DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF STERLING EAST ADDITION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this ___ day of August, 2024, by Murdock Properties, LLC, a Kansas limited liability company ("Declarant for itself, and its successors, grantees and assigns.

WITNESSETH:

WHEREAS, Declarant is the owner of the following described real property, to-wit:

Lots 1 through 29, inclusive, Block A;

Lots 1 through 28, inclusive, Block B;

Lots 1 through 15, inclusive, Block C;

Lots 1 through 7, inclusive, Block D;

Lots 1 through 10, inclusive, Block E;

Lots 1 through 20, inclusive, Block F;

Lots 1 through 34, inclusive, Block G;

Lots 1 through 17, inclusive, Block H;

Lots 1 through 7, inclusive, Block I;

and

Lots 1 through 33, inclusive, Block J.

along with

Reserves A, B, C, D, E, F, G, H , I, J, K and L

all within,

Sterling East Addition
An Addition to Derby,
Sedgwick County, Kansas,

such real property being hereinafter referred to as the “Property”.

WHEREAS, Declarant deems it desirable to impose a general plan and common theme for the improvement and development of the Property and to adopt and establish covenants, conditions and restrictions upon the Property and each and every Lot and portion thereof, and upon the use, occupancy and enjoyment of the Property, for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property, provide adequately for a common development scheme to assure a high quality, attractive residential neighborhood with desirable amenities and orderly administration of matters of common concern to the Property;

WHEREAS, Sterling East Homeowners’ Association, a not for profit association will be incorporated under the laws of the State of Kansas for the purpose of exercising the powers and functions set forth herein; and

NOW, THEREFORE, Declarant hereby subjects the Property to the covenants, conditions, restrictions, assessments, easements and limitations set forth and contained in this Declaration, hereby declaring that this Declaration shall constitute covenants running with the land, binding Declarant its successors, grantees and assigns, and all subsequent owners of all or any part of the Property, together with their respective grantees, heirs, executors, administrators, devisees, mortgagees, successors or assigns who by acceptance of a deed to a Lot or Single-Family Residence, ratify and affirm that the covenants, conditions, restrictions, assessments, easements and limitations set forth and contained in this Declaration encumber same.

ARTICLE I
DEFINITION OF TERMS

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration and are defined as follows:

1.01. “Annual Assessment” shall mean an annual general fund assessment which may be levied initially by Developer, thereafter by the Association through its Board of Directors, from year to year on each Single-Family Residence owned by a Class A Member for the purpose of providing a general fund to enable the Association to exercise the powers and render the services herein provided.

1.02. "Association" shall mean and refer to the Sterling East Homeowners' Association, a not for profit association, to be incorporated under the laws of the State of Kansas, its successors and assigns.

1.03. "Architectural Control Committee" shall mean the committee members that are either initially appointed by Developer or duly elected by the Association, to exercise those duties consistent with the architectural control function set forth in Article XI.

1.04. "Board of Directors" or "Board" shall mean and refer to the individuals that are either initially appointed by Developer or duly elected under the Bylaws of the Association, to exercise all corporate powers by or under the authority of the Bylaws and this Declaration, as amended, and administer the business and affairs of the Association.

1.05. "Building Site" shall mean any Lot, or Lot and contiguous fractional Lot or two or more contiguous Lots owned by a common Owner. All such contiguous Lots and contiguous fractional Lots owned by a common Owner shall be considered one Building Site.

1.06. "Common Area" shall mean any portion of the Property and all Improvements located thereon designated by Developer or the Association for the common use and enjoyment of the Owners, specifically including all areas designated as Reserve areas on the recorded plat for the Property or any plat recorded in connection with any land added to the Property by Developer in the manner hereinafter provided.

1.07. "Declaration" shall mean this instrument and all attachments and amendments thereto.

1.08. "Developer" shall mean and refer to Air Capitol Land Company, its successors and assigns.

1.09. "Improvement" shall mean and refer to any alteration, thing or device the placement of which upon any Building Site may affect the appearance of such including, by way of illustration and not limitation, any building, garage, porch, shed, greenhouse, bathhouse, covered or uncovered patio, outdoor kitchen, awning, swimming pool, tennis court, basketball court and/or basketball goal, clothes line, radio or television antenna, satellite dish, pergola, trellis, fence, curbing, paving, wall, hedge, shrubbery, tree, signboard, or any temporary or permanent alteration of any Building Site. The term "Improvement" shall also mean any mound, bank, excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface water from, upon or across any Building Site, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Building Site, and any change in the grade of any Building Site from that existing at the time of purchase of the Building Site by each Owner.

