

When Recorded, Return to:

DL BUILDERS, LLC
4147 California Ave SW
Seattle, WA 98116

**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**

| | |
|--|---|
| Grantor: | 1. <u>DL BUILDERS, LLC, a Washington limited liability company</u> |
| Grantees: | 1. CITY OF SEATTLE SHORT/UNIT LOT SUBDIVISION NO. 3035234-LU; 2. <u>CITY OF SEATTLE SHORT SUBDIVISION NO. 3035267-LU</u> |
| Legal Description (complete): | Unit Lots AA, BB, CC, DD and Parcels X, Y, and Z, City of Seattle Short/Unit Lot Subdivision No. 3035234-LU, as recorded under King County Recording No. 20210521900001; and Parcels Y and Z, City of Seattle Short Subdivision No. 3035267-LU, as recorded under King County Recording No. 20210714900002. Situate in King County, Washington. |
| Assessor's Tax Parcel ID #: | 0952006030; 0952006031; 0952006032; 0952006033; <u>0952006034; 0952006035; 0952006036</u> |
| Reference Nos. of Documents Released or Assigned: | <u>N/A</u> |

This Property is subject to the Washington Uniform Common Interest Ownership Act, codified at Ch. 64.90 RCW, as it may be from time to time amended; provided, however, under RCW 64.90.075(2), this Property is only subject to RCW 64.90.020, 64.90.025, and 64.90.030.

TABLE OF CONTENTS

| | PAGE |
|---|----------|
| ARTICLE 1 INTERPRETATION | 2 |
| 1.1 Washington Uniform Common Interest Ownership Act (ch. 64.90 RCW) | 2 |
| 1.2 Captions and Schedules | 2 |
| 1.3 Definitions | 2 |
| 1.4 Owners Consent or Approval | 3 |
| | |
| ARTICLE 2 PROPERTY RIGHTS | 3 |
| 2.1 Units | 3 |
| 2.2 Easements | 5 |
| 2.2.1 Right to Use | 5 |
| 2.2.2 Utility Easement | 5 |
| 2.2.3 Pedestrian Access Easements | 5 |
| 2.2.4 Parking | 5 |
| 2.2.5 Parking Pad | 5 |
| 2.2.6 Address Sign and Sign Maintenance | 5 |
| 2.2.7 Easement for Fences and Open Space | 6 |
| 2.2.8 Easement for Encroachments | 6 |
| 2.2.9 Easement Over Units | 6 |
| 2.2.10 Mailboxes | 7 |
| 2.2.11 Waste Storage Easement | 7 |
| 2.2.12 Bioretention Cell | 7 |
| 2.3 Party Walls | 7 |
| 2.3.1 General Rules of Law to Apply | 7 |
| 2.3.2 Cost of Repair | 7 |
| 2.3.3 Destruction of Fire or Other Casualty | 7 |
| 2.3.4 Weatherproofing | 7 |
| 2.3.5 Right to Contribution Runs with Land | 8 |

| | | |
|---|--|-----------|
| 2.3.6 | Arbitration | 8 |
| ARTICLE 3 REGULATION OF COMMON AREAS | | 8 |
| ARTICLE 4 USE/MAINTENANCE AGREEMENTS SET FORTH IN PLAT | | 8 |
| ARTICLE 5 ARCHITECTURAL CONTROL; USE; MAINTENANCE, ETC..... | | 8 |
| 5.1 | Architectural Control | 8 |
| 5.2 | Use of Units..... | 9 |
| 5.3 | Additional Uses Allowed In Live/Work Units | 9 |
| 5.4 | Use of Common Areas | 10 |
| 5.5 | Nuisances | 10 |
| 5.6 | Subdivision | 10 |
| 5.7 | Maintenance of Property | 11 |
| 5.7.1 | Obligations of Owners | 11 |
| 5.7.2 | Damage Caused by Owner | 11 |
| 5.8 | Waste Removal..... | 11 |
| 5.9 | Pets | 11 |
| 5.10 | Signs | 11 |
| 5.11 | Rentals | 12 |
| 5.12 | Governmental Regulations and Restrictions..... | 12 |
| 5.13 | Vehicles | 12 |
| 5.14 | Window and Door Treatments | 12 |
| 5.15 | Antennas | 12 |
| 5.16 | Personal Property | 12 |
| 5.17 | Assessments | 12 |
| ARTICLE 6 INSURANCE..... | | 13 |
| 6.1 | Owner’s Insurance..... | 13 |
| 6.2 | Reconstruction | 13 |

