (i) liens and encumbrances recorded before the recordation of the Declaration, (ii) liens for real estate taxes and other governmental assessments or taxes against the Unit, and (iii) a First Security Interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent. This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Homeowner Association.

5. Foreclosure. The Homeowner Association may foreclose its lien against the Unit and Lot pursuant to and in accordance with the foreclosure by advertisement and sale provisions of the Wyoming Statutes. The HOA Board of Directors shall authorize the commencement of a foreclosure against the Unit and Lot by majority vote of the Board. This Section does not prohibit the Homeowner Association from taking a deed in lieu of foreclosure.

6. Existence and Status of any Unpaid Assessments and Charges. Upon written request to the Homeowner Association by an Owner or the holder of a Security Interest in such Owner's Unit, the HOA shall provide a written certificate signed by an officer, setting out as of the date of its issuance: (i) the amount of all assessments levied against the subject Unit in the current year, and whether any such assessment or installment thereof is past due, (ii) the amount of any unpaid assessments with respect to the subject Unit, including late charges, interest, collection costs and attorney fees, resulting in a lien claimed on the subject Unit, and (iii) the amount of any other unpaid fees, fines or charges due under to the Declaration or HOA Documents resulting in a lien claimed on the subject Unit. Such a certificate by the HOA if properly executed and delivered shall be binding on the Homeowner Association as of the date of its issuance.



ARTICLE XII. RESTRICTIONS

1. Items Outside or on the Exterior of a Unit. An Owner or Occupant may install, maintain, enjoy, use or keep the items and things mentioned in this Section, observing the restrictions and conditions described.

A. *Antennas and Satellite Dishes.* Antennas and satellite dishes are permitted with exceptions. Provided that it meets all requirement in effect at the time of its installation, an Owner may install one antenna or satellite dish on the roof of the Unit without Board approval. A second otherwise complying antenna or satellite dish, or one installed other than on the roof, may be installed on the Unit or Lot only upon approval by the Board after notice and opportunity to be heard as provided in the Declaration and HOA Documents. No more than two otherwise complying antennas and satellite dishes shall be installed on a Unit or Lot at any time.

Any antenna or satellite dish installed on a Unit or Lot shall be placed as inconspicuously as possible, while still being able to receive a usable signal. The Board may adopt other conditions and limitations for antennas and satellite dishes placed on a Unit or Lot, as long as such requirements do not materially delay use, increase the cost of the service, or interfere with the quality of the signal. The Board may not impose an application fee for use of antennas and satellite dishes.

B. *Clotheslines.* Clotheslines are permitted only upon the outdoor deck or the patio of a Unit.

C. *Fences.* Fences are permitted only along existing fence lines as originally determined and constructed by the Declarant. Maintenance, repair and replacement of fencing shall match the height, style, quality and materials as existed immediately prior to such maintenance, repair or replacement. Repairs and maintenance of fences, and proposed changes, alterations or additions to fences, are subject to Article VIII, Sections 1 and 2.

D. *Signs.* Signs shall only be displayed for temporary purposes as may be required: (i) by applicable law or regulation, (ii) for health and safety reasons, (iii) for political purposes during campaign seasons, (iv) to advertise a Unit for sale or rent, or (v) to give directions or make non-commercial announcements. Such a permitted sign may be one- or two-sided and placed on the Lot, or one-sided and placed on the exterior ground-floor of the Unit or on the inside or outside of a ground-floor window of the Unit. A permitted sign shall not exceed six square feet of readable area. No sign shall be for any commercial purpose. Signs shall not emit light or sound, and shall not be rude, tasteless or offensive.

E. *Trash.* Trash and recycling receptacles shall not be visible from the street, alley or other Lots, except that trash and trash receptacles may be temporarily placed at the edge of the street or alley on the morning of a day for scheduled trash pick-up. Trash and trash receptacles shall not be left overnight at the edge of the street or in the alley, and all trash



receptacles shall be returned to their permanent storage location as soon as practicable after pick-up.

F. *Vehicles.* Boats, trailers, commercial trucks, campers, recreational vehicles, ATVs, or inoperable vehicles shall not be permanently parked or stored on any Lot or on either street adjoining the Property. An Owner may temporarily park such a boat, trailer or vehicle on the Owner's driveway (if such a boat, trailer or vehicle fits within all borders of the driveway), or on the street, for the exclusive purpose of preparing and loading for trips, unloading from trips, and for completing minor repairs and maintenance to the boat, trailer or vehicle.