1.10. "Lot" shall mean and refer to the following Lots and Parcels as platted on the plat of Sterling East Addition, an Addition to Derby, Sedgwick County, Kansas:

Lots 1 through 29, inclusive, Block A;
Lots 1 through 28, inclusive, Block B;
Lots 1 through 15, inclusive, Block C;
Lots 1 through 7, inclusive, Block D;
Lots 1 through 10, inclusive, Block E;
Lots 1 through 20, inclusive, Block F;
Lots 1 through 34, inclusive, Block G;
Lots 1 through 17, inclusive, Block H;
Lots 1 through 7, inclusive, Block I;
and
Lots 1 through 33, inclusive, Block J.
all within,
Sterling East Addition
An Addition to Derby,
Sedgwick County, Kansas,

1.11. "Member" shall mean and refer to every person or entity that is an Owner, provided, however, when more than one person or entity holds fee simple title to a Single-Family Residence, all such persons in aggregate shall be deemed a single Member.

1.12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Single-Family Residence, including contract sellers, but excluding lessees and persons or entities having an interest merely as security for the performance of an obligation.

1.13. "Single-Family Residence" shall mean an Improvement erected and maintained in conformance with this Declaration for private residential purposes and designed for occupancy by a single family. The term "Single-Family Residence" shall not mean or refer to a duplex or any other multi-unit apartment building, flat, or other multi-family dwelling even though intended for residential purposes.

ARTICLE II
MEMBERSHIP IN THE ASSOCIATION

2.01. The Owners, together with the Owners of any other property that may from time to time be added to the Property in the manner hereinafter provided, shall be Members of the Association.

2.02. The Association will be incorporated under the laws of the State of Kansas as a not for profit corporation at a time within the sole discretion of Developer.

2.03. Membership in the Association shall be limited to the Owners, as set forth herein.

ARTICLE III
DEVELOPER ACTING AS AND FOR ASSOCIATION

3.01. Developer shall, in its sole and absolute discretion, assume the rights and obligations of the Association; levy and collect the Assessments; and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such rights and obligations were hereby given directly to the Developer, until relinquished or assigned as set forth in Sections 3.02 or 3.03 below.

3.02. The Association shall not assume any of the rights herein provided without the consent of the Developer and its relinquishment in writing of all or any portion of such rights or as otherwise provided in this Declaration.

3.03. The Developer may, by appropriate written instrument made expressly for that purpose, assign or convey to a third party or the Association any portion or all of the rights, and obligations reserved by it in this Article III and upon such assignment or conveyance being made, such third party or the Association shall exercise and assume such rights and obligations.

ARTICLE IV
VOTING RIGHTS

4.01. The Association shall have two (2) classes of voting membership, as follows:

Class A. Each Owner (other than a Class B Member) shall be in a Class A Member of the Association and shall be entitled to one (1) vote for each Single-Family Residence owned by it in fee simple title; provided, however, that until a Single-Family Residence is completed and occupied in good faith on a Building Site, the Developer shall be entitled to the vote of the Owner, and purchase of a Building Site shall constitute the purchaser's proxy to Developer for the aforesaid purpose.

Class B. Developer shall be a Class B Member and shall have twenty (20) votes for each Lot owned by it. In addition, Developer shall have the right to appoint a majority of the Board of Directors and Developer shall have the right to approve and the power to veto any and all actions of the Association until Developer relinquishes its rights in writing or as otherwise provided in this Declaration. Class B membership of the Developer shall continue until Developer, or its assigns, owns no land within the Property (including land added as set forth below) or until Developer relinquishes its Class B membership in writing, whichever first occurs.

4.02. Members may cast their vote in person or by proxy at any regular or special meeting of the Association, or by mail or electronic means following notice as provided in the Association's Bylaws or by Kansas law. The voting rights of a Class A Member regarding Assessments shall be suspended for any period during which any prior levied assessment described in this Declaration, including interest and fees, remains unpaid by

that Class A Member. Unless the context clearly indicates to the contrary, decisions by the Association described herein shall require approval of the requisite percentage of Class A and Class B votes combined and not separate requisite percentages of each Class.

4.03. Notwithstanding the foregoing, the provisions of this Article IV shall be subject and subordinate to the provisions of Article III herein.

ARTICLE V
LAND ENTITLED TO BENEFITS

No Single-Family Residence shall be entitled to any of the benefits, or services provided by the Association unless the Owner thereof shall have subjected such Single-Family Residence to the terms of this Declaration and to the assessments herein provided for. For purposes hereof, accepting title to a Single-Family Residence within the Property after the recording of this Declaration shall satisfy the foregoing requirements.

ARTICLE VI
USE OF COMMON AREAS

6.01. The Common Areas are herby conveyed to and shall be owned by the Association. The Owners of Lots within the Property shall have the exclusive right of the use of all Common Areas within the Property as it from time to time exists.

6.02. The Association shall have the right and the power to charge reasonable fees for the use of any recreational facility located within a Common Area and to make reasonable rules and regulations which shall govern the use of the Common Areas and implement the terms of this Declaration as the context requires.

6.03. Water Levels in Common Areas. There is no assurance that bodies of water within the Property, if any, shall continue in the future to contain water levels consistent with the levels existing on the date hereof and, in fact, such bodies of water may become dry or substantially empty of any water. Neither Declarant, Developer, the Association, the Board nor any officer or employee of same shall have any liability or responsibility to Owners for any change in the water levels in any such bodies of water, including if such bodies of water become dry or substantially empty of water.