| | |
|---|-----------|
| ARTICLE 7 MORTGAGEE PROTECTION | 13 |
| 7.1 Abandonment of Declaration..... | 13 |
| 7.2 Effect of Declaration Amendments | 13 |
| ARTICLE 8 COMPLIANCE WITH DECLARATION | 14 |
| 8.1 Enforcement | 14 |
| 8.2 No Waiver of Strict Performance..... | 14 |
| ARTICLE 9 TERM OF DECLARATION — COMPLIANCE WITH RULE AGAINST PERPETUITIES AND RESTRAINTS OF ALIENATION | 14 |
| ARTICLE 10 AMENDMENT OF DECLARATION..... | 14 |
| 10.1 Amendments..... | 14 |
| 10.2 Prior to Close of First Sale..... | 14 |
| 10.3 Amendments to Conform to Lending Guidelines | 14 |
| ARTICLE 11 MISCELLANEOUS | 15 |
| 11.1 Notices..... | 15 |
| 11.2 Notification of Sale of Unit..... | 15 |
| 11.3 Remedies Cumulative | 15 |
| 11.4 Successors and Assigns..... | 15 |
| 11.5 Joint and Several Liability | 15 |
| 11.6 Priority of Mortgage..... | 15 |
| 11.7 Attorneys’ Fees..... | 15 |
| 11.8 Severability | 15 |
| 11.9 Limitation of Liability | 16 |
| ARTICLE 12 ARBITRATION..... | 16 |

**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**

THIS DECLARATION is made as of the date hereinafter set forth by **DL Builders, LLC**, a Washington limited liability company (“*Declarant*”).

RECITALS

A. Declarant is the owner of Unit Lots AA, BB, CC, DD and Parcels X, Y, and Z, City of Seattle Short/Unit Lot Subdivision No. 3035234-LU and Parcels Y and Z, City of Seattle Short Subdivision No. 3035267-LU; all as more particularly described on the cover page attached hereto and incorporated herein by this reference (the “*Property*”). Each of the Unit Lots and Parcels, together with all improvements thereto, shall be referred to herein as a “*Unit*”, and collectively as the “*Units*”.

B. A townhome residential dwelling has been constructed on each of Unit 1 TH, Unit 2 TH, Unit 3 TH, and Unit 4 TH (as hereinafter defined). A live/work structure has been constructed on each of Unit 1 Live-Work, Unit 2 Live-Work, Unit 5 Live-Work, and Unit 6 Live-Work (as hereinafter defined).

C. Declarant hereby declares that the Units shall be held, conveyed, divided, encumbered, hypothecated, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions, limitations, reservations, easements, rights, rights-of-way, liens, charges and equitable servitudes, all of which are hereby declared, established, expressed and agreed: (i) to be for the benefit of and protection of the Property, its desirability, value and attractiveness; (ii) to be for the benefit of the Owners and Mortgagees of the Units; (iii) to run with the land and be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof; (iv) to inure to the benefit of every portion of the Property and any interest therein; and (v) to inure to the benefit of and be binding upon the successors and assignees in interest of each Owner and of Declarant.

D. No homeowners association has been formed for this Property and therefore, no assessments are collected from the Owners of the Units.

ARTICLE 1 INTERPRETATION

1.1 Washington Uniform Common Interest Ownership Act (ch. 64.90 RCW). The Property is a “plat community” as defined in RCW 64.90.010(37). However, under RCW 64.90.075(2), the Property is only subject to RCW 64.90.020, 64.90.025, and 64.90.030, because (a) the Property is not subject to any development right; (b) the Property does not have more than twelve units; (c) this Declaration does not provide for the establishment of a homeowners association or the levying of assessments and therefore, there will be no annual average assessment of units in excess of \$300; (d) the Declarant reasonably believes in good faith that no assessment of units is required to pay the expenses of the association because there will be no association; and (e) the required provision restricting assessments is set forth in Section 5.17.

1.2 Captions and Schedules. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. Any schedules or exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

1.3 Definitions.

1.3.1 “Common Areas” shall mean the easement areas and other property interests and improvements thereto where common usage by the Owners is permitted, as more particularly described herein and on the Plat of the Property.

1.3.2 “Declarant” shall mean DL BUILDERS, LLC, a Washington limited liability company.

1.3.3 “Declaration” shall mean this Declaration and any amendments thereto.

1.3.4 “Live/Work Unit” shall mean a Unit that may be used for both residential and non-residential commercial purposes, but with no more than 49% of the square footage of each Live/Work Unit or the Home located within the Unit to be dedicated to non-residential commercial purposes as further described and set forth in Section 9.4. The Live/Work Units are identified in Section 2.1 as Unit 1 Live-Work, Unit 2 Live-Work, Unit 5 Live-Work, and Unit 6 Live-Work.

