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Aspeted by Hampton 76 Law Office PLLC  
return to: Hampton 14995 Spencer, IA 51301

**DECLARATION OF SUBMISSION OF PROPERTY  
TO HORIZONTAL PROPERTY REGIME  
AND ESTABLISHING A PLAN FOR  
CONDOMINIUM OWNERSHIP OF PREMISES**

This Declaration of Submission of Property to a Horizontal Property Regime established by Chapter 499B, The Code of Iowa, is made and executed this 3rd day of July 2019, by Tallgrass Village III, LLC, hereafter referred to as "Declarant".

WITNESSETH:

**WHEREAS**, Declarant is the owner of certain real property located in Spirit Lake, Dickinson County, Iowa, legally described as follows:

**PARCEL "R"**

Part of Parcel "Q" per Record Survey Instrument Number 18-05480 of the Dickinson County Recorder's Records, being part of the West Half of the Northeast Quarter of Section 17, Township 99 North, Range 36 West, of the 5<sup>th</sup> P.M., Dickinson County, Iowa described as follows: Commencing at the Northwest Corner of said Northeast Quarter of Section 17-99-36; thence South 0°53'22" West 50.00 feet along the West line of said Northeast Quarter to the North line of Parcel "H" per Record Survey Book 27, Page 253-254 of the Dickinson County Recorder's Records, being the South line of 41<sup>st</sup> Street; thence South 88°48'30" East 741.05 feet along the North line of said Parcel "H" to the Northwest Corner of Parcel "L" per Record Survey Instrument Number 16-00853 of the Dickinson County Recorder's Records; thence South 20°11' 18" West 665.25 feet along the Westerly line of said Parcel "L" to the Point of Beginning; thence continuing South 20°11'18" West 704.25 feet along the Westerly line of said Parcel "Q"; thence South 84°52'35" East 372.30 feet to the Southeast corner of said Parcel "Q"; thence North 20°11'18" East 607.49 feet along the Easterly line of said Parcel "Q"; thence North 69°48'42" West 359.50 feet to the Point of Beginning, containing 5.41 acres.

and;

**WHEREAS**, Declarant is the owner of the above-described real property and improvements built, or to be built, upon the real property described above and it is the desire and the intention of the Declarant to divide the project into condominiums and to sell and convey the condominium units to various purchasers pursuant to the provisions of the Horizontal Property Act, and to impose upon said property mutually beneficial restrictions, covenants, and condition;

and;

**WHEREAS**, Declarant desires and intents to submit all of the above-described property and buildings and improvements constructed thereon, together with all appurtenances, to the provisions of the Horizontal Property Act as a condominium project,

Instrument #: 19-03507  
07/15/2019 02:17:56 PM Total Pages: 38  
HPR HORIZONTAL PROPERTY REGIME  
Recording Fee: \$202.00 Transfer Tax: \$0  
Ann Ditsworth, Recorder, Dickinson County Iowa

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**NOW, THEREFORE,** Declarant hereby publishes and declares that all property described above is held and shall be held and conveyed subject to the following covenants, conditions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominiums and shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, its grantees, successors, heirs, executors, administrators, devisees and assigns.

## **ARTICLE I**

### **Definitions**

**1. Declarant.** The term “Declarant” means Tallgrass Village III, LLC, the maker of this Declaration.

**2. Project.** The term “project” means the entire parcel of real property referred to in this Declaration to be divided into condominiums, including all structures thereon.

**3. Unit.** The term “unit” means one patio home and attached garages intended for use as a residence and not owned in common with other owners in the regime. The boundary lines of each unit are three feet (3’) from the exterior surfaces of its perimeter walls, bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim, and includes the portions of the building so described and the air space so encompassed. The term “unit” shall have the same meaning as the term “apartment” in Chapter 499B, Code of Iowa.

**4. General Common Elements.** The term “general common elements” has the meaning as defined in Article IV of this Declaration.

**5. Limited Common Elements.** The term “limited common elements” has the meaning as defined in Article V of this Declaration.

**6. Garage.** The term “garage” means a structure abutting a driveway and intended for, but not limited to, the storage of an automobile.

**7. Condominium.** The term “condominium” means the entire estate in the real property owned by an Owner, consisting of an undivided interest in the Common Elements and ownership of a separate interest in a unit.

**8. Owner.** The term “owner” means any person with an ownership interest in a unit in the project.

**9. Council of Co-Owners.** The term “council of co-owners” means all the co-owners of the units and is otherwise known and synonymous with the term “association and/or homeowners association.”

