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**MELANIE MARSHALL**  
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**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
WESTMINSTER VILLAS**

(A 55 and Older Community, known as the "Villas")

Revised and Restated October 18, 2022

This Declaration is made and entered into by the Westminster Villas Homeowners Association, Inc., an Indiana nonprofit corporation and association of property owners, as the duly authorized entity responsible for the maintenance, repair, replacement, administration, and operation of the community and property known as WESTMINSTER VILLAS, (hereinafter referred to as the "Association").

The Association hereby sets forth the following:

**ARTICLE I  
DEFINITIONS**

Any capitalized word not otherwise defined herein shall have the meaning assigned thereto in the Bylaws. The following terms, as used in this Declaration, unless the context clearly indicates otherwise, shall mean the following:

**1.1 Act.** The Villas elect to be governed by the Homeowners Association Act, codified at Ind. Code 32-25.5 *et seq.*, as may be amended from time to time.

**1.2 Age Qualified Resident.** Any authorized Resident who is at least fifty-five (55) years of age and was an Overnight Occupant during at least fifty percent (50%) of the days when the Unit was occupied by any Occupant during the Past Year.

**1.3 Age Qualified Unit.** Any Unit where at least one authorized Resident is an Age Qualified Resident.

**1.4 Association.** Westminster Villas Homeowners Association, Inc., an Indiana Nonprofit Corporation.

**1.5 Board.** The Association's Board of Directors.

**1.6 Bylaws.** The Amended and Restated Bylaws for Westminster Villas, including any amendments thereto, as adopted by the Association, and as may be further amended from time to time by the Association.

**1.7 Common Areas.** The areas and facilities appurtenant to the Property as set forth in Article III, herein.

**1.8 Common Expenses.** Expenses of administration of the Association and expenses for the upkeep, maintenance, repair, resurfacing, and the replacement of the Common Areas and Property as hereinafter provided; including all sums lawfully assessed against the Unit Owner by the Association pursuant to this Declaration or the Bylaws.

**1.9 Common Property.** The property items existing in the Common Areas available for use by Unit Owners and their authorized Residents, Visitors, and Guests.

**1.10 Declaration.** This instrument, including such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof.

**1.11 Frequency Compliant Guest.** A Guest who was an Occupant during the Overnight period during a portion of the Past Year, when the total quantity of Overnight stays does not exceed the Guest Overnight Limit amount.

**1.12 Guest.** Any Occupant who is not a Resident and was present at any time during the Overnight period associated with a specific day.

**1.13 Guest Overnight Limit.** Ninety (90) nights during the Past Year.

**1.14 Lot.** The land component of a Unit, upon which the housing structure is constructed.

**1.15 Maximum Unit Resident Quantity.** Four (4) Residents.

**1.16 Minimum Unit Resident Age.** Twenty-one (21) years of age.

**1.17 Occupant.** Any person who is physically present on the Lot or inside the Unit. The three categories of Occupant are Resident, Visitor, and Guest.

**1.18 Overnight.** The time period between midnight and 6:00 am.

**1.19 Past Year.** The time period consisting of 365 consecutive days preceding a specific day.

**1.20 Property.** All of the private streets, driveways, sidewalks, fences, land, property, and space comprising Westminster Villas, including all improvements and structures erected, constructed or contained on the above-described real estate, and all easements, rights and appurtenances belonging hereto, and all the furnishings, fixtures,

and equipment intended for the mutual use, benefit, or enjoyment of the Unit Owners, as hereinafter defined.

**1.21 Proxy.** A person authorized in writing to cast a vote during Association meetings on behalf of a Unit Owner recognized by the Association.

**1.22 Resident.** An Occupant who has attained the Minimum Unit Resident Age and the Unit Owner has authorized to regard the Unit as their residence.

**1.23 The Villas.** The alternate name used in reference to Westminster Villas.

**1.24 Unit.** A sole and separate individually owned residence comprised of a housing structure and the land upon which the housing structure is placed. There are 54 Units located within the Villas community.

