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AMENDED DECLARATION OF CONDITIONS, COVENANTS,
RESTRICTIONS AND EASEMENTS REGARDING THE
BRECKENRIDGE QUADRANGLE TOWNHOUSES,
NOW THE VIENNA TOWNHOMES

By declaration made November 1, 1971 by Medallion International, Ltd., a Colorado corporation, recorded in Summit County, Colorado beginning in Book 219 at page 2, certain conditions, covenants, restrictions and easements regarding the Breckenridge Quadrangle Townhouses were set forth. Darrel A. Farr Development Corp., a Minnesota corporation, has purchased substantially all of the property described in such declaration and desires to name the building project The Vienna Townhomes and to amend and restate such declarations in certain respects. Accordingly, pursuant to Article X, Section 6 of such declaration, the declaration is hereby amended in certain respects, and with such amendments is restated to read in its entirety as follows. The declaration as so amended and restated shall not diminish or release any rights given by Medallion International, Ltd. to owners or the Association by the original declaration, shall run with the property described below and shall be binding on all parties having any right, title, or interest in the described property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" The Vienna Townhomes Association, a Colorado not for profit corporation, its successors and assigns.

Section 2. "Owner" The owner of record, whether one or more persons or entities, of a fee simple title to any Townhouse Unit which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" The real property described as Tract "B" of the Breckenridge Quadrangle Townhouses, Tract "A" of the Silver Shekel subdivision, which tract lies adjacent and

north of the said Tract "B", and a portion of Lot 1 of the Silver Shekel subdivision, which lot lies adjacent and to the south of the said Tract "B".

Section 4. "Townhouse Map" The survey of the real property comprising Tract "B" of the Breckenridge Quadrangle Townhouses, which survey shows the locations of all Townhouse Units and depicts Common Areas, recorded as a plat of survey in the office of the Clerk and Recorder, Summit County, Colorado, as amended by a map designated "The Vienna Townhomes," a resubdivision of the Breckenridge Quadrangle Townhouses in Sections 18 and 19, T. 6 S., R. 77 W., 6th P.M., County of Summit, State of Colorado.

Section 5. "Common Area" All real property beyond the surveyed boundaries of Townhouse Units as shown on the Townhouse Map, including all the grounds, access roads, paths and parking aprons within the development. Each owner shall have an undivided interest in the Common Area and all facilities thereon.

Section 6. "Townhouse Unit" Lots 1 through 28 with the improvements thereon, shown upon the Townhouse Map.

Section 7. "Developer" Medallion International, Ltd., a Colorado corporation, to whose ownership and rights hereunder Darrel A. Farr Development Corp., a Minnesota corporation, has succeeded, and any other person or entity acquiring substantially all of the Property for resale and their successors.

Section 8. "Limited Common Elements" Outlots A through G shown upon the townhouse map. Limited Common Elements include boilers and mechanical systems, steam bath mechanisms (if installed), domestic hot water heaters and central plumbing systems.

Section 9. "Articles" The Articles of Incorporation of the Association.

Section 10. "By-Laws" The By-Laws of the Association.

Section 11. "Mortgage" Includes mortgages, deeds of trust and other security devices by which liens are imposed upon the Property.

ARTICLE II

Property Description, Identification, and Easements

Section 1. Description of Townhouse Units. The residential units on the real estate described in this Declaration are contained in buildings of four Townhouse Units each, as per the perspective and floor plans shown as Exhibit A to the original declaration. Said Townhouse Units contain two levels, including a garden level with living and dining areas, a half bath and a kitchen, and an upper level with major and minor bedrooms, an internal balcony, a bathroom, and a mechanical equipment room. Buildings are constructed principally of cedar, concrete and steel.