1.3.5 “Mortgage” shall mean a recorded mortgage or deed of trust that creates a lien against a Unit and shall also mean a real estate contract for the sale of a Unit.

1.3.6 “*Mortgagee*” shall mean the beneficial owner or designee of the beneficial owner, of an encumbrance on a Unit created by mortgage or deed of trust and shall also mean the vendor, or assignee of a vendor, of a real estate contract for the sale of a Unit.

1.3.7 “*Owner*” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit, including contract purchasers, but excluding those having such interests merely as security for the performance of an obligation.

1.3.8 “*Parcel*” shall mean and refer to any one of the parcels of the Property together with all improvements thereto.

1.3.9 “*Plat*” shall mean the City of Seattle Short/Unit Lot Subdivision No. 3035234-LU, as recorded under King County Recording No. 20210521900001; and Parcels Y and Z, City of Seattle Short Subdivision No. 3035267-LU, as recorded under King County Recording No. 20210714900002, by which the Units were created.

1.3.10 “*Residential Unit*” shall mean a Unit that may be used for residential purposes only. The Residential Units are identified in Section 2.1 as Unit 1 TH, Unit 2 TH, Unit 3 TH, and Unit 4 TH.

1.3.11 “*Unit Lot*” shall mean and refer to any one of the unit lots of the Property together with all improvements thereto.

1.3.12 “*Unit*” shall mean and refer to any one of the Parcels or Unit Lots together with all improvements thereto.

1.4 Owners Consent or Approval. Whenever any of the provisions of this Declaration require the consent or approval of, or a decision by, some or all of the Owners, then, unless otherwise expressly provided herein, the unanimous consent, approval or affirmative decision of such Owners shall be deemed to be required.

ARTICLE 2 PROPERTY RIGHTS

2.1 Units. Subject to the provisions of this Declaration, each Owner shall have the right to own, use and enjoy the Unit owned by said Owner. The addresses for each of the Units shall be as follows:

Short/Unit Lot Subdivision No. 3035234-LU

| UNIT | ADDRESS | UNIT TYPE |
|--|--|------------------|
| Unit Lot AA (<i>“Unit 1 TH”</i>) | 4407A 42nd Ave SW Seattle, WA 98116 | Residential Unit |
| Unit Lot BB (<i>“Unit 2 TH”</i>) | 4407B 42nd Ave SW Seattle, WA 98116 | Residential Unit |
| Unit Lot CC (<i>“Unit 3 TH”</i>) | 4407C 42nd Ave SW Seattle, WA 98116 | Residential Unit |
| Unit Lot DD (<i>“Unit 4 TH”</i>) | 4407D 42nd Ave SW Seattle, WA 98116 | Residential Unit |
| Parcel Y (<i>“Unit 5 Live- Work”</i>) | 4409 42nd Ave SW Seattle, WA 98116 | Live/Work Unit |
| Parcel X (<i>“Unit 6 Live- Work”</i>) | 4411 42nd Ave SW Seattle, WA 98116 | Live/Work Unit |

Short Subdivision No. 3035267-LU

| UNIT | ADDRESS | UNIT TYPE |
|--|---------------------------------------|----------------|
| Parcel Y (<i>“Unit 1 Live- Work”</i>) | 4413 42nd Ave SW Seattle, WA 98116 | Live/Work Unit |
| Parcel Z (<i>“Unit 2 Live- Work”</i>) | 4415 42nd Ave SW Seattle, WA 98116 | Live/Work Unit |

2.2 Easements.

2.2.1 Right to Use. Subject to the provisions of this Declaration and the Plat, each Owner, except as otherwise limited herein, shall have the right to use, enjoy and receive the benefit of any easements created hereunder or pursuant to the Plat.

2.2.2 Utility Easement. There is hereby declared and granted a utility easement over, under, through, across and upon the Property as more particularly described on the Plat as the “*Utility Easement.*” The Utility Easement shall include, but not be limited to, underground water lines, power, gas, telephone, cable, sanitary sewer and storm sewer and building repair and maintenance and emergency access.

2.2.3 Pedestrian Access Easements. There is hereby declared and granted to the Owners of the Units, a perpetual, non-exclusive easement for pedestrian access over, under, through, across and upon, those southerly portions of the Property, as more particularly described in the Plat as the “5.00’ Pedestrian Access Easement” and “6.00’ Exclusive Pedestrian Access and Utility Easement”, and the northwesterly portion of the Property, as more particularly described in the Plat as the “Pedestrian, Bicycle and Parking Easement”, together with such adjacent areas that are improved as of the date hereof by a walkway constructed therein.