**10. Association.** The term “association” means the same as the “council of co-owners” as defined in Paragraph 9 hereof and refers to Tallgrass Village III Homeowners Association, Inc. and its successors.

**11. Declaration.** The term “declaration” means this document and all exhibits attached hereto, including Site Plan, Building Plans, Articles of Incorporation of the Owners Association and By-Laws of the Owners Association.

**12. Plural and Gender.** Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or neuter, according to the context.

**13. Severability.** The invalidity of any covenant, restriction, agreement, undertaking, or other provisions of any condominium document shall not affect the validity of the remaining portions thereof.

**14. Incorporation.** Exhibits attached hereto and referred to herein are hereby made a part hereof with the same force and effect as other provisions of this document.

**15. Code of Iowa.** The term “Code of Iowa” and references to Chapters or Sections thereof shall be the statutes in effect at the time of execution of this Declaration, as from time to time amended or renumbered.

## **ARTICLE II Description of Land, Buildings and Units**

**1. Description of Land.** The land submitted to this regime has access from 23<sup>rd</sup> Avenue and 172<sup>nd</sup> St., Spirit Lake, Iowa. The exact legal description is set out in the first page of this Declaration.

**2. Description of Buildings.** The Condominium Regime consists of eighteen (18) separate patio homes (“units”) located as illustrated on the attached Site Plan; each with attached, incorporated garages. There are four (4) configurations: Two (2) bed, Two (2) garage; Two (2) bed; Three (3) garage; Three (3) bed; Two (2) garage; and Three (3) bed; Three (3) garage. Construction is wood frame, slab on grade, concrete foundations. The units have been or will be constructed to the following general specifications:

**Footing & Floor:** Footings are 8 inches by 16 inches concrete, garage floor is 4 inches concrete of 6 inches rock.

**Exterior Walls:** Exterior walls are 2 inch by 6 inch dimension lumber – 16 inches o.c. covered with 7/16 inch OSB, Tyvek paper 6 inch fiberglass insulation, poly vapor barrier and 1/2 inch sheet rock.

**Interior Walls:** All interior walls are 2 inch by 4 inch dimension lumber – 16 inch o.c. and are covered with 1/2 inch sheet rock with 3 coats tape and texture. Interior walls are finished with two coats latex paint.

**Ceilings:** All ceilings are covered with 5/8 inch sheet rock and 3 coats of tape and texture.

**Insulation:** All exterior walls are insulated with 6 inch fiberglass insulation with poly vapor barrier. The top ceiling is insulated to R-40 with blown-in fiberglass insulation.

**Roof:** engineered roof trusses are placed 24 inches o.c. with 15/32 inch OSB, 15# felt and 30# self-sealing asphalt shingles.

**Exterior Trim:** Soffits, gutters, ridge vents, and roof edge are pre-finished aluminum. All other exterior trim is hand planed and hand trimmed.

**Windows:** All windows are Marvin Integrity Ultrex Composite.

**Exterior Doors:** Exterior doors are Jeldwen Fibergalss with dead bolts.

**Kitchen Cabinets:** Kitchen and vanity cabinets are Grandview. Counter tops and vanity tops are upgraded formica.

**Electrical:** Electrical services are 100 amp for each unit. Each individual unit will be wired for the following:

- (a) Bath exhaust fans.
- (b) Standard outlet and lights.
- (c) Smoke detectors.
- (d) Three telephone outlets.
- (e) Cable television outlets.
- (f) Electric washer and dryer hookups.
- (g) Disposal.

**Heating and Air Conditioning:** All units are heated with forced air gas and central air conditioning. Each unit is on a separate thermostat.

**Plumbing:** All underground plumbing is copper and plastic. Waste and vent lines are plastic. All water lines are copper. Each unit has the following fixtures:

- (a) white stools.
- (b) white fiberglass tub/shower units.
- (c) white vanity sinks.
- (d) One stainless steel kitchen sink.
- (e) Washer and dryer hookups.

**Painting:** All exterior trim has vinyl siding and trim has 2 coats latex paint. All interior wall surfaces have two coats latex eggshell paint.