**1.25 Unit Owner.** A Villas property owner of record according to the most recently recorded conveyance document as duly recorded in the Office of the Recorder of Delaware County, Indiana. A Unit Owner may be any one or more of the entities described in Ind. Code § 32-25-2-17, as may be amended from time to time. When property ownership is other than a single individual, the Association may recognize a single individual who has been duly authorized by the Unit Owner to receive any Association-related communications and/or represent the Unit Owner at any Member meetings.

**1.26 Unit Owner Representative.** An individual who the Unit Owner has authorized in writing to represent the Unit Owner regarding Unit operation and Association-related matters when the Unit Owner is unable to act on their own behalf. The authority of a Unit Owner Representative may be specified on the "Unit Owner Representative Form" submitted to the Board secretary by the Unit Owner; however, a Unit Owner Representative authorization may not include Proxy voting rights unless a separate Proxy authorization form is submitted by the Unit Owner. Except in reference to Proxy voting, the term Unit Owner also includes a Unit Owner Representative with sufficient authorization to represent the Unit Owner regarding the matter at hand.

**1.27 Unit Ownership.** An ownership interest in a part of the Property consisting of one Unit and the undivided interest in the Common Areas.

**1.28 Visitor.** Any Occupant who is not a Resident or a Guest during a specific day.

**1.29 Voting Member.** The Unit Owner when the Unit is owned by a single individual, or, when property ownership is other than a single individual, a single individual who has been duly designated and authorized by the Unit Owner as their voting representative during Association meetings.

**1.30 Westminster Villas.** The name by which the Property, as defined herein, shall be known.

## **ARTICLE II DESCRIPTION OF UNIT**

**2.1 General Description.** On each lot there is a single-family residential structure with an attached two car garage or three car garage.

**2.2 Legal Description.** Each Unit is identified by a Unit number as shown on the plans recorded in the records of Delaware County, Indiana, along with the original Declaration.

**2.3 Common Areas.** Each Unit Owner shall have an equal percentage ownership in the Common Areas.

**2.4 Real Estate Taxes.** It is understood that real estate taxes are to be separately taxed to each Unit Owner for their Unit and improvements.

## **ARTICLE III COMMON AREAS AND FACILITIES**

**3.1 Description.** The Common Areas shall consist of all portions of the Property other than the Units, including, but in no way limited to:

- a. Streets, paths, fences, mailbox platforms, street lighting, electrical service lighting the streets, curbs, storm sewer systems, electrical wiring, conduits, open spaces, plant materials, guest parking area as designated, and public utility lines which serve the Common Areas.
- b. All facilities and appurtenances located outside of the boundary lines of the Units including, but in no way limited to, the clubhouse and gazebo.

**3.2 Ownership of Common Areas.** Each Unit Owner shall own an undivided interest in the Common Areas as a tenant in common with all other Unit Owners of the Property.

**3.3 Title to Common Areas and Common Property.** Title to all Common Areas and Common Property shall be held by the Association. Each Unit Owner shall have a non-exclusive reciprocal easement providing:

- a. The right of access to their Lot over the Villas streets;
- b. The right to use all of the Common Areas for their intended purposes;
- c. The right of access thereto over the street;
- d. The right of access to and use of the water system, storm drainage system, sewer system; and

- e. The right of access to all utility lines and mains abutting or adjacent to their Lot; provided, however, that no Unit Owner's use of any Common Areas or Common Property shall materially interfere with other Unit Owner's use thereof.

#### **ARTICLE IV**

### **GENERAL PROVISIONS AND COVENANTS & RESTRICTIONS IN REGARD TO THE USE OF UNITS & COMMON AREAS**

**4.1 Submission of Property to the Act.** The Unit Owners and Association hereby submit the Villas to the Act as herein defined.

**4.2 No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to their Unit Ownership without including therein their interest in the Unit and Common Areas, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned as described therein.

**4.3 Statement of Purpose.** The covenants and restrictions on the use and enjoyment of the Units, and the Common Areas, set forth below are for the mutual benefit and protection of the present and future Unit Owners and shall run with the land and inure to the benefit and be enforceable by any Unit Owner, the Board, the Association, or their successors and assigns. Present or future Unit Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages, including attorney fees, for any injuries resulting from any violations thereof.