There is also hereby declared and granted to the Owners of Unit 1 Live-Work and Unit 2 Live-Work, a perpetual, non-exclusive easement for pedestrian access over, under, through, across and upon, that northerly portion of the Property, as more particularly described in the Plat as the “2.50’ Pedestrian Access Esmt Exclusive for Parcel B”, together with such adjacent areas that are improved as of the date hereof by a walkway constructed therein.

2.2.4 Parking. Parking for Unit 1 TH and Unit 2 TH are provided within the Unit and is not subject to any easement hereunder. Unit 3 TH, Unit 4 TH, Unit 1 Live-Work, Unit 5 Live-Work, and Unit 6 Live-Work do not have any off-street parking. Unit 2 Live-Work has an off-street parking pad pursuant to the easement below.

2.2.5 Parking Pad. There is hereby created and granted to the Owner of Unit 2 Live-Work, a perpetual, exclusive easement appurtenant to such Unit for the purpose of parking one passenger vehicle within the parking pad (“Parking Pad”) over, across, and upon that portion of Unit 2 TH more as depicted on the Plat, together with such adjacent area which has been improved for such Parking Pad by Declarant as of the date hereof.

2.2.6 Address Sign and Sign Maintenance. There is hereby declared and granted to the Owners of the Units a perpetual, non-exclusive easement for the purpose of installation, maintenance, repair and replacement of an address sign for the Property upon that southeasterly portion of the Property where address signs have been installed by Declarant as of the date hereof.

2.2.7 Easement for Fences and Open Space. Fences constructed on the Property as of the date of this Declaration may not in every case be located on a property line as depicted on the Plat. To the extent that any such fence encloses a yard or open space area adjoining one of the homes constructed on a Unit, an easement is hereby declared and granted for the installation of such fence and its maintenance, repair and replacement. To the extent that any such fence encloses a portion of a Unit as yard or open space area benefiting the adjoining Unit (“*Yard Easement Area*”), an easement is hereby declared and granted for the benefited Owner to use such Yard Easement Area for yard, landscaping and open space purposes. The Owner of the benefited Unit shall indemnify and hold the Owner of the servient Unit harmless from any liability, damage or cost for personal injury or property damage arising from any negligent or wrongful act or omission within such Yard Easement Area by the benefited Owner or the benefited Owner’s guests, invitees, contractors or visitors. Owners sharing a common fence shall share equally in its ordinary maintenance, repair and replacement.

2.2.8 Easement for Encroachments. Each Unit is hereby declared to have an easement over all adjoining Units for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any building or improvement installed by Declarant located on any Unit, or any other similar cause, and any encroachment due to building overhang or projection. Without limitation, such easement shall be applicable to any fence installed by Declarant on the Property. There shall be valid easements for the maintenance of said encroachment so long as they shall exist, and the rights and obligations of Owner shall not be altered in any way by said encroachment, settling or shifting; provided, however, in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful act or acts with full knowledge of said Owner or Owners. In the event any building or improvement on a Unit is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Units shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any Unit.

2.2.9 Easement Over Units. There is hereby reserved to each Owner an easement over each adjoining Unit to the extent reasonably necessary to permit said Owner to repair, maintain and improve the improvements on said Owner’s Unit. Provided, each Owner shall: (i) utilize only such portion of another Unit, and only for such duration as is reasonably necessary to accomplish a permitted purpose and in a manner that will not unnecessarily disturb the peaceful enjoyment of such other Unit by Owner thereof; and (ii) at said Owner’s sole expense, repair any damage caused to such other Unit and improvements thereof and restore such other Unit and improvements to as near the original condition as reasonably practicable.

2.2.10 Mailboxes. There is hereby declared and granted to the Owners of the Units an easement for the purpose of installation, maintenance, use and replacement of mailboxes serving the Property as such mailboxes are installed by Declarant as of the date hereof.

2.2.11 Waste Storage Easement. There is hereby declared and granted to the Owners of Units a nonexclusive easement for the placement and storage of waste containers over, across, and upon that northwesterly portion of Unit 1 TH where waste storage areas are installed and/or designated by Declarant as of the date hereof.

2.2.12 Bioretention Cell. There is hereby declared and granted to the Owners of the Units, an easement upon, across, over, through and under, that portion of the Property on which a bioretention cell is installed as of the date hereof. This easement shall be for the purposes of installation, maintenance, repair and replacement of the bioretention cell that serves and benefits the Units. The costs of reasonable repair, maintenance, and replacement of such bioretention cell shall be shared equally by the Owners of the Units.

2.3 Party Walls.

2.3.1 General Rules of Law to Apply. Any wall which is built as part of the original construction of the townhomes upon each Unit and placed on the dividing line between the 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.