**Floor Covering:** Carpeting is Mohawk. All vinyl is Armstrong or equal.

**3. Description of the Units.** The addresses of the 18 units are: 4500 Tall Grass Circle through 4514 Tall Grass Circle; 1200 172<sup>nd</sup> Street; 1202 172<sup>nd</sup> Street; and 1203 172<sup>nd</sup> Street. Each owner of a unit shall have one (1) vote in the Association; shall hold a 1/18th interest in all Common Elements and shall bear 1/18th of all Common Expenses.

**4. Streets; access.** Access to the units is provided by private streets designated 172<sup>nd</sup> Street and Tall Grass Circle. The Declarant reserves the right to extend 172<sup>nd</sup> Street to the South and to allow access over 172<sup>nd</sup> Street to property to the South. This right shall survive the Declarant sale of all units and shall not be subject to cancellation by the Association.

**5. No Additional Units.** This Declaration describes the complete Project. No additional units shall be constructed other than as described herein and no additional land shall be added.

### **ARTICLE III Ownership Interests**

**1. Exclusive Ownership and Possession by Owner.** Each owner shall be entitled to exclusive ownership and possession of the unit. The fractional interest of each owner in the Common Elements shall have a permanent character and shall not be altered without the consent of all owners expressed in an amendment to this declaration duly recorded. The fractional interest in the Common Elements shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each owner may use the Common Elements in accordance with the purpose for which intended, without hindering or encroaching upon the lawful rights of the other owners.

An owner, however, shall have the exclusive right to paint, re-paint, tile, paper or otherwise refinish and decorate the interior surfaces of the walls, floors, ceilings, windows and doors of his/her unit.

**2. Appurtenances.** There shall pass with the ownership of each unit as a part thereof, whether or not separately described, all appurtenances to such unit and no part of the appurtenant interest of any unit may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other disposition of such unit itself or of all units in the regime.

**3. Undivided Fractional Interest.** An undivided interest in the land and other common elements of the regime, regardless of whether such elements are general or limited common elements, shall be appurtenant to each unit. The amount of such undivided interest appurtenant to each unit is 1/18th.

**4. General Common Elements.** The general common elements are for the use and benefit of all unit owners, family and guests.

**5. Limited Common Elements:** The exclusive use by owners of the limited common elements shall be deemed an appurtenance of the unit or units for which said elements are reserved, provided, such use and enjoyment shall be limited to the uses permitted by this Declaration and other condominium documents.

**6. Association Membership and Voting Rights.** Appurtenant to each unit shall be membership in the Tallgrass Village III Homeowners Association and one vote in the affairs of the Association and of the regime, provided, however, that the exercise of such voting and membership rights shall be subject to the applicable provisions of the Bylaws of the Association and of the other condominium documents. The action of such Association shall be deemed the action of the owners; and such action, when taken in accordance with the Bylaws of the Association and this Declaration shall be final and conclusive upon all unit owners.

**7. Cross Easements.** Appurtenant to each unit shall be easements from each unit owner to each other unit owner and to the Association and from the Association to the respective unit owners as follows:

- (a) For ingress and egress through the common areas and for maintenance, repair, and replacement as authorized;

#### **ARTICLE IV General Common Elements**

**1. Definition.** General Common Elements shall include all portions of the project (land and improvements thereon) not included within any unit except such portions of the project which are defined as limited common elements in the following Article. The General common Elements also include, but are not limited to, the following:

- (a) The land on which the unit is erected.
- (b) Installations for public utilities, including electric, gas, telephone, communication cable, and water for common use.
- (c) Recreational greens, plantings, all yards and lawns to the unit boundary, and walks.
- (d) Streets and sidewalks which shall be constructed as illustrated on the attached project site plan.



**ARTICLE V**  
**Limited Common Elements**

**1. Definition.** The term “limited common elements” shall mean and such elements shall consist of those common elements which are reserved for the use of one or more units by this Article and amendments hereto and such reservation shall be to the exclusion of all other units.

**2. Reservation.** The following common elements are reserved and shall constitute the limited common elements:

- (a) Any patio, screened porch or deck (sometimes referred to as a balcony herein or in the Exhibits) if any, as well as a 3-foot area immediately adjacent thereto, on which gas grills or related equipment may be installed, and adjoining a unit.
- (b) Mailboxes and storage area, if any, designated to a particular unit.
- (c) That part of all sewer, water, electrical, gas, telephone, communication cable, and other utility or service lines, wiring, ducts, conduits, piping, facilities, systems, fixtures and attachments serving just one unit and located entirely within the unit.
- (d) The air conditioner pads, compressors and equipment appurtenant to each unit.
- (e) The driveways immediately appurtenant to each unit.