**4.4 Easements of Utilities.** All suppliers of utilities serving the Property area hereby granted the right to install, lay, construct, operate, maintain, renew, repair, or replace conduits, cables, pipes and wires providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property for said purpose. The Association may hereafter grant other or additional easements for utility purposes for the benefit of the Property, over, under, along and on any portion of said Common Areas, and each Unit Owner hereby grants the Board or Association an irrevocable power of attorney to execute acknowledge and record for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing. Easements are also hereby declared and granted to install, lay, operate, maintain, repair and replace pipes, wires, ducts, conduits, and public utility lines, including cable TV.

**4.5 Easements to Run With Land.** All easements and rights described herein are easements running with the land, and so long as the property is subject to the provisions of the Declaration, shall remain in full force and effect, and shall inure to the benefit and be binding on the undersigned, its successors and assigns, and any Unit

Owner, purchaser, mortgagee and other person having any interest in the Property, or any part or portion thereof.

#### **4.6 Use of Common Areas:**

- a. **Nonexclusive.** Subject to the provisions of the Declaration, each Unit Owner shall have the nonexclusive right to use the Common Areas in common with all other Unit Owners, including whatever enjoyment of the respective Unit owned by such Unit Owner, and such incidental uses permitted by this Declaration.
- b. **Guest Privileges.** The rights to use of Common Areas shall extend to the Unit Owner, and the Unit Owner's authorized Residents, Visitors and Guests, subject to reasonable rules and regulations with the respect thereto. The use of the Common Areas and the rights of the Unit Owners with the respect thereto shall be subject to and governed by the provisions of the Act, this Declaration, the Bylaws, and rules and regulations of the Association as may be imposed from time to time.
- c. **Disclaimer of Bailee Liability.** Notwithstanding anything to the contrary contained in this Declaration, neither the Board, the Association, nor any Unit Owner shall be considered a bailee of any personal property stored in the Common Areas (including vehicles parked in any parking area), whether or not exclusive possession of any particular areas shall be given to any Unit Owner for storage or parking or other purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto whether or not due to negligence.

#### **4.7 Maintenance, Repairs and Replacements.**

- a. **By the Board.** Maintenance repairs and replacements of the Common Areas, except as otherwise specifically provided for herein, shall be furnished by the Board as part of the Common Expenses, subject to the Bylaws and rules and regulations of the Association.
- b. **By the Unit Owner.** Except as otherwise provided in paragraph (a) above, each Unit Owner shall furnish and be responsible for, at their own expense, the maintenance, repair and upkeep for their Unit.
- c. **Failure to Maintain Unit.** In the event a Unit Owner fails to (1) fully observe and perform the required exterior maintenance on their Unit so that the Unit's exterior condition is not in conformity with the general condition of all other Units, or (2) adequately maintain back and side yard landscaping and/or trees, the Board may perform the necessary maintenance itself or through a contractor and assess the Unit Owner for the full cost of such maintenance. Authorized Board members and adjacent Unit Owners shall have the right to enter upon the respective premises for the purpose of

making repairs. Assessments not timely paid/reimbursed to the Association may become liens upon the Unit.

- d. **Reasonable Access.** The authorized representatives of the Association or the Board shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or any equipment, facilities, or fixtures affecting or serving other Units or the Common Areas.