2.3.2 Cost of Repair. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the two Owners who make use of that wall.

2.3.3 Destruction of Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has the use of the wall may restore it, and the other Owner who makes use of the wall shall contribute one-half of the cost of restoration thereof without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

2.3.4 Weatherproofing. Notwithstanding any other provisions of this article, an Owner who by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

2.3.6 Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, such dispute shall be subject to arbitration pursuant to ARTICLE 12 below.

ARTICLE 3 REGULATION OF COMMON AREAS

The use, repair and maintenance of Common Areas shall be subject to the control and regulation of the Owners, who shall act by unanimous decision, unless otherwise provided, and associated costs for use, repair and maintenance shall be shared in the same manner (equally, unless otherwise provided); provided, however, each Owner shall be responsible for the ordinary day-to-day maintenance and repair, including landscaping and cleaning, of the portion of any Common Area lying within such Owner's Unit. In the event of any dispute arising concerning the Common Areas, or under the provisions of this Article, such dispute shall be subject to arbitration pursuant to ARTICLE 12 below.

ARTICLE 4 USE/MAINTENANCE AGREEMENTS SET FORTH IN PLAT

Each Unit is subject to certain use and maintenance agreements set forth on the Plat of the Property and Owner of each Unit is hereby advised to review such provisions prior to commencing any maintenance or repair of the improvements constructed on such Owner's Unit.

ARTICLE 5 ARCHITECTURAL CONTROL; USE; MAINTENANCE, ETC.

5.1 Architectural Control. No improvements, alterations, repairs, excavations, major landscaping, changes in grade or other work which in any way materially alters the grade or condition of the Units or materially changes the type, quality or color of the improvements located thereon existing on the date such Unit was first conveyed in fee by Declarant to an Owner shall be made or done without the prior written approval of Owners of the other Units. In the event an Owner fails to approve, modify or disapprove in writing a request within thirty (30) days after plans and specifications in writing have been submitted, the Owner's approval will be deemed granted.

No improvement, alteration or repair of any Unit or the improvements constructed thereon, whether interior or exterior, shall be made until the Owner thereof has obtained

all necessary governmental permits and approvals and any such work shall be performed in compliance therewith.

Each of the Units possess a rooftop deck, as set forth on the Plat as either a “Roof Amenity” or “Deck Amenity”. In order to preserve the aesthetics of the Property, no Unit shall have any fence, wall, planter, plants, or other material or structure installed that extends more than five (5) feet above the surface of the Roof Amenity or Deck Amenity, unless otherwise agreed to by all Owners.

5.2 Use of Units. Except for the Live/Work Units, in which certain commercial uses are allowed as further set forth herein, all Units and improvements located thereon shall be used, improved and developed exclusively for residential purposes. Home occupations are permissible in the Residential Units only to the extent allowed by Seattle Municipal Code Chapter 23.45, as it may be amended; provided, however, that in no event may signs be displayed in connection with any such home occupation. Notwithstanding anything to the contrary herein, until such time as the Units have been sold by Declarant, Declarant, its agents or assigns shall have the right to use any Unit owned by Declarant as an office, sales facility or model unit.

5.3 Additional Uses Allowed In Live/Work Units. The Live/Work Units may be used for all of the same residential and related uses that are permitted in the Residential Units. In addition, and notwithstanding anything to the contrary set forth in Section 5.2, the Live/Work Units may be used for retail sales, office or other commercial uses to the extent permitted under applicable ordinances, laws, rules and regulations, subject, however, to the following restrictions:

5.3.1 The Live/Work Units shall not be used for conducting: medical laboratory; food processing; manufacturing activities; wholesale or retail sales of pornographic literature, photographs or movies; card room; dance hall, pool hall, video arcade or other similar form of amusement center; adult motion picture theater; massage parlor; laundry, dry-cleaning, dyeing or rug cleaning plant; jail; hotel, apartment hotel and motel; bar or tavern, package liquor store, taxidermy shop, retail pet shop or animal clinic; work release center, drug rehabilitation center or social service agency.

5.3.2 The delivery or shipment of merchandise, supplies, and fixtures to and from the Live/Work Units shall be accomplished in a manner that shall not unreasonably interfere with the security of the other Units.