2. Pets. Pets are permitted on the Property subject to rules set out in this Section.

A. *Definition and Number of Pets.* The word "pet" shall mean and refer to a common domesticated dog or cat owned by an Occupant. Freshwater fish and small caged birds are considered as pets, and may be kept in a Unit. All other animals or "exotic pets" of any kind, such as rodents, snakes or other reptiles, whether caged or not, are not considered as pets for the purposes of this Section and are not permitted on the Property or within a Unit at any time.

No more than two dogs, or two cats, or one dog and one cat may be kept as provided in this Section.

B. *Registration of Pets.* All dogs and cats must be registered with the HOA by the Occupant of the Dwelling Unit where such pet is to be kept. The Occupant shall complete and sign a registration form regarding each such pet. If the Occupant is not the Owner of the Unit, the Owner shall also sign the registration form. The Board shall provide the registration form, but shall not assess or collect any fees or charges in connection with registration of pets.

An Occupant who registers and keeps a dog or cat ("pet owner") promises and agrees to be fully and completely responsible for proper care and supervision of any such pet.

C. *Where and How Pets can be Kept.* Pets shall be confined to the Dwelling Unit of the pet owner, except that dogs may be kept in the outdoor, fenced area adjacent to the Unit for limited times described in rules and regulations established by the Board. When on the Lot outside of the Dwelling Unit, if not inside their fenced area, dogs must be on a proper leash and a person must be physically present.

A pet may be kept on the patio or a balcony of a Dwelling Unit if a person is physically present in the Unit. A pet shall never be left alone on any patio or balcony if a person is not physically present in the Unit.

Pets must not be allowed to roam free upon any Lots (including the pet owner's Lot), nor tied and left unattended along any Common Facility. Pets may be walked or exercised on a leash over and across the sidewalks which are part the Common Facilities.

D. *Cleanup.* Cleaning up after a pet is the responsibility of the pet owner. Pet owners shall clean up after their pets, at all times and in all places upon the Property, and without delay.

A pet owner shall be responsible for any damage to the Common Facilities, including specifically the Landscaping, caused by the pet.

E. *Control.* Controlling a pet is the responsibility of the pet owner. A pet must not be a nuisance or create an unreasonable disturbance to any Occupant, nor interfere with the quiet enjoyment of the Property by any Occupant.

A pet owner shall be responsible for all damages claimed by any person harmed by a pet, and shall indemnify, hold harmless, and defend the HOA from any and all liability whatsoever resulting from such claims and damages, including damage awards, costs and reasonable attorney fees incurred by the HOA.

F. *Local Law.* Complying with all governmental laws, ordinances and regulations relating to pets in Cheyenne, Laramie County, Wyoming is the responsibility of the pet owner.

G. *Commercial Operations.* A pet shall not be kept, bred or used for any commercial purpose. Pet watching, pet sitting or pet grooming for hire in a Dwelling Unit is not permitted.

H. *Consequences of Pet Rule Violations.* If a pet owner (i) keeps animals not regarded as pets, keeps more pets than the maximum number permitted, or keeps, breeds or uses pets for commercial purposes, or (ii) fails to register pets, fails to keep pets only in permitted areas, fails to control or cleanup after pets, or fails to comply with local law with respect to pets, then remedies may be imposed on the pet owner by the Board.

I. *Rules and Regulations.* Pets are to be kept subject to and in accordance with this Section 2, and rules and regulations duly adopted by the Board not inconsistent with this Section 2.

Rules and regulations duly adopted by the Board shall establish times of day during which a dog may be left outside and unattended in the designated fenced area of a Lot. Rules and regulations shall also establish and keep in force procedures for registration of pets, procedures for hearings on violations of pet rules, and reasonable remedies available to the Board when violations of pet rules are found. Such remedies may include assessing costs for repairs or cleaning due to damage caused by such pet or pet owner, levying fines as the Board may determine, and permanent removal of the offending pet from the Property.

The Board may adopt additional pet rules and regulations necessary and



appropriate to protect the health and safety of the Property, pets, pet owners and the public, including specifically a prohibition against Occupants keeping dogs that the Board considers to be of an excessive size (e.g. weight limitation), or of a vicious or dangerous breed.

3. Prohibited Activities. An Owner or Occupant shall not engage in, carry out, conduct, permit or encourage on the Lot or the Property the activities described in this Section.

A. *Obnoxious Activities.* No obnoxious, offensive or threatening activities shall be carried out or conducted on any Lot, and nothing shall be done or permitted on any Lot that may cause embarrassment, disturbance or annoyance, or become a nuisance, to other Owners or Occupants.

B. *Unreasonable Light, Noise, Odor, Etc.* Nothing shall be done or allowed on any Lot which creates or allows disturbing or excessive emission of smoke, dust, odor, light, glare, vibration or noise.