ARTICLE VII
USE, OCCUPANCY AND CONDUCT RESTRICTIONS

7.01 Purpose. These covenants, conditions, restrictions, reservations and easements herein declared are designed to: insure the most appropriate development and improvement of the Property in harmony with a common development scheme; protect the Owners against uses tending to depreciate or lower the value of the Property or any Building Site thereon; prevent the erection or maintenance of unattractive, poorly designed or poorly proportioned Improvements within the Property; insure that all

Improvements are constructed with proper and suitable materials; encourage and insure the construction of attractive Single-Family Residences; maintain proper building setback from streets and adequate free spaces between Improvements; and generally provide a high quality single-family residential development on the Property.

7.02 Use of the Property; Compliance with Plat. No building shall be erected, altered, placed or permitted to remain on any Building Site other than a Single-Family Residence designed for private use and occupancy a single family. No portion of the Property shall be used for other than single-family residential use or sales and development activities by Developer and its successors, assigns, agents, employees, representatives and contractors. Improvements shall comply with the minimum front, back and side setback requirements and all other requirements shown on the recorded plat of the Property, or as otherwise specified by Developer or the Architectural Control Committee and shall comply with all applicable laws, codes, ordinances, rules and regulations.

7.03 Construction; Minimum Size of Dwellings. Construction of a new single-family residence for private use shall begin within six (6) months of purchase of an unimproved Lot from Declarant, or its assigns, and construction shall be completed within twelve (12) months unless otherwise approved by the Developer or the Architectural Control Committee. Each Single-Family Residential Dwelling constructed upon a Building Site shall conform to the minimum square footage requirements, as are determined from time to time by Developer or the Architectural Control Committee. Minimum square footage requirements shall be exclusive of garages, open porches, eaves, steps, and basements, except as otherwise approved by Developer or the Architectural Control Committee. Developer's initial minimum square footage requirements are:

7.03.01 Lots 1 through 22, inclusive, Block A – One Thousand, Five hundred (1,500) square feet;

7.03.02 Lots 1 through 28, inclusive, Block B – One Thousand, Five hundred (1,500) square feet;

7.03.03 Lots 1 through 8, inclusive, Block D – One Thousand, Two hundred (1,200) square feet;

7.03.04 Lots 1 through 11, inclusive, Block E – One Thousand, Two hundred (1,200) square feet;

7.03.05 Lots 1 through 10, inclusive, Block F – One Thousand, Two hundred (1,200) square feet; and

7.03.06 Lots 1 through 10, inclusive, Block J – One Thousand, Two hundred (1,200) square feet.

7.04 Garage and Driveways. Each Single-Family Residence shall include an attached garage suitable for at least two (2) automobiles. Driveways and parking areas upon a Building Site shall be concrete only.

7.05 Landscaping. Upon completion of a Single-Family Residence, or as soon as practicable and appropriate thereafter but no later than one hundred and eighty (180) days after completion, its Owner shall plant a lawn on not less than ninety percent (90%) of the Building Site and plant at least one (1) tree with a minimum caliper of two (2) inches at the time of planting and at least four (4) perennial shrubs on the Building Site, provided, however, no shrub, mass planting or tree shall obstruct site lines at any corner of the Building Site. Trees, shrubs and other plantings that die shall be promptly removed and replaced by Owner to maintain the required minimums set forth above. No live tree shall be removed from any Building Site unless approved by Developer, or the Architectural Control Committee.

7.06 Maintenance. Owner, shall keep and maintain its Building Site in good order and repair including but not limited to the painting, sealing, staining (or other appropriate external care) of all Improvements and the planting, watering and mowing of all lawns, the pruning and maintenance of all trees, shrubbery and plantings and any contiguous portion of public easements and rights-of-way abutting Owner's Building Site, all in a manner and with such frequency as is consistent with good property management of a high quality residential neighborhood, provided Developer shall only be required to mow its respective Lots as it deems necessary. Public easements and rights-of-way shall be landscaped with grass and trees only unless an alternative landscape design and materials are specifically approved by Developer or the Architectural Control Committee.

7.07 Excavations. No excavations, except such as are necessary for the construction of a Single-Family Residence or Improvements, shall be permitted on any Building Site without the prior written consent of Developer or the Architectural Control Committee.

7.08 Prohibited Improvements and Uses. No trailer, trailer house, mobile home, modular home, used home, secondhand home or previously constructed building or outbuilding may be moved, placed, parked or used, upon the Property nor permitted to remain upon the Property other than as used by Developer or otherwise approved by it for temporary use during the development of the Property. No garage, tent, shack, trailer, temporary structure, outbuilding or other Improvement, except a Single-Family Residence, may be used at any time for human habitation nor converted into apartments, rental or living quarters.