**ARTICLE VI**  
**Declarant’s Reserved Rights and Powers**

**1. Declarant’s Activities.** Declarant is irrevocably and perpetually empowered, notwithstanding any use, restriction or other provision hereof to the contrary, to sell, lease or rent units to any person and shall have the right to transact on the condominium property any business relating to construction, repair, remodeling, sale, lease or rental of units, including but not limited to, the right to maintain signs, employees, independent contractors and equipment and materials on the premises, to use common elements (general and limited), and to show units. All signs and all items and equipment pertaining to sales or rentals or construction in any unit furnished by the Declarant for sale purposes shall not be considered common elements and shall remain Declarant’s separate property. Declarant retains the right to be and remain the owner of the completed but unsold units under the same terms and conditions as other owners including membership in the Association, save for its right to sell, rent or lease.

**2. Easements.** Declarant expressly reserves perpetual easements for ingress, egress and utility purposes as may be required across and under the land submitted hereby and shown upon the Site Plan.

**3. Designation of Association Directors.** Declarant shall have the right to name all members of the Board of Directors of Tall Grass Village III Owners Association until the first annual members’ meeting of said Association which shall be held as provided for in the Bylaws. Thereafter, the Board of Directors shall be selected in a manner specified in the Bylaws of the Association.

**ARTICLE VII**  
**Restrictive Covenants**

The following Restrictive Covenants shall apply to the real estate subject to this Declaration and to all units:

**1. Structures.** No structure shall be erected or placed on any land included in the Common Elements. No fences shall be constructed on any land included in the Common Elements, except with the approval of the Board of Directors of the Association.

**2. Exterior Storage.** Permanent outside storage of trailers, campers, boats, mobile homes and recreational vehicles is prohibited. For purposes hereof, "permanent" shall mean any twenty-one (21) days or more, whether continuous or not, in any one (1) twelve-month (12-month) period.

**3. Tanks.** No propane, heating oil, gasoline or other fuel tanks of any kind shall be permitted.

**4. Exterior Lighting.** No exterior lighting shall be installed or maintained by any unit owner, except with the advance approval of the Board of Directors of the Association.

**5. Vehicles.** Any motor vehicle or trailer placed or parked outdoors must be operative with all tires inflated and, if self-propelled, capable of self-locomotion.

**6. On Street Parking.** It is the intent of this Declaration that on street parking be avoided. Unit owners should not park their personal vehicles on the street. On street parking shall be permitted for vehicles owned by visitors or guests in limited contexts-primarily for social gatherings where there is insufficient driveway space to accommodate the vehicles of visitors and guests.

**7. Maintenance and Appearance.** Each unit shall at all times be maintained in a neat condition and appearance.

**8. Yard Maintenance.** Yard maintenance shall at all times be performed by the Association. Yard maintenance includes, but is not limited to, the following: mowing, thatching, yard fertilization, aeration, string trimming, edging and tree/hedge trimming.

**9. Snow Removal.** Snow removal shall at all times be accomplished by the Association.

**10. Animals.** No livestock or poultry of any kind shall be kept, harbored or maintained in the development. One (1) dog, two (2) cats, other household pets and trained certified service animals may be kept, provided that they are not kept, bred, or maintained for any commercial

purposes. Pets shall be leashed and in the control of their owners when outside of a unit. Pets which cause noise which is a nuisance to adjacent owners shall not be permitted. No kennels shall be constructed outside any unit.

**11. Signs.** No commercial signs, posters, displays or other forms of advertising shall be permitted in the development. Identification signs not more than six feet (6') in area or "for sale" signs not more than six feet (6') in area are permitted.

**12. Covenants Binding.** These restrictions shall operate as covenants running with the land in favor of the owners of units and their successors. Owners of units shall have the full right to all of the benefits of these protective restrictions and shall be authorized to enforce, in their own right and names respectively, all remedies afforded by law to the same extent that the Association may enforce said covenants and restriction, or prevent infraction thereof, and may recover for all lawful damages suffered by them by reason of such infractions. These covenants shall continue so long as the development shall exist and shall not expire by operation of law.

**13. Invalidation.** Invalidation of any of these Restrictive Covenants by the judgment or decree of any court of competent jurisdiction shall in no way affect any of the other restrictions, which shall remain in full force and effect.