Section 2. Townhouse Unit Identification. Specific Townhouse Units are designated in numerical, sequential order from 1 through 28, as per the Townhouse Map. Reference to a specific Townhouse Unit number shall mean and refer to a specific tract of land and Townhouse Unit, together with an undivided interest in the Common Area as set forth in this Declaration. Said reference, together with the appropriate reference to the Townhouse Map of record in the office of the Clerk and Recorder, Summit County, Colorado, shall constitute a legal description for all instruments affecting title to a Townhouse Unit. Descriptions may be made in the following fashion:

Townhouse Unit (No.) of The Vienna Townhomes, according to the recorded Townhouse Map thereof, Summit County, Colorado.

Section 3. Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Townhouse Unit or Units, an easement for such encroachment and for the maintenance and reconstruction of the same shall and does exist. If any part of a Townhouse Unit encroaches or shall here-

after encroach upon the Common Elements, or upon an adjoining Townhouse Unit or Units, an easement for such encroachment and for the maintenance and reconstruction of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Elements or the Townhouse Units.

Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any building to be constructed on the Property, by error in the Townhouse Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the project or any part thereof.

Section 4. Easement for Access and Parking. Whereas the Developer owns Lot 1 of the Silver Shekel Subdivision, a residential lot lying adjacent and to the South of Tract "B" of the Breckenridge Quadrangle Townhouses, and whereas some of the Townhouse Units are accessible only from a certain access drive which passes through said Lot 1, as shown in Exhibit B to the original declarations, the Developer has granted an easement for the use of said drive to the Owners of Townhouse Units in the Breckenridge Quadrangle Townhouses. The Developer has further granted an easement for the use of a portion of Lot 1 for parking as shown in Exhibit A attached. Such easements shall be enforceable by the Association against any and all successors in Ownership of the said Lot 1 so long as this Declaration is in force.

ARTICLE III

PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

Section 1. Percentage of Ownership. Each Owner shall own an undivided interest in the Common Area and facilities with all other Owners. The percentage of ownership shall be 1/28th.

In addition, the Association may own personal and real property used in connection with the maintenance of all Common Areas within the provisions of this Declaration and with the management of Association affairs.

Section 2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Townhouse Unit.

Section 3. Owners' Right to Ingress, Egress and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Area necessary for access to his Townhouse Unit, and shall have the right to lateral support for his Townhouse Unit, and such rights shall be appurtenant to and pass with the title to each Townhouse Unit.

Section 4. Use of Townhouse Units. Each Townhouse Unit shall be used for residential purposes only, and no trade or business of any kind may be carried on therein, except as authorized in writing by the Association, and except that such Townhouse Unit as may be chosen by Declarant shall be excluded from the restrictions of this Section 4, so long as it is maintained as a sales and/or management center.

Lease or rental of a Townhouse Unit for residential purposes shall not be considered to be a violation of this covenant, but such rental activity shall comply with any provisions contained in the By-Laws of the Association pertaining to rentals.

Section 5. Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area, without the prior written consent of the Association, except as specifically provided herein. There shall be no alteration or construction in the Common Area except upon the prior written consent of the Association.

Section 6. Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Townhouse Unit or in the Common Area or any part thereof to increase the rate of insurance on the Property or any part thereof over what the Association, but for such activity, would pay, without the prior consent of the Association.

Nothing shall be done or kept in any Townhouse Unit or in the Common Area, or any part thereof, which would be in

violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

No damage to, or waste of the Common Area or any part thereof, or of the exterior of the Property and buildings, shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees to the Association or other Owners.

No noxious, destructive, or offensive activity shall be carried on in any Townhouse Unit or in the Common Area or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing in the Property.

Section 7. Animals. The Association may, by Rules and Regulations, prohibit or limit the raising, breeding or keeping of animals in any Townhouse Unit or in the Common Area or any part thereof.

Section 8. Rules and Regulations. No Owners shall violate the Rules and Regulations for the use of the Townhouse Units and of the Common Area as adopted from time to time by the Association.

Section 9. Delegation of Use. An Owner may delegate, in accordance with the By-Laws or this Declaration, his right of enjoyment of the Common Area and facilities thereon only to individuals who actually reside in his Townhouse Unit, including members of his family, tenants, guests, and contract purchasers.