7.09 Trash; Storage. No trash, ashes, dirt, rock, landscape trimmings or other refuse may be dumped or maintained on any Building Site. All trash containers must be stored out of sight except on days when trash pick up is scheduled. No tools, equipment or building material shall be stored in the open, and no machinery shall be placed or operated, upon any Building Site, except such as is contemporaneously necessary for

the construction or maintenance of a Single-Family Residence or Improvements in accordance with this Declaration.

7.10 Signs. Except as authorized by the Architectural Control Committee, and except for those installed by Developer, its marketing representatives or builders or contractors as authorized by Developer, no signs, advertisements, billboards, or advertising Improvements of any kind may be erected or maintained on any Building Site; provided, however, that permission is hereby granted for unlighted, temporary standard sized signs by real estate firms for the sole purpose of advertising for sale or lease the Building Site and Single-Family Residence erected thereon, if any, and home security signs not to exceed one (1) square foot.

7.11 Home Professions and Businesses. No retail, wholesale, manufacturing, service, repair or personal care business shall be conducted or permitted on any Building Site or in any Single-Family Residence, or Improvement erected thereon, except any Building Site or Single-Family Residence owned by Developer or others so authorized by Developer may be used for a model home or for a real estate sales office.

7.12 Contractors. All Single-Family Residences and Improvements constructed upon a Building Site shall be constructed by a contractor licensed by the Metropolitan Area Building and Construction Department (MABCD), Sedgwick County, and expressly approved in writing by Developer or the Architectural Control Committee prior to construction.

7.13 Vehicles. No automobile, truck, motorcycle, boat, trailer of any type, camper, recreational vehicle, personal watercraft, aircraft or any other vehicle of any type or description may be stored or permanently, continually or regularly parked for more than forty-eight (48) continuous hours nor shall such items continue a consistent, cumulative presence on any public easement, right-of-way or in the open on any Building Site. Vehicle repairs other than ordinary light maintenance are not permitted on the Property.

7.14 Pipes. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Building Site above the surface of the ground, except temporary placement of garden hoses used for irrigation purposes. No portion of the Property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth, nor shall any other Improvement or activity relating thereto be permitted or allowed to remain in or on any portion of the Property.

7.15 Fencing. No fencing shall be erected on any Building Site without the prior written consent of Developer or the Architectural Control Committee. No chain link or wire fence shall be permitted on the Property other than as specifically set forth in Section 7.15.02 below. When the rear yard is enclosed by fencing, such fencing shall be erected on the property line(s) shared with adjacent Building Sites.

7.15.01 Fencing Height and Drainage. All fences erected or maintained on the Property shall be constructed, placed and maintained in accordance with this Declaration, including any requirements established from time to time by the Architectural Control Committee, and along the entire length shall: except posts, be at least four (4) inches above ground level to provide for adequate drainage; and other than wrought iron type fences which may be five (5) feet in height, no less than six (6) feet nor more than six and one-half (6-1/2) feet in height above ground level; and shall be constructed substantially such that the pickets conceal the posts and stringers when the fence is viewed from an adjacent Building Site, commonly known as a "Good Neighbor Fence".

7.15.02 Fencing, Dog Runs. Chain link or wire fence may be permitted specifically for a dog run, kennel or like facility provided such structure is in the rear yard of the Building Site in an area enclosed by a fence that conceals such structure from the view of all other Building Sites, constructed, placed and maintained in the accordance with this Declaration. Any dog run, kennel or like facility constructed on a Lot with a fence that is constructed of wrought iron type fence, shall be wrought iron type fencing, black in color.

7.16 Roof Construction. Roofs shall be constructed with black or weathered wood color composition shingles, or similar color and material which are comparable in appearance and flame resistance. All changes to roofing materials, including color, composition and appearance, must be authorized and approved by Developer or the Architectural Control Committee in accordance with the terms and provisions of Article XI.

7.17 Storage Buildings. No storage building of any kind shall be erected or placed on any Building Site without the prior written consent of Developer or the Architectural Control Committee.

7.18 Exterior Color Schemes. Initial exterior color schemes and all changes to existing color schemes shall be approved in advance by the Developer or the Architectural Control Committee. Pre-approved exterior colors and color schemes may be established from time to time and at any time by Developer or the Architectural Control Committee upon relinquishment or assignment to the Association as set forth in Sections 3.02 or 3.03 above. All changes to exterior colors and color schemes must be authorized and approved by Developer or the Architectural Control Committee in accordance with the terms and provisions of Article XI.

7.19 Antennas. Except as authorized by Developer or the Architectural Control Committee, no external antennas, satellite receivers exceeding thirty (30) inches in diameter, permanent clothes lines, poles, towers or wires shall be erected or maintained on the Property. All utility, electrical, telephone and communication lines shall be underground.