C. *Junk.* No junk, trash, garbage or other waste shall be kept or allowed to collect on any Lot by an Occupant.

4. Permitted Activities. An Owner or Occupant may engage in, carry out or conduct on the Lot the activities described, subject to limitations set out in this Section, and subject to rules and regulations adopted by the Board.

A. *Home-Based Business.* Any home-based businesses shall be subject to rules and regulations duly adopted by the Board which may prohibit, limit or restrict, among other things, deliveries, employees, and clients or customers coming to the Unit.

B. *Leasing.* Leasing of Dwelling Units shall be subject to rules and regulations duly adopted by the Board which may require, among other things: (i) a minimum duration of Owner occupancy before leasing is permitted, (ii) leases be to for a minimum duration (term), (iii) leases to have specific provisions, including that tenants are subject to all applicable provisions of the Declaration and HOA Documents, and that tenant and Owner are both responsible for rule violations, and (iv) Owners to supply to the HOA with the name(s) of the tenant(s).

C. *Gardening.* Growing and cultivating small ornamental plants for flowers, foliage, vegetables or herbs is permitted in containers on the patio, or in raised beds or on the ground along the patio or foundation of the Unit, provided that such plants and activities shall not disturb or encroach upon the Landscaping as originally determined and planted by the Declarant and subsequently maintained by the HOA. Gardening shall not cause disturbance or annoyance, or become a nuisance, to other Owners or Occupants.

D. *High Intensity Exterior Lighting.* Only exterior lighting that is low intensity



and directed downward without unreasonable horizontal or upward spillage shall be permitted on any Lot.

ARTICLE XIII. INSURANCE

1. Owner's Property Insurance. Each Owner of a Lot shall provide and keep in full force and effect, at such Owner's cost, insurance covering the Unit and all other improvements on such Owner's Lot, insuring against loss or damage by fire and extended coverage perils for the maximum insurable replacement value thereof, with deductibles as are customary from time-to-time for townhomes of similar value, and covering such other risks as are customary from time-to-time to be covered for townhomes of similar value.

2. Owner's Liability Insurance. Each Owner shall provide and keep in full force and effect, at such Owner's cost, comprehensive general liability insurance, insuring against claims for bodily injury and death, and loss of or damage to property, and other matters as are customary from time-to-time to be covered by such liability insurance, occurring in, on or upon the Lot of such Owner (and Lot 11 in the case of the Owners of Lots 9 and 10), in an amount of not less than Five Hundred Thousand Dollars (\$500,000) for each occurrence. By duly adopted resolution from time-to-time, the Board may increase the minimum amount of liability insurance for each occurrence, if it is established that a greater amount is customary in Cheyenne, Wyoming. Such liability insurance may be carried in a single primary policy, or in a combination of a primary policy and one or more umbrella policies. All policies of liability insurance required to be provided by an Owner pursuant to this Section 2 shall cover and name as insured all Owners of the Lot.

3. Premiums, Certificates, Cancellation, Proof of Payment. All Owners shall pay when due all premiums on all policies of insurance required to be carried by Owners under this Article. Each policy of insurance required to be carried by an Owner of a Lot under this Article shall be issued by a responsible insurance company authorized to do business in Wyoming, and shall contain the agreement of the insurer that such policy may not be canceled or materially modified without at least ten days' prior written notice given to the HOA. The Owner of a Lot shall deliver to the HOA certificates evidencing all insurance required to be carried under this Article whenever reasonably requested by the HOA, which shall have the right to require evidence of the timely payment of the premiums for such policies.

ARTICLE XIV. COMPLIANCE WITH PROVISIONS OF DOCUMENTS

1. Compliance. Each Owner shall comply strictly with the provisions of the Declaration and HOA Documents, and the decisions and resolutions adopted pursuant thereto, as made and amended from time-to-time. Failure to comply with any of the said documents, decisions and resolutions may be grounds for reasonable fines levied by the Board, and actions to recover money damages or injunctive relief, or both, and for reimbursement of collection costs including reasonable attorney's fees incurred in connection therewith, which action shall be maintainable by



the Board.

2. Notice of Violation. In the event an alleged violation of the Declaration or HOA Documents is brought to the attention of the Board, it may give Notice of violation to the Owner describing with reasonable particularity the alleged violation of the documents and granting the Owner a reasonable period of time but not less than fifteen days within which to correct the violation. Notice of violation shall be given in the manner required by the HOA Documents.