Section 10. Ad Valorem Taxation. Each Townhouse Unit shall be assessed separately for all taxes, assessments, and other charges of the State of Colorado, Summit County, or of any political subdivision, or of any special improvement district, or of any other taxing or assessing authority. For the purpose of such assessment, the valuation of the Common Elements shall be apportioned among all the Townhouse Units on an equal basis. The Association shall furnish to the assessor all necessary information with respect to such apportionment.

No forfeiture or sale of any Townhouse Unit for delinquent

taxes, assessments, or any form of governmental charges shall divest or in any way affect the title to any other Townhouse Unit.

Section 11. Owner's Rights with Respect to Interiors. Each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors and doors of his Townhouse Unit.

Section 12. Maintenance of Interiors. Each Owner shall keep the interior of his Townhouse Unit, including, without limitation, interior walls, windows glass, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean, sanitary and attractive condition, and in a good state of repair.

Section 13. Structural Alterations. No structural alterations to any Townhouse Unit shall be made, and no plumbing, electrical or similar work within the Common Area shall be done by any Owner without the prior written consent of the Architectural Control Committee in accordance with procedures set forth in Article V, Section 6 below.

Section 14. Specific-Use Common Elements. The Association may impose restrictions governing the use of Specific-Use Common Elements, such as the use of patios for the stacking of firewood, etc.

Section 15. Work Contracted by Owner. No work on any Townhouse Unit contracted by and performed for the Owner thereof shall create a lien enforceable against the Association.

ARTICLE IV

Association Membership and Voting Rights

Section 1. Membership. Every Owner shall be entitled and required to be a member of the Association. Each such membership shall be appurtenant to the Townhouse Unit upon which it is based and shall be transferred automatically by the conveyance of that Townhouse Unit, and membership in the Association may not be transferred except in connection with such conveyance, provided,

however, that the rights of voting may be assigned to a Mortgagee as further security for a loan secured by a lien on a Townhouse Unit.

If title to a Townhouse Unit is held by more than one person, each of such persons shall be members. An Owner of more than one Townhouse Unit shall be entitled to one membership for each Townhouse Unit owned by him.

Section 2. Voting Classes. The Association shall have two classes of voting membership. Class A members shall be all the Owners, with exception of the Developer, and shall be entitled to one vote for each Townhouse Unit owned.

The Class B member(s) shall be the Developer and shall be entitled to three (3) votes for each Townhouse Unit owned or which may be built as set forth in Article X of this Declaration. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or on December 31, 1976.

Section 3. Dividend Ownership. When more than one person holds an interest in any Townhouse Unit, the vote for such Townhouse Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Townhouse Unit, nor can there be a split vote.

Prior to the time of any meeting at which a vote is to be taken, each co-owner shall file the name of the voting co-owner with the Secretary of the Association in order to be entitled to vote at such meeting, unless such co-owners have filed a general voting authority with the Secretary applicable to all votes until rescinded.

ARTICLE V

Rights and Obligations of the Association

Section 1. The Common Area. The Association, subject to the

rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, control, maintenance, and repair of all Common Areas, and all improvements thereon (including furnishings and equipment related thereto, utility lines, and all other improvements or material located within or used in connection with the Common Area), and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

Section 2. Building Exteriors. The Association shall be responsible for the maintenance and repair of exterior surfaces of all buildings on the Property, including, without limitation, the painting and repair of stuccoed areas, the replacement of trim, and the maintenance and repair of roofs and siding.

Section 3. Easements of Access for Repair, Maintenance and Emergencies. Some of the Limited Common Elements are or may be located within the Townhouse Units or may be conveniently accessible only through the Townhouse Units. The Owners of other Townhouse Units shall have the irrevocable right, to be exercised by the Association as their agent, to have access to each Townhouse Unit and to all said Limited Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the said Limited Common Elements located therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the said Limited Common Elements or to another Townhouse Unit or Units. The Association shall also have such right independent of any agency relationship.

Damage to the interior or any part of a Townhouse Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Limited Common Elements or as a result of emergency repairs within another Townhouse Unit at the instance of the Association or of Owners, shall be an expense of all the Townhouse Unit Owners in the affected building, provided, however, that if such damage is the result of negligence of the Owner of a Townhouse Unit, then such Owner shall be financially responsible

for all of such damage.