5.3.3 The Owner of a Live/Work Unit shall not allow or permit any continuing vibration (“**Vibration**”) or any offensive or obnoxious and continuing noise (“**Noise**”) or any offensive or obnoxious and continuing odor (“**Odor**”) to emanate from the Unit into the other Units; nor shall the Owner of a Live/Work Unit allow or permit any machine or other installation therein to constitute a nuisance or otherwise to unreasonably interfere with the safety or comfort of any of the Owners of other Units. Upon the failure of the Owner of a Live/Work Unit to remedy Noise or Vibration after

Notice and Opportunity to be Heard, the Board may at its option either (1) cure such condition at the Owner's cost and expense; or (2) pursue any other available legal or equitable remedy. Upon the failure of the Owner to remedy Odor after Notice and Opportunity to be Heard, the Board may at its option either (1) attempt to resolve the matter by agreement with the Owner; or (2) submit the matter to arbitration by a panel of three independent arbitrators, in which case one arbitrator shall be chosen by the Board, the second arbitrator shall be chosen by the Owner, and the third arbitrator shall be chosen by the other two arbitrators. Construction, remodeling and maintenance of a Home within a Live/Work Unit and activities reasonably necessary to accomplish the same shall not be deemed to be Vibration, Noise or Odor within the meaning of this subsection.

5.3.4 The Owner of a Live/Work Unit shall not use nor occupy the Unit nor do or permit anything to be done thereon in any manner which shall make it impossible for the Owners of the Units to carry any insurance required or reasonably deemed to be necessary, or which will invalidate or unreasonably increase the cost thereof, or which will cause structural injury to the building, or which would constitute a public or private nuisance or which will violate any laws, regulations, ordinances or requirements of the federal, state or local governments or of any other governmental authorities having jurisdictions over the property.

5.3.5 The Owner of a Live/Work Unit shall bear the expenses relating to any changes in electrical, gas or water service necessitated by the use of the Unit. The Live/Work Unit Owners shall further be required to at all times comply with all applicable governmental laws, rules and regulations related to ownership and operation of their Live/Work Units.

5.4 Use of Common Areas. All Common Areas shall be used for the purposes for which they are established in accordance with this Declaration and the Plat of the Property. Each Owner shall observe the restrictions related to the use of the Common Areas as set forth in this Declaration, the Plat and any rules and regulations adopted by Owners.

5.5 Nuisances. No nuisance shall be permitted to exist on or operate upon any Unit or improvement thereon so as to be detrimental to any other Unit or to its occupants.

5.6 Subdivision. No Unit shall be further subdivided or separated into smaller Units by any Owner, and, without unanimous consent of Owners, no portion less than all of any such Unit, nor any easement or other interests therein, shall be conveyed or transferred by an Owner. The foregoing sentence shall not prohibit deeds of correction, deeds to resolve boundary disputes, and similar corrective instruments.

5.7 Maintenance of Property.

5.7.1 Obligations of Owners. Each Owner shall keep such Owner's Unit, and all improvements, landscaping and yard areas thereon, in good order and repair and free of debris, in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Unit in the Property shall fail to maintain the Unit and improvements situated thereon, as provided herein, the other Owners, after notice to Owner and unanimous approval by the remaining Owners, shall have the right to enter upon the Unit to repair, maintain and restore the Unit and the exterior of the improvements erected thereon. All costs related to such correction, repair or restoration shall be charged to such Unit. Notwithstanding the foregoing, Owners shall be jointly responsible for the address signage for the Property.

5.7.2 Damage Caused by Owner. In the event that an arbitrator or court determines that the need for maintenance, repair, or replacement is caused through the willful or negligent act of an Owner, or the family, guests, lessees or invitees of any Owner, (the "**Defaulting Owner**"), and is not covered or paid for by insurance, in whole or in part, then the other Owners may perform such maintenance, repair or replacement at the Defaulting Owner's sole cost and expense and shall become a lien against the Unit of the Defaulting Owner.

5.8 Waste Removal. No Unit shall be used as a dumping ground for rubbish, trash or garbage and each Unit shall be kept free of debris by the Owner thereof. Owners shall individually contract for waste collection with the City of Seattle. The waste containers serving each Unit shall be stored in its designated waste storage area. Each Owner shall be responsible for placing such containers at the appropriate location for pick up the evening before collection and shall be responsible for returning the containers to their proper storage location not later than the evening after collection has occurred.

5.9 Pets. Except for no more than three (3) domesticated pets (such as dogs, cats, birds, fish, hamsters, or other pet sold at a licensed pet store in Washington State), no animals shall be kept on any Unit. No such pet shall disturb any other Owner through noise or other behavior.

5.10 Signs. No commercial advertising signs or billboards or structures shall be erected on any Residential Unit or displayed to the public on any Residential Unit except for standard size "For Sale" or "For Rent" realty signs unless written permission of all Owners is obtained. Notwithstanding the foregoing, so long as Declarant owns a Unit, Declarant shall be permitted to maintain on any Unit or Units owned by Declarant such signage and other facilities (including model homes) as Declarant may choose. This restriction shall not prohibit Owners from posting political signage in accordance with RCW 64.38.034 or the flag of the United States in accordance with RCW 64.38.033.