3. Hearing. If an Owner disputes a notice of violation, the Owner may request a hearing before the Board of Directors. A request for hearing shall be made in writing and shall be given to the Board within ten days after the notice of violation was given by the Board to the Owner. Request for a hearing shall be given to the President of the HOA in the manner required by the HOA Documents. Upon receipt of the request for a hearing, the Board shall set a time, date and location of the hearing, which date shall be not less than fifteen nor more than sixty days following the date that the request for a hearing was given to the Board. Notice of the time, date and location of the hearing shall be given to the Owner in the same manner as the notice of violation. The Owner shall have the right to be present at the hearing, to be represented by an attorney (provided that the Board is given not less than five days prior, written notice of the Owner's intent to be represented by an attorney at the hearing), and to present such evidence as may be relevant to the alleged violation. If at the conclusion of the hearing the Board determines that the violation exists, the Board shall issue a written decision within twenty one (21) days after conclusion of the hearing setting out the name of the Owner, the Dwelling Unit owned, the specific provision or provisions of the documents being violated, and a reasonably detailed description of the violation ("the Written Decision"). The Written Decision shall be given to the Owner in the same manner as the notice of violation.

ARTICLE XV. GENERAL PROVISIONS

1. Enforcement. Subject conditions and limitations imposed in the Declaration and HOA Documents, any Owner or the Homeowner Association shall have the right to enforce, by any proceeding at law or equity, all covenants, conditions, restrictions, easements, liens and charges now or hereafter imposed by the provisions of the Declaration. A proceeding may be for the purpose of removing a violation, restraining a future violation, recovering damages for any violation, or for such other and further relief as may be available. The court shall award all reasonable costs and attorney's fees to the prevailing party in such an action. Failure by an Owner or the Homeowner Association to enforce any covenant or restriction contained in the Declaration shall not be deemed a waiver of the right to do so thereafter.

2. Approval for Legal Action. The Homeowner Association shall not commence any legal action seeking equitable relief, or seeking either an unspecified amount of damages or damages in excess of \$20,000, unless and until the following conditions are satisfied:

A. The decision to commence such action or proceeding shall be considered at an



annual or special meeting of the Owners called for such purpose.

B. A budget for such action or proceeding, including all fees and costs assuming trial and applicable appeals, shall have been prepared by the attorneys who will be engaged by the HOA for such purpose, and shall have been mailed or delivered to all Owners at least ten days prior to such meeting.

C. At such meeting, the decision to commence and the proposed budget for such action or proceeding, and the imposition of a special assessment (see Article X, Section 3) to fund the costs of such action or proceeding in accordance with the approved budget, shall be approved by the affirmative votes of at least two-thirds ($\frac{2}{3}$) of the Owners voting in person or by proxy at a meeting called and duly convened for such purpose, where a quorum is present.

D. The HOA shall be authorized to expend funds for such proceeding in excess of the amount contemplated by the approved budget only after an amended budget has been approved in accordance with the procedures specified in Paragraphs "B" and "C" above.

E. All of the costs and expenses of any action or proceeding requiring the approval of the Owners in accordance with Paragraphs "C" and "D" above shall be funded by means of a special assessment. In no event may the HOA use reserve funds or incur any indebtedness in order to pay any costs and expenses incurred for such purpose.

F. If the HOA commences any action or proceeding against a particular Owner or particular Owners requiring the approval of the Owner in accordance with this Section 2, the Owner or Owners who are being sued shall be exempted from the obligation to pay the special assessment levied for the purpose of paying the costs and expenses of such action or proceeding, but shall remain liable for costs and attorney's fees under the prevailing party provision contained in the Declaration. The Owner or Owners being sued by the HOA shall not be counted in either the numerator or denominator when determining whether the proposed action, budget and Special Assessment are approved by the Owners as required by Paragraphs "C" and "D" above.

G. The requirements set forth in this Section 2 shall not apply to any action or proceeding to collect, or otherwise enforce by foreclosure of the Homeowner Association's lien, assessments and any related fines, late charges, penalties, interest or costs and expenses, including reasonable attorneys' fees.

H. The requirements of this Section 2 shall not apply to any action or proceeding commenced against the Association by any third party or any Owner that the HOA is required to defend. The Board shall represent the HOA in any such proceedings and shall keep the Owners informed of the proceedings as deemed appropriate by the Board in consultation with legal counsel.



I. By duly adopted resolution from time-to-time, the Board may increase the minimum damage amount set out in this Section 2, if it is established that a greater minimum amount is more prudent for the times.

3. Legal Action vs Declarant, Architect or Contractor.

A. Before any Owner or the Homeowner Association may take any action or make any claim related to a defect discovered in the design or construction of the Property, or any Unit or Common Facility, the Board shall be notified of the defect, if discovered by an Owner, and the Board shall notify the Declarant, and its architect and contractor in writing of the defect and provide such architect or contractor 30 days to commence actions to investigate, and, if appropriate, cure such defect.