Such damage shall be repaired and the Property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by the Owners pursuant hereto shall be collected by the Association by assessment pursuant to this Declaration.

Section 4. Services. The Association may obtain and pay for services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts.

The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration.

The Association may arrange with others to furnish water, trash collection, snow removal, sewer service, cable T.V. and other common services to each Townhouse Unit.

Section 5. Personal and Real Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal and real property, including one Townhouse Unit for use as quarters and office for a resident manager, and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners on an equal basis.

Such interest shall not be transferable except with the transfer of a Townhouse Unit, in which case the transfer of the Owner's beneficial interest in such property to the new Owner is made without any reference thereto.

Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners.

Section 6. Architectural Control Committee. No exterior additions or alterations or structural modification of any kind to any building on the Property, nor any alterations or additions to the Common Area, shall be commenced, erected or maintained except such as are installed or approved by the Developer in connection with the initial construction of the buildings on the Property, until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding buildings in the development by an Architectural Control Committee. The Architectural Control Committee shall be composed of the Board of Managers of the Association, or by a representative or representatives designated by the Board of Managers.

Section 7. Rules and Regulations. The Association may make reasonable Rules and Regulations governing the use of the Townhouse Units and the Common Area, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration.

Section 8. Implied Rights. The Association may exercise any other right or privilege either given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 9. Restriction on Capital Improvements. During a period of five years from the date of this Declaration, the Association may not authorize capital improvements to the Common Area except for replacement or repair of items existing on December 1, 1973, and except for personal property related to the maintenance of the Common Area and Buildings, provided, however, that such capital improvements may be made with the approval of the Developer.

ARTICLE VI

Covenant for Assessments

Section 1. Agreements to Pay Assessments. The Developer, for each Townhouse Unit owned by it within the Properties, and for and as the Owner of the Properties and every part thereof, hereby covenants, and each Owner of any Townhouse Unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association for the purposes provided in this Declaration, for special assessments, assessments for common expenses, for capital improvements, for limited common elements, and for any other matters as provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time in the manner provided in this Article.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the exterior of the Buildings situated upon the Properties, and such emergency repairs as the Association may deem necessary.

Section 3. General Assessment for Common Expenses. All Owners shall be obligated to pay the general assessments imposed by the Board of Managers of the Association to meet expenses attributable to the Common Area and the Townhouse community as a whole. Such assessments imposed by the Board of Managers of the Association to meet expenses shall be due monthly in advance on the first day of each month.

Section 4. Monthly Statements. Each Owner shall be responsible for the prompt notification of the Association of any change of address for the delivery or mailing of his monthly statement.

Section 5. Special Assessments. In addition to the General Assessments authorized above, the Association may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided, however, that any such assessment shall be in accordance with Article V, Section 9 of this Declaration.

Section 6. Specific Assessments for Maintenance of Limited Common Elements. Costs attendant to the repair and maintenance of, and the electricity, water and gas used by, the Limited Common Elements in a given building shall be paid by the Association but may be assessed specifically to the four Owners within the said building on a pro-rata share basis and collected pursuant to this Declaration.

ARTICLE VII

Association Remedies for Nonpayment of Assessments

Section 1. Lien for Assessments. All sums assessed to any Townhouse Unit pursuant to Article VI, together with interest thereon as provided herein, shall be secured by a lien on such Townhouse Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Townhouse Unit, except only for valid tax and special assessment liens on the Townhouse Unit in favor of any governmental assessing authority, a lien for all sums unpaid on any first Mortgage, or liens on any Mortgage to the Developer, duly recorded in the Summit County, Colorado real estate records, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument.

All other lienors acquiring liens on any Townhouse Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not

such consent be specifically set forth in the instruments creating such liens, and regardless of any attempt to avoid such condition.