5.11 Rentals. All leasing and/or rental agreements shall be in writing and be subject to the Declaration (with a default of the tenant in complying with the Declaration constituting a default under the lease or rental agreement).

5.12 Governmental Regulations and Restrictions. All zoning, building, environmental and other governmental rules, regulations, ordinances and laws applicable to the Property subject to this Declaration shall be observed. In the event of any conflict between any provision of such governmental rules, regulations, ordinances and laws and the restrictions of this Declaration, the more restrictive provisions shall apply.

5.13 Vehicles. No parking or storage of boats, trailers, commercial trucks, campers, recreational vehicles, other equipment or devices or inoperable vehicles shall be permitted in open view on the Property nor shall any vehicle be parked so as to block or hinder ingress to or egress from the Units or Parking Pad.

5.14 Window and Door Treatments. All window treatments for the townhomes constructed on each Unit, such as draperies or blinds, shall appear to be a neutral color to an observer standing outside of such townhomes. No storm doors, exterior awnings, exterior blinds or other exterior window treatments shall be installed or attached to any residence constructed on the Property. No bars or other visible security devices shall be erected, installed or attached to any residence on the Property.

5.15 Antennas. No external antenna, tower or satellite dish shall be permitted on the Property except that an Owner may place a satellite dish on the Owner's Unit provided that such dish is no larger than one meter in diameter.

5.16 Personal Property. Owners shall keep the exterior areas of their Units in a neat and orderly condition and shall not store or leave lying about personal property such as sporting equipment, swimming pools, bicycles, boats, kayaks, canoes, outboard motors, gardening equipment or similar items, all of which shall be stored inside the improvements constructed on the Unit except when in use. Specifically excluded from this proscription are patio furniture, one barbeque for each Unit, pots and planters, and landscaping materials.

5.17 Assessments. No assessment of units is required to pay the expenses of a homeowners association because there is not such an association. However, to the extent that a homeowners association is established and assessments charged to the Units, any such assessment may not be increased above \$300, as adjusted pursuant to RCW 64.90.65, prior to the transition meeting without the consent of the Owners of the Units, other than Declarant, holding ninety percent of the votes in the association.

ARTICLE 6 INSURANCE

6.1 Owner's Insurance. Each Owner shall continuously maintain in effect insurance with respect to (i) such Owner's Unit (including any Common Areas located upon such Unit), and (ii) the improvements constructed thereon, covering such casualties and liabilities and meeting the insurance requirements typically required by residential lenders for homes in the City of Seattle, including those now or hereafter established by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority and/or Veterans Administration ("*Secondary Market Agencies*") so long as any such agencies are either a Mortgagee or Owner of a Unit within the Property, except to the extent such coverage is not available or has been waived in writing by such agencies. Upon request by the other Owners, each Owner shall provide satisfactory written evidence that such insurance is being maintained and that all premiums therefore have been paid. If an Owner fails to obtain any required insurance or fails to pay the premium therefor, the other Owners may (but shall not be obligated to) obtain such insurance and/or make such payments for such Owner and charge the cost of such payments to such Owner.

6.2 Reconstruction. In the event of damage or destruction by fire or other casualty of any improvements on a Unit, Owner thereof shall, upon receipt of the insurance proceeds, repair or rebuild such damaged or destroyed portions of the improvements in a good workmanlike manner substantially the same as the original plans and specifications of said property.

ARTICLE 7 MORTGAGEE PROTECTION

7.1 Abandonment of Declaration. Owners shall not, without the unanimous consent of all first Mortgagees of record of the Units, seek by act or omission to abandon this Declaration or cause any Unit to be removed from the provisions hereof.

7.2 Effect of Declaration Amendments. No amendment to this Declaration shall be effective to modify, change, limit or alter the rights expressly conferred upon Mortgagees in this instrument with respect to any unsatisfied mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such mortgage. Any provisions of this Declaration conferring rights upon Mortgagees which is inconsistent with any other provisions of said Declaration shall control over such inconsistent provisions.

**ARTICLE 8
COMPLIANCE WITH DECLARATION**

8.1 Enforcement. Each Owner shall comply strictly with the provisions of this Declaration as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to this Declaration. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by an aggrieved Owner against the party failing to comply.

8.2 No Waiver of Strict Performance. The failure of an Owner in any one or more instances to insist upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option contained in this Declaration, or to serve any notice or institute any action, shall not be constructed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect.