## **ARTICLES VIII Management of the Regime**

**1. Association; Council of Co-owners.** The operation of the condominium shall be by a non-profit membership corporation organized and existing under Chapter 504A, Code of Iowa. The name of the Association shall be Tallgrass Village III Homeowners Association, Inc. Copies of its Articles of Incorporation and Bylaws are attached hereto as Exhibits "D" and "E", respectively. Whenever a vote or other action of unit owners as a group is required, the mechanics of conducting such a vote or taking such action shall be under the control and supervision of the Association. The action of the Association shall constitute the action of the owners or the council of Co-owners whenever such action is permitted or required herein or by Chapter 499B of the Code of Iowa.

**2. Compliance.** All owners, tenants, families, guests and other persons using or occupying the regime shall be bound by and strictly comply with the provisions of the Bylaws of the Association. Regulations and determinations lawfully made by the Association and its directors, officers or agents shall be binding on all such owners and other persons. A failure to comply with the Bylaws or the provisions of the other condominium documents or any agreement or determination thus lawfully made shall be grounds for an action to recover sums due for damages on the party of the Association or any owner as applicable and any mandatory or other injunctive relief without waiving either remedy.

**3. Power of Association.** Each owner agrees that the Association has and shall exercise powers, rights and authority granted unto it, the Council of Co-owners and the owners as a group by chapters 499B and 504A of the Code of Iowa, and such as are more particularly set

forth in the condominium documents, including but not limited to the making of assessments chargeable to owners and the creation of a lien on units thereof, and acquiring a unit at foreclosure sale and holding, leasing, mortgaging or conveying the same. Each owner hereby waives any rights to delay or prevent such foreclosure by the Association which he/she may have by reason of a homestead exemption.

**4. Partition.** All unit owners shall be deemed to have waived all rights of partition, if any, in connection with such acquisition.

**5. Membership, Voting Rights.** The members of the Association shall consist of all of the record owners of units. Change of membership in the Association shall be established by recording in the public record of Dickinson County, Iowa a deed or other instrument establishing record title to a unit in the condominium. The membership of the prior owner shall be thereby terminated. The members of the Association shall be entitled to cast one vote for each unit owned by such member.

**6. Restraint upon Assignment.** The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the unit.

**7. Board of Directors.** The affairs of the Association shall be conducted by a Board of Directors who shall be designated in the manner provided in the Bylaws. The Board may employ a manager of managerial service company and delegate various responsibilities to such person as more particularly described in the Bylaws. The management fee shall be a common expense.

**8. Limitations of Association's Liability.** The Association shall not be liable for any injury or damage to property whatsoever unless caused by the gross negligence of the Association. No diminution or abatement of common expense assessment shall be claimed or allowed based upon any claim against the Association.

**9. Indemnification of Directors and Officers.** Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including legal fees, reasonably incurred by or imposed upon him/her in connection with any proceeding to which he/she may be a party, or in which he/she may become involved, by reason of his/her being or having been a director or officer of the Association, or any settlement thereof, whether or not he/she is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his/her duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such director officer may be entitled.

**ARTICLE IX**  
**Maintenance, Alteration and Improvement**

**1. Definitions.** Certain terms used in this Article shall have a meaning as follows, provided any dispute over the characterization of work within one of the following meanings shall be conclusively decided by the Board of Directors of the Association.

- (a) "Maintenance" or "repair" shall mean the act of maintaining restoration, renovation, reconstruction, replacement, rebuilding and similar work necessary to preserve a unit or the property in its original condition as completed.
- (b) "Improvement" shall mean in the addition of a new structure, element or facility, other than a structure, element or facility otherwise provided for by this Declaration or any Supplementary Declaration.

**2. Maintenance by Association.**

- (a) Maintenance by Association shall be limited to maintenance of the common areas only and maintenance of the driveways which serve each unit.
- (b) If a unit owner defaults on his/her responsibilities of maintenance, the Association shall assume such responsibilities and shall assess the costs thereof against the unit of such owner and such assessment shall be collectible as if it were an assessment for common expenses.
- (c) The Association may, in its discretion, assume responsibility for any maintenance project which requires re-construction, repair, re-building, conservation, restoration or similar work to more than one unit and the costs thereof may be, in the discretion of the Association, either assessed against each unit on which such costs were incurred or assessed against all units as a common expense according to the circumstances.