#### **4.8 Nuisances.**

- a. No farm animals, birds or fowls, wild animals, or domestic animals for commercial purposes, shall be kept or permitted inside any Unit or on any Lot. Furthermore, no dog runs, kennels, animal storage areas, pens, cages, or pastures shall be constructed, erected or placed on any Lot or Common Area of the Villas. At no time shall any animal boarding, veterinary medicine, emergency animal care, or animal grooming or sitting activity be permitted inside any Unit or on any Lot in Westminster Villas.
- b. No obnoxious, unlawful, or otherwise offensive activity shall be carried out inside any Unit or on any Lot or Common Area, or overhead any Unit or Common Area, nor shall anything be done thereon, which may be or become an annoyance or nuisance to the Unit Owners as determined in the sole controlling and final opinion of the Board. The Board's determination regarding circumstances that constitute as noxious, unlawful, or otherwise offensive activity or what is an annoyance or nuisance shall be final and conclusive.
- c. No Lot or structure or improvement thereon shall be used in any manner which causes or might reasonably be expected to cause any disturbance to the normal use and enjoyment of a neighboring or surrounding Unit or Lot, nor in any manner which causes injury to the reputation of Westminster Villas including, without limitation, the burning of any refuse, or excessive noise by the use of any musical instruments, loudspeakers, electrical equipment, amplifiers or other equipment or machines.
- d. The operation of unmanned aerial vehicles (including drone devices potentially equipped with cameras and other features) in the airspace over the Property by any Unit Owner or Occupant or by anyone at the direction of any Unit Owner or Occupant is prohibited. However, the Board may commission the use of an unmanned aerial vehicle to perform Villas Property examination deemed necessary by the Board.
- e. Violations of this section shall be considered a nuisance under Indiana law and the Unit Owner in violation shall be responsible for the Association's attorney fees if legal action must be sought to enforce this provision.

**4.9 Permitted Pets.** Unit Owners may keep inside their Units no more than two (2) domesticated cats and one (1) dog not exceeding forty (40) pounds in weight, which shall be permitted outside only under leash and accompanied by an owner or other persons, as each Unit Owner shall be fully liable for any injury or damage to any person or to the Common Area or Common Property caused by their pet, and shall be responsible for removing from such area their pet's waste materials. The Board may adopt such other rules and regulations regarding pets and kept animals that deal with the use and enjoyment of the Common Area and Common Property and the Lots as the Board may deem appropriate including, but not limited to further restrictions on the number of pets, the prohibition of additional, particular species or breeds, and the prohibition of pets or kept animals in particular area of the Common Areas. In the event that it is the judgement of the Board that any pet or kept animal is causing or creating a nuisance or disturbance or noise, such pet or kept animal shall be permanently removed from the Villas Property upon written notice of such determination by the Board. The Board's determination to remove a pet is final and conclusive.

**4.10 Negligence of Unit Owner.** If, due to the negligent act or omission of a Unit Owner, or their authorized Resident, Visitor or Guest damage shall be caused to the Common Area, to that Unit, or to a Unit owned by another Unit Owner, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board.

**4.11 Exterior Changes.** A Unit Owner shall not make any changes to the exterior of their residence without submitting a change request to the Board and receiving the express written consent of the Board. No outbuildings or fences may be added to a Unit Owner's Lot. The types of exterior changes requiring Board approval include, but are in no way limited to, the following:

- a. Changes to the color of the Unit exterior;
- b. Changes to the color or type of materials utilized for the Unit roof, gutters, and downspouts;
- c. The installation of rooftop solar electric power and rooftop solar water heating systems; and
- d. A new wall-mounted or ground platform satellite dish installation or the relocation of an existing satellite dish; provided, however, that the following provisions shall also apply:
  - i. Any new installation of a satellite dish on a Unit rooftop is prohibited;
  - ii. A satellite dish may be mounted on a ground platform or on a side wall of a Unit near the bottom of the roof near the back side or on the back wall of a Unit. A satellite dish height or width dimension may not exceed 24 inches; and



- iii. The installation of any type of television or radio antenna or tower on any Unit is prohibited.