7.20 Restrictions Not Exclusive. The covenants, conditions and restrictions contained in this Declaration shall not be taken as permitting any action or thing prohibited by applicable zoning laws, or the laws, rules or restrictions imposed by any deed or the recorded plat of the Property. In the event of any conflict, the most restrictive provision of any such law, rule, regulation, deed, plat, or this Declaration shall be taken to govern and control.

7.21 Promulgation of Regulations. The Association may make reasonable regulations governing the use of the Property, including the appearance, orderliness, safety and quality thereof. The Association may also make reasonable regulations, consistent with this Declaration and a high-quality neighborhood, governing activities and the Property, including but not limited to:

7.21.01 Location and nature of ground cover, grass, trees, shrubbery, hedge and flowers.

7.21.02 Window coverings and other window and door treatments and decorations as may be visible from the exterior of a Single-Family Residence.

7.21.03 Placement and appearance of temporary or permanent sports structures including but not limited to basketball goals and soccer nets.

7.21.04 Placement and appearance of exterior sculpture or “yard art”.

7.21.05 Type, appearance, on-street or off-street parking, storage, noise and emissions of vehicles.

7.21.06 Animals, including breeds, number, location, waste removal and activities.

7.21.07 Size, appearance, type and the manner of storage of refuse containers and arrangements for pickup and disposal of refuse.

7.21.08 Exterior decoration and displays upon Building Sites and upon Single-Family Residences and other exterior care and appearance of Improvements.

ARTICLE VIII
THE ASSOCIATION

8.01 Powers and Duties.

8.01.01 The Association shall have the rights and powers as set forth herein and in its Articles of Incorporation and Bylaws, together with its general powers as a not for profit association or corporation, and the Association through its Board of Directors shall have the right to perform each and every duty required of it by this Declaration. All actions of the Association shall be taken on its behalf by the Board of

Directors, except for when a vote of the Members is specifically required by this Declaration, the Articles of Incorporation, or the Bylaws.

8.01.02 The Association may maintain such insurance as the Board of Directors may in its reasonable discretion determine.

8.01.03 The Association through its Board of Directors shall have the right to create and establish reserves for the repair, restoration, or replacement of any Improvement it has the duty to repair, restore or replace hereunder.

8.01.04 The Association through its Board of Directors shall have the right to adopt procedures and such rules and regulations as it may deem advisable for the maintenance, use, conservation, and beautification of the Property and for the health, comfort, safety and general welfare of the Owners and occupants of the Property and enforcement of this Declaration.

8.01.05 An Architectural Control Committee shall be created to assume the duties and authority of the architectural control function set forth in Article XI with no more than three (3) members, initially appointed by Developer, thereafter duly elected by an affirmative vote of a majority of the Members present in person or by proxy at a meeting of the Members specifically called for that purpose.

8.02 Operations and Expenses. The Association through its Board of Directors shall establish such committees as it deems appropriate or advisable, and may engage a manager, secretaries, engineers, auditors, accountants, legal counsel, and other employees or consultants as may be reasonably necessary for the discharge of its duties hereunder. The expenses of committees, the salaries of a manager and other employees and the fees of consultants shall be established by the Board of Directors and paid by the Association. The Association shall pay all other expenses approved by the Board of Directors, necessary or incidental to the conduct of its business.

8.03 Enforcement. The Association through its Board of Directors shall have the authority to enforce each and every provision of this Declaration, including the authority to commence and maintain an action to enjoin any breach or threatened breach of any of the provisions hereof, and to pay all costs of any such action or other enforcement procedure.

8.04 Developer's Rights. The terms and provisions of this Article VIII shall be subject and subordinate to the rights of Developer as set forth in Article III of this Declaration.

ARTICLE IX
METHOD OF PROVIDING GENERAL AND SPECIAL FUNDS

9.01 Each Single-Family Residence owned by a Class A Member shall be subject to an Annual Assessment which may be levied by the Association through its

Board of Directors, from year to year, to be paid by the Member to the Association annually or at such other times as the Association may determine in advance. Anything to the contrary herein notwithstanding, the Developer, in its sole discretion, shall determine the amount of Annual Assessments for the Association, for so long as Declarant and Developer own a Lot within the Property (including additions to the Property). Thereafter, the Association through its Board of Directors shall from year to year determine the total amount required in its general fund and may levy and collect the Annual Assessments for each Single-Family Residence owned by a Class A Member. Annual Assessments shall commence upon acceptance of title to a Single-Family Residence by its Owner, determined by date of closing and prorated on a 365-day annual basis. A Lot purchased by a real estate developer or residential home builder with the intent to build a Single-Family Residence upon it shall be exempt from assessments upon such Lot for a period not to exceed the earlier of (i) issuance of a certificate of occupancy for a Single-Family Residence; or (ii) twelve (12) months from the date of purchase of such Lot.

9.02 Annual Assessments upon each Single-Family Residence owned by a Class A Member may by increased by the Association:

9.02.01 by an amount not exceeding fifty percent (50%) of the preceding year's Annual Assessment by an affirmative vote of a majority of the Board of Directors; or

9.02.02 by an amount in excess of fifty percent (50%) of the preceding year's Annual Assessment, but not exceeding one hundred percent (100%) of the preceding year's Annual Assessment, by an affirmative vote of seventy-five percent (75%) of the Members present in person or by proxy at a meeting of the Members specifically called for that purpose.