**3. Maintenance by Owner.**

- (a) Each unit owner at his/her own expense shall maintain the exterior and interior, including the boundary surfaces, of such unit and its equipment; shall keep the interior in a clean and sanitary condition; shall do all redecorating, painting and other finishing which may be at any time by necessary to maintain his/her unit and shall be responsible for the maintenance and replacement of all personalty including carpets, other floor coverings, furnishing, and appliances within each unit.
- (b) The owner of each unit shall be responsible for maintaining and replacing the plumbing fixtures within the unit and the furnace and air conditioning unit serving such unit together with heating ducts and all other utilities including electrical and electrical fixtures or portions thereof located within the boundaries of the unit. The owner shall also, at his/her own expense, keep in a clean and sanitary condition the unit and any patio or storage place which is for the exclusive use of the unit. Neither the Association nor the regime shall be

liable or responsible for any loss or damage caused by theft or otherwise of articles which may be stored by the owner in such storage places.

- (c) The unit owner shall maintain, at his/her expense, any improvement or alteration made by him/her.
- (d) The owner of each unit shall obtain from the Association approval for any change in exterior appearance of a unit, including nature, style and color of exterior walls, windows, and roof.

**4. Alterations or Improvements by Owners.** No unit owner shall make or permit to be made any structural alteration to the unit without first obtaining written consent of the Board of Directors of the Association (which consent may be given by general rule or regulation). Alterations to the exterior of any building or common element shall not be made if, in the opinion of the Board of Directors of the Association, such alteration would be detrimental to the integrity or appearance of the regime as a whole. Unit owners shall do no act or work which will impair the structural soundness or integrity of the building or safety of the property or impair any easement. The improvement or alteration of a unit shall cause no increase or decrease in the ownership interest appurtenant to such unit.

**5. Alterations or Improvements by the Association.** Whenever in the judgment of the Board of Directors of the Association the common elements shall require addition, alterations, or improvements costing in excess of Five Thousand Dollars (\$5,000.00) and the making of such additions, alterations or improvements shall have been approved by a majority of the unit owners, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all unit owners for the costs thereof as a common charge. Any additions, alterations or improvements costing Five Thousand Dollars (\$5,000.00) or less may be made by the Board of Directors without approval of unit owners, and the costs thereof shall constitute part of the common expenses.

## **ARTICLE X**

### **Conditions of and Restrictions on Ownership, Use and Enjoyment**

**1. Property Subject to Certain Provisions.** The ownership, use, occupation, and enjoyment of each unit and of the common elements of the regime shall be subject to the provisions of the Bylaws of the Association, and this Declaration, all of which provisions irrespective of where set forth or classified shall have equal status and shall be enforceable and binding as a covenant, condition, restriction, or requirement running with the land and shall be binding on and enforceable against each and all lessees, tenants, occupants and successors in interest.

**2. Use of Property.** The use of the property shall be in accordance with and subject to the following provisions:

- (a) A unit be used or occupied for single family dwelling purposes only.
- (b) A condominium may be rented or leased by the owner of his/her lessee provided the entire unit is rented, the occupancy is only by the lessee and his/her family

or sublessee and his/her family and the period of rental is at least one month unless some other period is established in the regulations or Bylaws of the Association. No lease shall relieve the owner as against the Association and other owners from any responsibility or liability imposed by the condominium documents.

- (c) No owner of a unit shall use the unit so as to create a nuisance, nor shall any fire hazard or unsightly accumulation of refuse be allowed.
- (d) Nothing shall be done or kept in any unit or in the common area which will increase the rate of insurance on the common area, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his/her unit or in the common area which will result in the cancellation of insurance on any unit or any part of the common area, or which would be in violation of any law.
- (e) No unit owner shall be permitted to erect a TV antenna or any other fixture, item or appurtenance on any building roof.
- (f) The Association shall have the authority to adopt rules and regulations governing the use of the property and such rules shall be observed and obeyed by the owners, their guests and licensees.
- (g) No unit owner shall be allowed to install additional parking slabs on any part of the property, nor shall parking of any vehicles be allowed except on designated driveways and in garages.
- (h) Agents of or contractors hired by the Association may enter any unit when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, providing such entry shall be made with as little inconvenience to the owners as practicable.
- (i) A unit owner shall give notice to the Association of every lien against his/her unit other than permitted mortgages, taxes and Association assessments, and of any suit or other proceeding which may affect the title to his/her unit within ten (10) days after the lien attaches or the owner received notice of such suit.
- (j) A unit owner may be liable to the Association for the expense of any maintenance, repair or replacement rendered necessary by his/her act, neglect, or carelessness, or by that of his/her family, guests, employees, agents or lessees which liability shall include any increase in insurance rates resulting therefrom.
- (k) No unit shall house more than one (1) dog and no dog housed in any unit shall exceed thirty (30) pounds weight, except by written permission of the Board of Directors of the Association. Any person within the project keeping a pet shall immediately clean and remove any messes created by or caused by said pet. Further no unleashed pets whatsoever shall be allowed upon the limited or general common elements.
- (l) Any waiver or failure to enforce a condition, restriction or other provision of Chapter 499B of the Code of Iowa, this Declaration, the Articles of Incorporation, or Bylaws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