**4.12 Restrictions Affecting Occupancy.** The Unit Owner has sole authority to authorize Residents, Visitors and Guests to be an Occupant, subject to the following:

- a. **Maximum Unit Resident Quantity Limit.** The quantity of Occupants authorized by the Unit Owner to be a Resident must not exceed the Maximum Unit Resident Quantity amount.
- b. **Minimum Unit Resident Age Requirement.** A person must attain Minimum Unit Resident Age prior to obtaining Resident authorization from the Unit Owner. However, current Residents with attained age less than the Minimum Unit Resident Age on the date this document is recorded are exempt from Minimum Unit Resident Age Requirement compliance.
- c. **Age Qualified Resident Requirement.** At least one authorized Resident must be an Age Qualified Resident.
- d. **Guest Frequency Requirement.** All authorized Guests must be a Frequency Compliant Guest.
- e. **A 55 and Older Community.** The Lots and Units within the Association are intended for the housing of persons fifty-five (55) or older. The provisions of this Article are intended to be consistent with, and are set forth in order to comply with the Housing for Older Persons Act of 1995, as may be amended ("HOPA") allowing discrimination based on familial status.
- f. **Exceptions.** The Board may, but is in no way obligated to, grant exceptions in its sole discretion on a case-by-case basis, provided all HOPA requirements will still be met.
  - i. Any Unit Owner may request in writing that the Board make an exception to the requirements for an Age Qualified Unit Resident with respect to the Unit Owner's Unit. The request must be based upon documented personal or financial hardship, and must specify the anticipated duration of the desired exception.
  - ii. Any Unit Owner may request in writing that the Board make an exception to the Guest Overnight Limit amount for a specified Guest. The request must contain justification sufficient for Board approval and must specify the anticipated duration of the desired exception.
- g. **Age Verification.** If the Board determines age verification of a Resident is needed, the Board may request a Resident to present a properly certified Birth Certificate, or Passport, or a government-issued ID (such as a Driver's License) displaying the Resident's birth date to the Board. The Resident

must provide the requested document to the Board within seven days of receiving the written request from the Board.

**4.13 Lot Access.** All Lots shall be accessed from the streets within the Villas community. At no time shall any Lot or Unit be directly accessed from any public street or road.

**4.14 Unit Owner Identification Requirement.** Every new Unit Owner must provide the Board secretary with the name and contact information for each and every Unit Owner by submitting a completed "Villas Residence Information Form" within seven (7) calendar days following the date on which title to the Unit is transferred to the new Unit Owner.

**4.15 Resident Notification Requirement.** The Unit Owner must utilize the Association "Villas Residence Information Form" to provide new Resident information to the Board secretary (including the name, age level and optional regular contact and emergency contact information) for each new authorized Resident, and the Unit Owner must notify the Board secretary when any authorized Resident has discontinued residency. The Board secretary must receive the updated information form within seven calendar days after a Resident change occurs.

**4.16 Unit Owner Representative Notification Requirement.** If a Unit Owner elects to utilize a Unit Owner Representative, the Unit Owner must provide the Board secretary with a completed "Unit Owner Representative Form" identifying their Unit Owner Representative and describing the degree of Unit Owner authorization granted to the Unit Owner Representative. However, if the Unit Owner wishes to assign Proxy status to the Unit Owner Representative, the Unit Owner must provide a Proxy document to the Board secretary.

## **ARTICLE V ADMINISTRATION BY HOMEOWNERS ASSOCIATION**

**5.1 Association.** The Association is an Indiana Nonprofit Corporation, having the name Westminster Villas Homeowners Association, Inc. The Board shall be the governing body for the Association and shall be responsible for the maintenance, repair, replacement, administration, and operation of the Property as well as enforcement of this Declaration and other governing documents. Each Unit Owner shall be a member of the Association so long as they shall be a Unit Owner, and such membership shall automatically terminate when they cease to be a Unit Owner. Upon the transfer of ownership of a Unit, the new Unit Owner succeeding to such Unit ownership shall become a member of the Association together with all of the same rights and obligations of the preceding Unit Owner from which title to the Unit was transferred.

**5.2 Association Membership Dues.** Unit Owners are required to pay monthly membership dues in amounts established by the Board and approved by a majority of the

Unit Owners voting to accept the Association's annual budget or subsequently voting to approve significant modification of the Association's annual budget.