To evidence a lien for sums assessed pursuant to this Article VII, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Townhouse Unit, and a description of the Townhouse Unit. Such notice shall be signed by no less than two members of the Board of Managers and may be recorded in the office of the County Clerk and Recorder of Summit County, Colorado.

No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which Mortgages on real property may be foreclosed in Colorado. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien, all reasonable attorneys' fees, and any assessments against the Townhouse Unit which shall become due during the period of foreclosure. All such costs and expenses shall be secured by the lien being foreclosed.

The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the Summit County, Colorado, real estate records, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Townhouse Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section 1, and, upon such payment, such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

Section 5. Special Assessments. In addition to the General Assessments authorized above, the Association may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided, however, that any such assessment shall be in accordance with Article V, Section 9 of this Declaration.

Section 6. Specific Assessments for Maintenance of Limited Common Elements. Costs attendant to the repair and maintenance of, and the electricity, water and gas used by, the Limited Common Elements in a given building shall be paid by the Association but may be assessed specifically to the four Owners within the said building on a pro-rata share basis and collected pursuant to this Declaration.

ARTICLE VII

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Section 1. Lien for Assessments. All sums assessed to any Townhouse Unit pursuant to Article VI, together with interest thereon as provided herein, shall be secured by a lien on such Townhouse Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Townhouse Unit, except only for valid tax and special assessment liens on the Townhouse Unit in favor of any governmental assessing authority, a lien for all sums unpaid on any first Mortgage, or liens on any Mortgage to the Developer, duly recorded in the Summit County, Colorado real estate records, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument.

All other lienors acquiring liens on any Townhouse Unit after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not

such consent be specifically set forth in the instruments creating such liens, and regardless of any attempt to avoid such condition.

To evidence a lien for sums assessed pursuant to this Article VII, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Townhouse Unit, and a description of the Townhouse Unit. Such notice shall be signed by no less than two members of the Board of Managers and may be recorded in the office of the County Clerk and Recorder of Summit County, Colorado.

No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which Mortgages on real property may be foreclosed in Colorado. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien, all reasonable attorneys' fees, and any assessments against the Townhouse Unit which shall become due during the period of foreclosure. All such costs and expenses shall be secured by the lien being foreclosed.

The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the Summit County, Colorado, real estate records, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Townhouse Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section 1, and, upon such payment, such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

The Association shall report to any encumbrancer of a Townhouse Unit any unpaid assessment remaining unpaid for longer than ninety (90) days after the same shall have become due, provided, however, that such encumbrancer first shall have furnished to the Association written notice of such encumbrance.

Section 2. Effect of Nonpayment of Assessments. Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest from the due date at the rate of 10 percent per annum. The Association may suspend the voting rights of, and may bring an action at law against, the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Townhouse Unit. A suit to recover a money judgment for unpaid expenses hereunder shall be maintainable without foreclosing or waiving the lien securing the same.

Section 3. Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Townhouse Unit shall not affect the assessment lien. However, the sale or transfer of any Townhouse Unit pursuant to first mortgage foreclosure shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer and such unpaid assessments shall be deemed to be common expenses collectible from all of the Owners, excluding the person acquiring the property upon foreclosure, his successor, and assigns. No sale or transfer shall relieve such Townhouse Unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section 4. Statement of Account. Upon payment of a reasonable fee and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Townhouse Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Townhouse Unit, the amount of the current monthly assessment and the date that such assessment becomes due, and all credits for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums. Such statement

shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

Section 5. Personal Liability of Purchaser for Assessment.

Subject to the provisions of Section 4 above, a purchaser of a Townhouse Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Townhouse Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

ARTICLE VIII

Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the buildings upon the Properties and placed on the dividing line between the Townhouse Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and it is not covered by insurance, any Owner who has used the wall may restore it, and shall contribute to the cost of restoration thereof in proportion to their use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Encroachments. Townhouse Units are designed with exterior patios and storage sheds adjacent and attached to the adjoining Townhouse Units. Such patios and sheds, and the Owners' use thereof, constitute an encroachment on the adjoining Townhouse Units.