B. Any dispute involving one or more Owners, the Homeowner Association, for itself or through the Board, and the Declarant, its architect or contractor, or the contractors, subcontractors or consultants of any of them, shall first be submitted to mediation in accordance with policies and procedures duly adopted by the Homeowner Association, prior to commencing any legal action seeking money damages or other legal or equitable relief.

4. Severability; Conflict. Invalidation of any part or provision of the Declaration by judgment or court order shall in no way affect any other provisions of the Declaration which shall remain in full force and effect. In the event of any conflict between the terms and provisions of the Declaration and the terms and provisions of any HOA Document, the terms and provisions of the Declaration shall control.

5. Time. In computing any period of time prescribed or allowed by the Declaration, the date of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. For purposes of the Declaration, a day ends at 6:00 p.m.

6. No Right of Action Against the Homeowner Association or Board. By virtue of the Declaration, a Person shall not obtain any right or cause of action against the HOA or the Board arising as a result of enforcement or lack of enforcement of the Declaration.

7. Disclaimer Regarding Security. The Homeowner Association may, but shall not be obligated to, maintain or support certain activities within the Property that are designed to make occupancy of the Property more secure than it otherwise might be. Neither the HOA nor Declarant shall in any way be considered insurers or guarantors of security within or around the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide security or by reason of the ineffectiveness of any security measures that might be undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, or that any such



systems or security measures undertaken will in any case prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and agrees that he or she assumes all risks of loss or damage to persons and to property resulting from the acts or omissions of third parties.

8. Amendment. The Declaration may be amended at any time by the Declarant if such an amendment is recorded in the Laramie County, Wyoming, real estate records before 30 days after the expiration of the Period of Declarant Control, provided, however, that the Declarant shall first give notice to all Owners of the Declarant's intent to amend the Declaration, describing the proposed amendment and reason(s) therefore, and allowing the Owners 20 days to review and comment upon the proposed amendment.

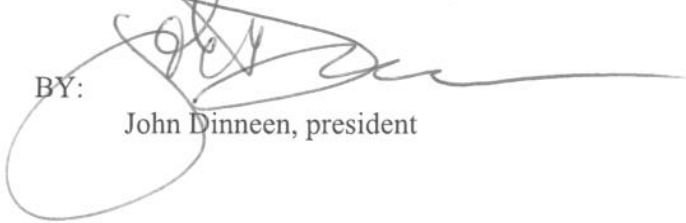
Following the 30th day after the expiration of the Period of Declarant Control, the Declaration may be amended or terminated if such action is recommended, described and the reason(s) therefore explained to the Owners by the Board, and approved by the affirmative votes of at least two-thirds ($\frac{2}{3}$) of the Owners voting in person or by proxy at a special meeting called and duly convened for such purpose, where a quorum is present. Any amendment must be recorded in order to be effective.

9. Duration. The Declaration shall run with the land, shall be binding upon all Persons owning Lots and any Persons hereafter acquiring said Lots, and shall be in effect in perpetuity unless amended or terminated as provided in this Article.

IN WITNESS WHEREOF, the Declarant has caused the Declaration to be executed as of the day and year first above written.

W. E. Dinneen, Inc.
a Wyoming corporation

BY:


John Dinneen, president

STATE OF WYOMING)
) ss.
COUNTY OF LARAMIE)

On this 2 day of August, 2019, before me, the undersigned Notary Public in and for the above-mentioned state, personally appeared John Dinneen, president of W. E. Dinneen, Inc.,



to me known to be he identical person named in and who executed the foregoing instrument and acknowledged that he executed the instrument as the voluntary act and deed of the person and of W. E. Dinneen, Inc.

Witness my hand and official seal.

Sharon E Radomicki

Notary Public

My Commission Expires: 7.7.2021





DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
AND
PARTY WALL AGREEMENT

LOTUS TOWNHOMES

The Property

Exhibit A

Nishigawa Annex, a replat of all of Lots 3 and 4, and the west 44 feet of Lot 2, Block 393, Original City of Cheyenne, situated in the SE¼ SW¼ of Section 31, T.14N., Range 66W., 6th P.M., Laramie County, Wyoming (located at the southeast corner of W 17th Street and O'Neil Avenue).

Exhibit A



DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
AND
PARTY WALL AGREEMENT

LOTUS TOWNHOMES

Showing Semi-Attached Dwelling Units on Lots 1 through 10
Exhibit B