- a. Association membership dues shall be paid by, or before, the first day of each month, and shall be mailed or delivered to the Board designated person or business entity responsible for receiving and depositing membership fee payments.
- b. The Association may assess a reasonable fee to Unit Owners when the Association incurs a fee relating to, or arising out of, an association membership dues payment. These fees may include, but are not limited to, ACH and credit card processing fees, returned check fees, and the like, and will not exceed the actual amount of the fee incurred by the Association.
- c. Association membership dues received after 5:00 pm local time on the tenth day of the month when the payment is due will be assessed a twenty-five dollar (\$25) late payment fee amount, plus an additional amount calculated as 1.5% of the Unit Owner's total unpaid membership dues amount.

**5.3 Association Special Assessments.** Association members must pay Board established amounts required to facilitate the payment of necessary unusual expenses other than Association ordinary operating expenses and capital expenditures reserve amounts.

- a. Pursuant to Ind. Code § 32-25.5-3-4, as may from time to time be amended, any special assessment in an amount exceeding the statutory threshold for a Unit Owner shall require the affirmative vote of at least two-thirds (2/3) of all affected Unit Owners. As of the date of recording of this Declaration, the threshold amount established pursuant to Ind. Code § 32-25.5-3-4 for a Unit Owner is five hundred (\$500.00) dollars.
- b. Unit Owners must pay special assessment amounts on or before the date stated on the Association's special assessment notification document, and payment shall be mailed or delivered to the person or business entity designated by the Board. The Board may establish a schedule of fees and/or penalties for late payments associated with special assessments.

## **ARTICLE VI COMMON EXPENSES – MAINTENANCE FUND**

**6.1 Common Area Expenses Calculated Annually.** The Board shall prepare an annual budget, clearly outlining each Unit Owner's required contribution to the Common Area Expenses, User Charges, and any other similarly authorized charges, for approval by the Voting Members pursuant to the procedure set forth in the Association's Bylaws.

**6.2 Non-Use and Abandonment.** No Unit Owner may waive or otherwise escape liability for these assessments provided for herein by non-use of the Common Areas or abandonment of their Unit.

## **ARTICLE VII PROHIBITION ON LEASING OF UNITS**

**7.1 Statement of Intent.** This Article is for the purpose of maintaining the congenial and residential character of Westminster Villas, to protect the Unit Owners by ensuring all other Unit Owner of Westminster Villas are responsible homeowners, preserve the ability of buyers to obtain favorable financing for purchases within the Villas, maintain reasonable interest rates, and preserve the community spirit and pride of ownership through shared appreciation of the Villas.

**7.2 Prohibition on Leases and Rentals.** No Unit Owner shall lease their Unit or enter into any other rental or leasing agreement for their Unit. Any lease agreement or attempted lease by a Unit Owner of their Unit, except in accordance with the provisions stated herein, shall be void.

- a. The Board may consider the granting of a waiver of this provision due to unforeseen circumstances of extreme personal or financial hardship; however, lack of knowledge of this provision shall not be grounds for such waiver.
- b. Violations of this provision may be enforced by the Association through legal proceedings initiated on behalf of the Association and the Unit Owner or Unit Owners determined to be in violation of this provision shall be responsible for all the prevailing party's attorney fees and court costs.

## **ARTICLE VIII REMEDIES**

**8.1 Compliance Required.** Upon the transfer of title to a Unit, the new Unit Owner shall comply with all Association requirements and cure any existing violations or other noncompliant matters, regardless of the cause of the violation(s) or noncompliance, or when the violation(s) or noncompliance first occurred. All Unit Owners, regardless of when such ownership interest is acquired, are required to comply with, observe, and perform all obligations set forth in the Declaration, the Bylaws, and any other Association documents.