The Owner of each Townhouse Unit hereby takes title subject to a perpetual easement for such encroachment, and the subject patios and storage sheds may be repaired, rebuilt or replaced in such a fashion as to permit these encroachments to be re-established but not enlarged without consent of the servient Owner and the Association. However, the Association may establish regulations or restricting the use of patios and sheds.

ARTICLE IX

Insurance

Section 1. Fire and Extended Coverage. The Board of Managers shall to the extent obtainable, obtain and maintain, as the Board determines to be in the best interest of all the Owners, fire insurance with extended coverage, vandalism, and malicious mischief endorsements, insuring all buildings, Common Areas, and facilities thereon, and Limited Common Elements (including all of the Townhouse Units and bathroom appliances, but not including any wall, ceiling, or floor decoration or coverings or other furniture, furnishings, fixtures or equipment installed by Owners), together with all service machinery contained therein and covering the interest of the Association, all Owners, and all Mortgagees, as their interest may appear, in an amount determined to be the full replacement value, without deduction for depreciation.

Such policy shall be written by a "A+5A" rated carrier, as per Best's Key Rating Guide: Property - Liability, published by the A. M. Best Co., Inc., shall contain a standard, noncontributory mortgagee clause in favor of each first Mortgagee which shall from time to time give notice to the Association of such first

Mortgage, shall name the Association as the insured as trustee for all the Owners, and shall provide that the policy may not be cancelled or substantially modified without at least thirty (30) days' prior written notice of all Owners and all first Mortgagees.

The policy shall, to the extent obtainable, contain waivers of subrogation and waivers of any defense based on co-insurance or of invalidity arising from any acts of the insured(s). If such waivers are not attainable, then the policy shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of any breach of warranty, act, omission, negligence or noncompliance with any provisions of such policy, including payment of the insurance premium applicable to the Owner's interest, or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. Such policy shall provide further that the insurance under the policy, as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Section 2. Board of Managers as Agent. In the event of loss under any policy in the name of the Association, the Board of Managers is irrevocably appointed agent for all the Owners to adjust claims with insurance carriers and deal with all matters pertaining to the repair or reconstruction of damaged areas.

Section 3. Insurance Trustee. The Board of Managers may, with the approval of all holders of first Mortgages, appoint an insurance Trustee to assist the Board in carrying out its responsibilities under Section 2 above, and (or) represent the interests of all Mortgagees in the adjustment of claims and (or) the application of proceeds therefrom to repair or reconstruction.

Section 4. Repair or Reconstruction after Fire or Other Casualty. Except as hereinafter provided, in the event of

casualty loss, the Board of Managers shall arrange for the prompt and orderly repair or restoration of damaged insured properties. In the event of total destruction of a building or buildings, reconstruction shall be substantially to the same design, plan and specifications as originally built, except that the design, plan and specifications may vary from those of the original upon approval of the Association. However, the number of square feet in any Townhouse Unit may not vary by more than 5% from the number of square feet for such Townhouse Unit as originally constructed, and the location of the buildings shall be substantially the same as prior to the destruction.

The Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance claims to the contractors engaged in such repair or restoration in appropriate progress payments. Any cost of such repair or restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers may assess all the Owners for such deficit as part of the common charges, except that the cost of any repair or restoration of any wall, ceiling or floor decoration or coverings or other furniture, furnishings, fixtures or equipment installed by Owners shall not constitute a common expense for assessment to all the Owners.

Section 5. Decision Not to Reconstruct. If 66-2/3 or more of the insured property is destroyed or substantially damaged and if within sixty (60) days of the date of such destruction or damage 75% or more of the Owners determine not to proceed with repair and restoration, the Property shall be subject to an action of partition at the suit of any Owner or lienor, as if owned in common, in which event the net proceeds of sale, together with the net proceeds of insurance adjustments (or, if there shall have been a repair or restoration pursuant to the first paragraph of this Section 7, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds) shall be divided by the Board of Managers or the Insurance Trustee,

as the case may be, among all the Owners on an equal basis, after first paying out of the share of each Owner the amount of any unpaid liens on his Townhouse Unit, in the order of priority of such liens.