9.03 The Association through its Board of Directors may levy and collect special assessments for capital improvements or repairs in such amounts as the Board of Directors deems reasonably necessary.

9.04 Unless an increase in the Annual Assessment provided for in Section 9.02 of this Article VIII is specifically limited, it shall continue to be effective until rescinded by the Association by an affirmative vote of seventy-five percent (75%) of the Members present in person or by proxy at a meeting specifically called for such purpose, or by action taken under the terms of Section 9.05 of this Article IX and in either such event the rescission shall be effective commencing on the first day of the next succeeding year.

9.05 Whenever the Association may deem it advisable to submit to the Members a proposal under Section 9.02 of this Article IX for increasing or decreasing the amount of the Annual Assessments, it shall notify the Members of such meeting, giving the time and place at which it is to be held and the fact that an increase or decrease in the amount of the Annual Assessment is to be voted upon at such meeting. Such notice must be deposited in the United States mail not less than ten (10) days prior to the date of such meeting.

9.06 The first Annual Assessment shall be for the calendar year 2024, and shall be due and payable thirty (30) days after levy. Subsequent Annual Assessments shall be due and payable on January 1st of each year thereafter unless otherwise determined by the Association through its Board of Directors. Failure of the Association to levy the Annual Assessment prior to January 1st of each year for the next succeeding year shall not invalidate any assessment subsequently made for that particular year; nor shall failure to levy an Annual Assessment for any one year affect the right of the Association to do so for any subsequent year. Once Developer has relinquished its interest in the Property, the Board of Directors, shall have the authority to determine the means of enforcing and collecting assessments and may elect to permit collections in monthly, quarterly or semi-annual payments in lieu of the annual payments provided for herein.

9.07 The Owner of each Single-Family Residence subject to an Annual Assessment, partial assessment or special assessment as herein provided, by acceptance of a deed to such Single-Family Residence, hereby agrees to pay to the Association all assessments placed against such Single-Family Residence in accordance herewith and the Association is hereby granted the power to proceed against such Owner personally for the collection of said assessments, said right to be in addition to and not in lieu of, all other rights and remedies of the Association herein granted.

9.08 The Association may levy and collect an initiation fee in an amount not greater than the then current Annual Assessment from the purchaser of each Single-Family Residence. Such initiation fee shall not be considered a “transfer fee” for the purposes of Section 58-3821 of the Kansas Statutes and shall be specifically excluded from the application of that statute per subsection 58-3821(a)(2)(G) therein.

ARTICLE X
LIEN ON REAL ESTATE

10.01 The assessments provided for herein shall become a lien on the respective Single-Family Residences as soon as they become due and payable as above set forth provided, however, such liens shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said Single-Family Residences. In the event of the failure of any Owner to pay assessments within thirty (30) days from the date same are levied, then such assessments, from the thirtieth (30^{th}) day after levy shall bear interest at ten percent (10%), compounded annually.

10.02 Thirty (30) days from the date of levying an assessment on a Single-Family Residence, if unpaid, the assessment shall become delinquent and the Association through its Board of Directors may in its discretion file certificates of nonpayment of assessment against a Single-Family Residence with the Register of Deeds of Sedgwick County, Kansas. For each certificate so filed the Association shall be entitled to collect from the Owner of the Single-Family Residence the amount of the delinquent assessment, recording fees, collection, filing and attorneys’ fees and interest. Such amounts recorded in the certificate of nonpayment shall be a lien upon the Single-Family

Residence, enforceable as *in rem* and/or *in personam* proceedings in any court in Sedgwick County, Kansas, having jurisdiction of suits for the enforcement of such liens, provided, however, such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on the Single-Family Residence. Any such lien upon a Single-Family Residence as hereinabove provided may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. In any action to foreclose any such lien, the Association shall be entitled to costs, including reasonable attorneys' fees.

10.03 Such liens shall continue for a period from the date of delinquency through the maximum time allowed by law, unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall continue until the termination of the suit or foreclosure and sale of the Single-Family Residence under execution of the judgment establishing same.

ARTICLE XI
ARCHITECURAL CONTROL

11.01 Architectural Control Function. In order to assure the development and continued maintenance and operation of the Property as a first-class residential neighborhood, no Improvement shall be commenced, erected, placed, maintained, moved onto or permitted to remain on any Building Site, nor shall any existing Improvement upon any Building Site be changed or altered in any manner, nor shall any new use be commenced on any Building Site, unless plans and specifications (including a site plan, a grade plan and a drainage plan) therefore shall have been submitted to and approved in writing by Developer, whom shall have complete control of all such matters and may approve or withhold approval on any basis deemed proper in its sole and absolute discretion. Developer shall have the absolute right at any time and from time to time to delegate such architectural control function to any other person or entity. Once Developer has relinquished its interest in the Property, the Architectural Control Committee shall assume these duties, provided, in no event shall the Architectural Control Committee have the power or authority to waive, amend, or grant a variance to, any of the easements, setbacks, covenants, conditions or restrictions set forth in this Declaration. Once Developer has relinquished its interest in the Property, the Architectural Control Committee shall have the authority, from time to time, to draft architectural guidelines, provided such guidelines, and/or their application, are approved by the Board and do not conflict with any restriction herein. In the event of a dispute between a decision of the Architectural Control Committee and the Board, the Board's decision shall control.