**8.2 Remedies for Failure to Comply.** In the event that any Unit Owner fails to fully observe and perform any of the obligations set forth in the Declaration, Bylaws, or other Association documents, and such failure is not cured within thirty (30) days after written notice of the same is given by the Association, Declarant, Association, Board, or any Unit Owner shall have the right to commence judicial proceedings to abate or enjoin

such failure, to collect damages for such failure, to take such further action as may be allowed at law or equity to correct such failure after commencement of such proceedings, or any combination of these remedies. In the event that such failure causes or threatens to cause immediate and substantial harm to property outside of such defaulting Unit Owner's Lot or to any person or entity, the Association or the Board shall have the right to immediately enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever, in trespass or otherwise, on the part of the Association. All costs incurred by the Association in connection with any act or proceedings undertaken to abate, enjoin or correct such failure, including court costs, interest, and attorney fees, shall be payable by the defaulting Unit Owner upon demand by the Association and shall immediately become a lien against their Lot. The rights of the Unit Owners and the Association under this section shall be in addition to all other enforcement rights hereunder or at law or in equity.

**8.3 Procedure.** The Board shall adhere to the following when a Unit Owner's noncompliance does not require immediate intervention as set forth in Section 8.2, above:

- a. The Board will attempt to achieve an in-person meeting or telephone meeting with the Unit Owner to discuss the issue and attempt to resolve the issue.
- b. The Board will send a letter to the Unit Owner reinforcing the need to resolve the issue.
- c. If the Unit Owner has not responded to a meeting request or a meeting follow-up letter and has failed to resolve the issue within thirty (30) days following the issuance date of the follow-up letter, the Board may refer the matter to an attorney for further action.

## **ARTICLE IX AMENDMENT TO DECLARATION**

**9.1 Amendments Generally.** Except as otherwise provided herein, amendments to this Declaration shall be proposed and adopted in the manner hereinafter set out in this Article.

**9.2 Notice.** Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

**9.3 Resolution.** A resolution to adopt a proposed amendment to these Covenants, Conditions, and Restrictions may be proposed by the Board of Directors or any Unit Owner.

**9.4 Adoption.** Except as provided for in Section 10.06 herein, the resolution to adopt a proposed amendment shall require the affirmative vote of at least seventy five percent (75%) of those Voting Members present and voting at such meeting called for the purpose of adoption of the amendment. In addition, any mortgage holder (mortgagee) of

a unit shall be notified of the meeting and the proposed amendment in the same manner the Unit Owners are notified if such mortgagee has given prior notice of their mortgage interest to the Board of Directors. For purposes of this section, presence at a meeting shall include participation by phone, video conference, or similar real time technology. During any state of emergency, as declared by an official act of government, the requirement of physical, real-time presence may be set aside and official votes may be taken by email, telephone, or other such equitable manner by which all Unit Owners have the opportunity to safely participate.

**9.5 Changes in Ownership Percentage.** No amendment to this Declaration shall be adopted which changes the percentage interest of any Unit Owner, other than as provided for in this Declaration, without approval of all Unit Owners.

**9.6 Recording.** Each amendment to the Declaration shall be executed by the president and secretary of the Board and shall be recorded in the office of the Recorder of Delaware County, Indiana, and such amendment shall not become effective until so duly recorded.

## **ARTICLE X GENERAL PROVISIONS**

**10.1 Easement for Utilities and Vehicles.** All public and quasi-public vehicles, including, but not limited to police, fire, and other emergency vehicles, trash and garbage collection, postal service vehicles, and privately-owned delivery vehicles shall have the right to enter the streets and other Common Areas in their regular course of business. An easement is also granted to all utilities and their agents for ingress and egress for purposes of and/or relating to the installation, replacement, repair, and maintenance of such utilities.

**10.2 Conveyances.** Each grantee, by accepting a deed or other conveyance document transferring ownership of a Unit, and each purchaser under a purchase contract therefor, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created, reserved by this Declaration and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time an interest or estate in the Property, and shall inure to the benefit of such Unit Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

**10.3 Documents Delivery and Confirmation.** It is the responsibility of each Unit Owner to provide copies of this Declaration, the Bylaws, and all other Association-related documents (the "Association Documents") to any potential purchaser or purchasers of their Unit.

- a. The Unit Owner should attempt to deliver all Association Documents to prospective purchasers of their Unit at least ten (10) days prior to entering into a sale/purchase agreement for their Unit, or as soon as practicable under the circumstances.
- b. A Unit Owner must notify the Board secretary in writing that all Association Documents have been delivered to the prospective purchaser of their Unit within five (5) days following the date such Association Documents were delivered to the prospective purchaser.
- c. To the extent reasonably available to the Unit Owner, the notification to the Board secretary required herein should include the name and contact information of the prospective purchasers of their Unit.