Section 6. Other Insurance. The Board of Managers shall provide, to the extent obtainable, and as the Board determines to be in the best interest of all the Owners in The Vienna Townhomes Association, the following insurance: (1) public liability insurance covering the Common Area and facilities thereon in such amounts as may be determined at the discretion of the Board of Managers from time to time; (2) workmen's compensation insurance and fidelity bonds on such officers and employees and in such amounts as determined by the Board of Managers to be necessary from time to time; and (3) such other insurance as the Board of Managers may determine.

Section 7. Owners' Right to Insure. Owners shall not be prohibited from carrying other policies for their own benefit, provided that such Owner policies contain waivers of subrogation and contain no provisions that could jeopardize the Association's ability to promptly repair damaged areas, and further provided that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

All Owner policies shall be subject to this Article IX whether or not express references to this Article IX is contained therein, and the Association Board of Managers shall have the right, though not the obligation, to require that memorandums of all Owner policies be furnished to the Association for the purpose of review as to compliance with this Article IX.

ARTICLE X

General Provisions

Section 1. Amplification. The provisions of this Declaration are and may be amplified by the Articles of Incorporation and the By-Laws and by Rules and Regulations adopted by the Association provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners as set forth herein.

Section 2. Documents: Order of Precedence. Where conflict or discrepancy occurs in the Articles of Incorporation of the Association, the By-Laws of the Association and the Rules and Regulations adopted by the Association, the Declaration shall take precedence, followed by the Articles, then the By-Laws, and lastly the Rules and Regulations.

Section 3. Compliance and Enforcement. Each Owner shall comply with the provisions of this declaration. Failure to comply shall be grounds for an action at law to recover sums due and for damages or injunctive relief or both, maintainable by the Association on behalf of the Owners, or, in proper case, by an aggrieved Owner.

Failure by the Association or by any Owner to enforce any provision contained in this declaration shall in no event be deemed a waiver of the right to do so thereafter.

If the provisions of the declaration are enforced by appropriate proceedings by any Owner or Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the cost incurred in the discretion of the Board of Managers of the Association.

Section 4. Severability. Invalidation of any one of the provisions of this declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Duration. The provisions of this declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Townhouse Unit, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date the original declaration was recorded after which time this declaration shall be automatically extended for successive periods of ten (10) years.

Section 6. Amendment. This Declaration may be amended by a vote of 75% of the members or their proxies of both classes of membership in accordance with voting procedures as set forth in Article 3 of the By-Laws.

Section 7. Transfer of Developer's Rights. Any right or any interest reserved hereby to the Developer may be transferred or assigned by the Developer, either separately or with one or more of such rights or interests, to any person or entity.

Section 8. Owner and Association Registered Addresses. The Owner(s) of each Townhouse Unit shall have one and the same mailing address to be used by the Association for the mailing of monthly statements, notices, demands and all other communications. Such mailing address shall be the only mailing address to be used by the Association.

The registered address of a Townhouse Unit and any change thereof shall be furnished to the Secretary of the Association in writing and shall be signed by all the Owners of a Townhouse Unit. If no such registered address is so furnished, then the address of the Townhouse Unit shall be used by the Association.

All notices or demands intended to be served upon the Association shall be sent to the address from time to time specified in the records of the Association or in the absence of such specification to any officer of the Association.

Executed this 3RD day of January, 1974 by Darrel A. Farr Development Corp., a Minnesota corporation.

ATTEST:

DARREL A. FARR DEVELOPMENT CORP.

D. B. [Signature]

By

[Signature]

President

STATE OF Minnesota }

COUNTY OF Hennepin }

ss.

The foregoing instrument was acknowledged before me this 3rd day of JANUARY, 1974 by DARREL A. FARR as _____ President of DARREL A. FARR DEVELOPMENT CORP., a Minnesota corporation, on behalf of the corporation.

My commission expires December 28, 1977.

Witness my hand and official seal.

Jeddie G. Bruce
Notary Public