11.02 Required Information. Plans and specifications submitted for approval to Developer shall be in such form and shall contain such information as may be required by Developer in its sole discretion. Such plans and specifications submitted for approval to the Architectural Control Committee shall contain such information as may be required in its reasonable discretion.

11.03 No Liability, Reliance on Decisions. Neither Declarant, Developer, nor any successor, assign, agent, employee, representative or other person or entity to whom such architectural control function has been delegated nor the Association or Architectural Control Committee, shall be liable to any Owner or other person or other entity for any claims, damages or causes of action arising from or in any way out of performance or nonperformance of the architectural control function including, by way of illustration and not limitation, the approval of, or failure, refusal or neglect to approve, any plans and specification submitted. Any architectural control decision shall be final and conclusive but only to the unique facts and circumstances presented to the Architectural Control Committee upon submission of plans and specifications for approval. No decision of the Architectural Control Committee may be relied upon as precedent or approval, explicit or implied, of any other Improvement, whether or not such Improvement is similar to or in conformance with an Improvement approved by Developer or the Architectural Control Committee and any commencement, erection, placement or maintenance of an Improvement in reliance upon a previously approved or existing Improvement within the Property without written approval of Developer or the Architectural Control Committee shall be at the Owner's own risk.

11.04 Noncompliance. If any Improvement shall be altered, erected, placed or maintained upon any Building Site, or any use or new use commenced or maintained on any Building Site, without approval of Developer, the Architectural Control Committee or otherwise than in accordance with the plans and specification approved pursuant to the provisions of this Article, such alteration, erection, maintenance, use or new use shall be deemed to have been undertaken in violation of this Declaration and without the approval required herein, and upon written notice, any such Improvement so altered, erected, placed or maintained in violation hereof shall be removed or re-altered, and any such use or new use shall be terminated so as to extinguish such violation. In the event the Owner of the Building Site (or Single-Family Residence as the case may be) upon which such violation(s) exist(s) shall not have taken reasonable steps toward the removal or termination of the same within ten (10) days after the notice of such violation(s), Developer, the Association through its Board of Directors, or any other Owner shall have the right to take such steps as may be necessary to extinguish such violation including but not limited to enforcement of this Declaration by court order for the removal or termination of the such violation(s), and costs, in proceedings in any court in Sedgwick County, Kansas, having jurisdiction of such suits and collection of all costs to extinguish such violation including but not limited to filing, attorneys' fees and interest.

ARTICLE XII
ENFORCEMENT

12.01 Right to Enforce. Declarant, Developer, the Association through its Board of Directors, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, assessments and easements now or hereafter imposed by the provisions of this Declaration. Developer shall, in its sole discretion, have the right to determine compliance with this Declaration for so long as Declarant or Developer own at least one (1) Lot within the Property. Once Developer has

relinquished its interest in the Property, or otherwise delegated enforcement rights to the Association, the Board of Directors of the Association shall have the authority to determine compliance with this Declaration.

12.02 Waiver. Failure by Declarant, Developer, the Association, or any Owner, to enforce any covenant, condition, restriction, assessment, easement or limitation set forth in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

12.03 Attorneys' Fees and Costs. Declarant, Developer, the Association, or any Owner, shall have the right to include in claim for relief a reasonable sum for attorneys' fees and all other expenses reasonably incurred in enforcing the covenants, conditions, restrictions, assessments, easements and limitations set forth in this Declaration.

12.04 Notice of Non-compliance and Hearing. Upon receipt of an allegation of non-compliance with Article VII, Use Occupancy & Conduct Restrictions, (excluding Sections 7.9 and 7.10) or Article XI, Architectural Control, the Board shall review the allegation and determine if action is necessary. If the Board determines that action is necessary, the Owner of the Building Site (or Single-Family Residence as the case may be) subject to the allegation shall be notified in writing and shall have ten (10) days to request and receive a hearing with the Board to dispute the allegation. If the Owner fails to respond to the notification, or after a hearing, the Board determines the Owner's dispute of the allegation is without merit, the Board shall notify the Owner in writing of the Board's determination of non-compliance with the Declaration. If the allegation of non-compliance is under Sections 7.9 or 7.10, no hearing shall be available, it being in the Board's sole discretion to determine non-compliance based on the Board's independent review, and the Board shall notify the Owner in writing of the Board's determination. Owner shall have ten (10) days from the date of such notice to remedy the non-compliance, determination of compliance to be in the Board's sole discretion.