**ARTICLE 9 TERM OF DECLARATION — COMPLIANCE WITH RULE
AGAINST PERPETUITIES AND RESTRAINTS OF ALIENATION**

The covenants contained herein shall run with the land and shall be binding upon all parties and all persons claiming under them for fifty (50) years after the date of this Declaration after which time the covenants shall be automatically extended for successive period of ten (10) years, unless an instrument executed in accordance with Article 10 herein shall be recorded, canceling or terminating this Declaration.

**ARTICLE 10
AMENDMENT OF DECLARATION**

10.1 Amendments. Amendments to this Declaration shall be made by an instrument in writing entitled “Amendment to Declaration” which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be unanimously approved in writing by the Owners. Amendments shall be effective upon recording.

10.2 Prior to Close of First Sale. Prior to the close of the first Unit sale, Declarant shall have the right to amend this Declaration by executing and recording, the desired amendment thereto, and the recording of said amendment shall be presumed to be valid as to anyone relying thereon in good faith.

10.3 Amendments to Conform to Lending Guidelines. So long as Declarant continues to own one or more Units, Declarant may record such amendments to the Declaration as necessary to meet the then requirements of title insurance companies, the

Secondary Market Agencies (as defined in Section 6.1), institutions or lenders financing the purchase of a Unit from Declarant.

ARTICLE 11 MISCELLANEOUS

11.1 Notices. All notices, demands, or other communications (“*Notices*”) permitted or required to be given by this Declaration shall be in writing and, if mailed postage prepaid by certified or registered mail, return receipt requested, shall be deemed given three (3) days after the date of mailing thereof, or on the date of actual receipt, if sooner; otherwise, Notices shall be deemed given on the date of actual receipt. Notice to any Owner may be given at any Unit owned by such Owner; provided, however, that an Owner may from time to time by Notice to the other Owners designate such other place or places or individuals for the receipt of future Notices. If there is more than one Owner of a Unit, Notice to any one such Owner shall be sufficient.

11.2 Notification of Sale of Unit. Concurrently with the sale of any Unit, the new Owner shall notify the other Owners, in writing, of such sale. Such notification shall set forth: (i) the new Owner’s name; (ii) the street address of the Unit purchased by the new Owner; (iii) the new Owner’s mailing address; and (iv) the date of sale.

11.3 Remedies Cumulative. The remedies provided herein are cumulative, and Owners may pursue them concurrently, as well as any other remedies which may be available under law although not expressed herein.

11.4 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of Declarant, and the heirs, personal representatives, grantees, lessees, sublessees and assignees of the Owners.

11.5 Joint and Several Liability. In the case of joint ownership of a Unit, the liability of each of the Owners thereof in connection with the liabilities and obligations of Owners, set forth in or imposed by this Declaration, shall be joint and several.

11.6 Priority of Mortgage. This Declaration shall not initially be binding upon any Mortgagee of the Property of record at the time of recording of said Declaration but rather shall be subject and subordinate to said Mortgage.

11.7 Attorneys’ Fees. In any action to enforce the provisions of this Declaration, the prevailing party in such action shall be entitled to an award for reasonable attorneys’ fees and all costs and expenses reasonably incurred in preparation for or prosecution of such action.

11.8 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity for unenforceability of any one provision

or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

11.9 Limitation of Liability. So long as Declarant has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by Declarant in connection with matters governed by this Declaration, then Declarant shall not be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of Declarant; provided, that this section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by Declarant or Owner.

ARTICLE 12 ARBITRATION

Any disagreement between or among any Owners and/or Declarant, with respect to the interpretation or application of this Declaration or the obligations arising hereunder shall be determined by arbitration. Such arbitration shall be conducted, upon request of Owners or Declarant desiring arbitration, before an arbitrator agreeable to the parties, designated by the American Arbitration Association and in accordance with the rules of such Association. The arbitrator designated and acting under this Declaration shall make his or her decision in strict conformity with such rules and shall have no power to depart from or change any of the provisions thereof. In accordance with such rules, the arbitrator shall determine the controversy in accordance with the laws of the State of Washington as applied to the facts. The expense of arbitration proceedings conducted hereunder shall be borne equally by the parties to such arbitration. All arbitration proceedings hereunder shall be conducted in the City of Seattle, Washington. Judgment upon the award may be entered in any court having jurisdiction thereof.

[Signature page follows]

DATED this _____ day of _____, 2021.

DECLARANT:

DL BUILDERS, LLC,
a Washington limited liability company

By _____
Doug Larsen, its Manager

STATE OF WASHINGTON }
COUNTY OF _____ } ss.

This record was acknowledged before me on _____, 2021, by Doug Larsen as Manager of DL Builders, LLC, a Washington limited liability company.

[Stamp Below]

Signature
NOTARY PUBLIC in and for the State of Washington
My Commission Expires _____