**ARTICLE XI**  
**Insurance and Casualty**

**1. General Liability and Property Damage.** Comprehensive general liability and property damage insurance shall be purchased by the Board as promptly as possible following its election, and shall be maintained in force at all times, the premiums thereon to be paid by assessments of monthly condominium association fees. Prior to the organization meeting, such insurance will be procured by Declarant. The insurance shall be carried with reputable companies authorized to do business in the State in such amounts as the Board may determine. The policy or policies shall name as insured the owners of the Association. Declarant shall be named as an additional insured on such policy or policies until such time as Declarant shall have conveyed all of the condominiums in the project. The policy or policies shall insure against loss arising from perils in the common areas and shall include contractual liability coverage to protect against such liabilities as may arise under the contractual exposures of the Association and/or the Board.

**2. Fire and Casualty-Individual Units.** Fire and other hazard insurance shall be purchased by each unit by the owner, at such owner's expense. Each unit shall be continually insured to value and the policy shall contain replacement cost insurance.

**3. Personal Property in Individual Units.** An owner may carry such personal liability insurance, in addition to that herein required, as he/she may desire. In addition, all real property interests of the owner in the unit including, but not limited to, fixtures and mechanical equipment located within a unit such as plumbing fixtures, electrical lighting fixtures, kitchen and bathroom cabinets and counter tops, furnace, air conditioning and water heater, together with additions thereto and replacements thereof, as well as the personal property of the unit owner, shall be separately insured by such owner, such insurance to be limited to the type and nature of coverage often referred to as "Condominium Unit Owners Insurance." All such insurance separately carried shall contain waiver of subrogation rights by the carrier as to negligent owners.

**4. Additional Coverage.** The Board may purchase and maintain in force at the expense of the common maintenance fund, debris removal insurance, fidelity bonds, and other insurance and/or bonds that it deems necessary. The Board shall purchase and maintain worker's compensation insurance to the extent that the same shall be required by law respecting employees of the Association. The Board shall also maintain "all risk" insurance coverage on the project to insure against water damage and like kind of casualties, if such insurance would be reasonably available.

**5. Association as Trustee for Proceeds.** If any portion of the common areas is damaged or destroyed by fire or other casualty, all insurance proceeds paid in satisfaction of claims for said loss or losses shall be segregated according to losses suffered by the common area, and shall be paid to the Association as trustee for the owner or owners and for the encumbrancer of encumbrancers, as the respective interest may appear. Said insurance proceeds, and the proceeds of any special assessment as hereinafter provided, whether or not subject to liens of mortgages or deeds of trust, shall be collected and disbursed by said trustee through a separate trust account on the following terms and conditions:



- (a) **Partial Destruction of Common Elements.** If the damaged improvement is a common element, the Board of Directors of the Association may, without further authorization, contract to repair or re-build the damaged portion of the common elements substantially in accordance with the original plans and specifications thereof.
- (b) In the event that a common area is repaired or reconstructed pursuant to the provisions of subparagraph (a) of this section and there is any deficiency between the insurance proceeds paid for the damage to the common area and the contract price for repairing or rebuilding the common area, the Board shall levy a special assessment against each owner in proportion to his/her fractional interest of ownership in the common area to make up such deficiency. If any owner shall fail to pay said special assessment or assessments within thirty (30) days after notice and demand the remaining owners shall be entitled to the same remedies as those provided in Article VII of this Declaration, covering a default of any owner in the payment of maintenance charges.
- (c) In the event of a dispute among the owners and/or mortgagees respecting the provisions of this clause, any such party may cause the same to be referred to arbitration in accordance with Chapter 679A of the Code of Iowa.

In the event of arbitration, the party requesting the arbitration will give immediate notice thereof to the Board, which shall notify all other owners and mortgagees as promptly as possible after the reference to arbitration is made, giving all such parties an opportunity to appear at such arbitration proceedings. The decision of the arbitrator in this matter shall be final and conclusive upon all of the parties. The arbitrator may include in his/her determination an award for costs and/or attorney fees against any one or more parties to the arbitration.