**10.4 Homeowner Insurance and Property Damage Repair.** Each Unit Owner must possess a homeowner insurance policy providing coverage for their Unit and must maintain continuous homeowner insurance policy coverage while they are the Unit Owner.

- a. The homeowner insurance policy property damage coverage amount must provide sufficient funds to accommodate complete replacement of the Unit if needed.
- b. The property damage insurance coverage may accommodate Unit Owner payment of a deductible amount (not to exceed ten percent (10%) of the Unit replacement cost) for insured Unit property damage repairs or total Unit reconstruction.
- c. In the event of Unit property damage, the Unit Owner must immediately coordinate removal of property damage debris from the Lot and inside the Unit (potentially including burned and hazardous material), and the Unit Owner must promptly coordinate initiation of Unit repair or Unit reconstruction to a physical state consistent with the original Unit construction.
- d. If the Unit Owner receives financial compensation from an insurance company property damage insurance claim settlement for their damaged Unit, the Unit Owner must utilize a sufficient portion of the financial compensation received to restore their damaged Unit to a state consistent with the original Unit construction.
- e. Unit property damage repairs must be completed within six months of the damaged Unit's property damage event date.
- f. To verify compliance with the insurance requirements stated herein, the Board will review homeowner insurance coverage annually. To facilitate the Board's review, Unit Owners shall provide a certificate of insurance or declaration of insurance coverage to the Board before, or during, the annual

Membership meeting. Additionally, new Unit Owners shall provide to the Board a certificate of insurance or declaration of insurance coverage within seven (7) calendar days following the date on which title to the Unit is transferred to the new Unit Owner. Following the annual Membership meeting, the Board will review insurance coverage amounts for each Unit, identify any Units believed to be underinsured, and notify Unit Owners of such underinsured Units that additional insurance coverage is required.

**10.5 No Waivers.** No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**10.6 Partial Invalidity.** The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

**10.7 Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a Planned Unit Development of the highest quality.

## **ARTICLE XI GOVERNANCE**

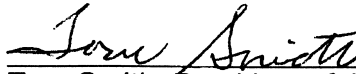
**11.1 Governing Law.** This Declaration is governed by the laws of the State of Indiana, and all court filings associated with this Declaration must be filed with courts located in Delaware County, Indiana.

*THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.*



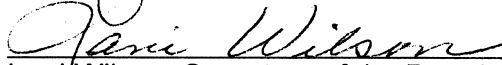
### CERTIFICATION

I certify that the Unit Owners of Westminster Villas adopted these Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Westminster Villas by a vote of at least 75% in favor of adoption at the annual meeting held on October 18, 2022.



Tom Smith, President of the Board of Directors of  
Westminster Villas Homeowners Association, Inc.

ATTEST:

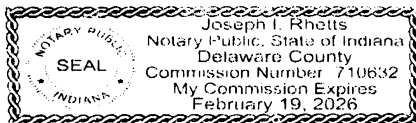


Lani Wilson, Secretary of the Board of Directors of  
Westminster Villas Homeowners Association, Inc.

STATE OF INDIANA                     )  
  ) SS:  
DELAWARE COUNTY                    )

Before me, the undersigned, a Notary Public in and for said County and State this 6<sup>th</sup> day of November 2022, personally appeared Tom Smith, President of the Board of Directors, for and on behalf of Westminster Villas Homeowners Association, Inc., and acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial seal.

  
\_\_\_\_\_  
NOTARY PUBLIC

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

*This instrument prepared by  
and please return original to:*

  
\_\_\_\_\_  
JOSEPH I. RHETTS #32733-24  
ATTORNEY AT LAW

DEFUR VORAN LLP  
Joseph I. Rhett  
400 S. Walnut St., Ste. 200  
Muncie, Indiana 47305