**6. Abatement of Common Expenses.** The Board is authorized to provide coverage for payment of maintenance charges which are abated hereunder in behalf of an owner whose unit is rendered uninhabitable for a peril insured against.

**7. Review of Insurance Needs.** Insurance coverages will be analyzed by the Board, or its representative, at least every year from the date hereof and the insurance program revised accordingly.

## **ARTICLE XII Termination**

**1. Procedure.** The condominium may be terminated in the following manner in addition to the manner provided by the Horizontal Property Act:

- (a) **Destruction.** In the event it is determined in the manner elsewhere provided that the units shall not be reconstructed because of major damage, the condominium plan of ownership will be thereby terminated in compliance to the provisions of Chapter 499B of the Code of Iowa.

- (b) **Agreement.** The condominium may be terminated at any time by the approval in writing of all of the owners of the condominium and by holders of all liens affecting any of the units by filing an instrument to that effect, duly recorded, as provided in Chapter 499B of the Code of Iowa. It shall be the duty of every unit owner and his/her respective lien holder to execute and deliver such instrument and to perform all acts as in manner and form may be necessary to effect the sale of the project when at a meeting duly convened of the Association, the owners of 100% of the voting power, and all record owners of mortgages upon units in the regime, elect to terminate and/or all the project.
- (c) Termination shall be evidenced by a certificate of the Association executed by all members of the Association and their respective holders of all liens affecting their interest in the condominium, certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the office of the Dickinson County Recorder.

**2. Form of Ownership after Termination.** After termination of the condominium, the project will be held as follows:

- (a) The property (land and improvements) shall be deemed to be owned in common by the owners.
- (b) The undivided interest in the property owned in common which shall appertain to each unit owner shall be the fractional interest previously owned by such owner in the common area and facilities.
- (c) Any liens affecting any of the condominiums shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the owner in the property.
- (d) After termination, the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the owners in a percentage equal to the fractional interest owned by each owner in the common elements; after first paying out of the respective share of the owners, to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each owner.

### **ARTICLE XIII Amendments and Miscellaneous**

**1. Procedure.** Except as otherwise provided in this Declaration, this Declaration may be amended and such amendment shall be made in the following manner:

- (a) **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. Holders of a first mortgage of record shall receive notice of such proposed amendment as provided in the Bylaws of the Association.
- (b) **Resolution.** A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by any member of the Association. Except as

considered. Holders of a first mortgage of record shall receive notice of such proposed amendment as provided in the Bylaws of the Association.

- (b) **Resolution.** A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by any member of the Association. Except as provided elsewhere, the resolution must be adopted by a vote of not less than 66 2/3% of all owners entitled to vote, in person or by proxy provided, however, no amendment effecting a substantial change in this Declaration shall effect the rights of any member who does not join in the execution thereof and who does not approve said amendment in writing.
- (c) **Bylaws.** In the case of an amendment to this Declaration by reason of an amendment to the Bylaws of the Association, then in the manner specified in such Bylaws.
- (d) **Execution and Recording.** An amendment adopted pursuant to subparagraphs (b) or (c) above shall be executed by an officer specifically delegated to do so with the formalities required by Chapter 499B of the Code of Iowa. Upon the recording of such instrument in the office of the Dickinson County Recorder, the same shall be effective against any persons owning an interest in a unit or the regime.

2. **Amendment of Ownership Interest.** No amendment shall change the fractional interest of ownership in the common elements appurtenant to a unit, nor increase the owner's share of the common expenses unless the record owner of the unit concerned and all record owners of mortgages thereon shall affirmatively join in the adoption of such amendment.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

TALLGRASS VILLAGE III, LLC

By: [Signature]  
Member and Manager

STATE OF IOWA, CLAY COUNTY, ss:

On this 3<sup>rd</sup> day of July, 2019, before me, the undersigned, a Notary Public in and for said state, personally appeared Steve

me personally known, who being by me duly sworn or affirmed did say that he is the Manager of said Tallgrass Village III, LLC and that said instrument was signed on behalf of the said Tallgrass Village III, LLC by authority of its members, and the said Steve Boote acknowledged the execution of said instrument to be the voluntary act and deed of said Tallgrass Village III, LLC by it voluntarily executed.

[Signature]

Signature of Notary Public