12.05 Liquidated Damages. In the event a Building Site (or Single-Family Residence as the case may be) is not in compliance with the Declaration within ten (10) days of the notice of non-compliance, the Owner shall pay the Association an amount equal to fifty dollars ($50.00) multiplied by the number of days of non-compliance from the date of the notice of non-compliance, not to exceed five hundred dollars ($500.00) per month of non-compliance, not as a penalty but as liquidated damages for breach of the Declaration. Such amount due shall become a lien on the Building Site (or Single-Family Residence as the case may be) as soon as it is due and payable; provided, however, such lien shall be inferior or subordinate to the lien of any valid first mortgage. In the event of Owner's failure to pay the amount due within thirty (30) days from the date levied, then such amount due, from the thirtieth (30^{th}) day after levy, shall bear interest at ten percent (10%), compounded annually. The liquidated damages provisions of this Section shall be in addition to, not in lieu of, the rights of Declarant, Developer, the Association or any Owner under Articles VII, XI and XII of this Declaration.

ARTICLE XIII
RIGHTS, POWERS & LIMITATION OF LIABILITY OF DEVELOPER

13.01 Assignment and Delegation. Developer shall have all rights and powers granted to the Association, the Board of Directors, and the Architectural Control Committee for so long as Developer, its successors or assigns own at least one (1) Lot within the Property, and shall have the absolute right and power to assign and/or delegate, at any time and from time to time, all or any part of any of the rights, powers and authority contained in this Declaration.

13.02 Addition of Other Land. Developer, in its sole discretion, shall have the right from time to time to add land to the Property including but not limited to, the right to plat additional property, provided that:

13.01.01 Declarant or Developer own a Lot or Lots within the Property;

13.01.02 The property so added to the Property shall at the time of addition be subject to and bound by all of the terms of this Declaration and any amendments thereto; and

13.01.03 Developer executes and records a document with the Register of Deeds of Sedgwick County, Kansas, describing the property added and subjecting the same to the terms of this Declaration.

13.03 Removal of Land. Developer shall have the absolute right at any time and from time to time to waive or modify any or all of the covenants, conditions, easements, assessments and restrictions of this Declaration as to any undeveloped Lot or Lots owned by Developer by executing and filing a document of record with the Register of Deeds of Sedgwick County, Kansas describing such waiver or modification and describing the Lot or Lots to which such waiver or modification applies.

13.04 Development Activities. Developer specifically reserves the right to carry on Developer's business in the Property so long as Declarant or Developer own land within the Property or new Single-Family Residences or Improvements are being constructed in the Property, including by way of illustration and not limitation, maintaining sales offices, model homes, business offices and other facilities necessary or convenient for the business of Developer.

13.05 Easements in Favor of Developer. Developer specifically reserves to itself, its successors and assigns, a perpetual, nonexclusive easement and right-of-way over the Property for the purposes of constructing, maintaining, repairing, replacing and rebuilding pipes, drains, mains, wires and/or utilities for the purpose of conveying electricity, gas, water and sewage through the Property, together with the right to excavate and level ditches and/or trenches for the location of such pipes, drains, mains and utilities.

ARTICLE XIV
COVENANTS RUNNING WITH THE LAND

14.01 The covenants, conditions, easements, assessments and restrictions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon and run with the Property and shall be binding upon all Owners of any part or portion thereof, along with all successors, assigns, grantees or purchasers of any part or portion of the Property, including under any deed, grant, escrow, contract of sale, device, or lease.

14.02 This Declaration shall be deemed a servitude which shall be both a benefit and a burden to the Property until the Association repeals this Declaration in accordance with the provisions of this Declaration for repeal.

ARTICLE XV
AMENDMENT

15.01 Amendment by Developer. Until such time as Declarant or Developer own no Lot within the Property, Developer shall have the absolute right to amend this Declaration by recording a written amendment with the Register of Deeds of Sedgwick County, Kansas; provided, however, that such amendment shall not materially affect any rights of the then existing mortgage holders.

15.02 Other Amendment. After Declarant and Developer own no Lot within the Property, this Declaration may be amended only upon the affirmative vote of seventy-five percent (75%) of the Members present in person or by proxy at a meeting specifically called for such purpose evidenced by an amendment to this Declaration duly executed and acknowledged by the President of the Association and recorded with the Register of Deeds of Sedgwick County, Kansas; provided, however, that Developer retains the right to amend this Declaration, in its sole discretion as it may relate to any land added to the Property pursuant to the provisions hereof and the Association shall not have the right to amend the repeal provisions of this Declaration.

15.03 Repeal. After Declarant and Developer own no Lot within the Property, this Declaration may be repealed only upon the affirmative vote of ninety percent (90%) of the Members present in person or by proxy at a meeting specifically called for such purpose, evidenced by a Certificate of Repeal of this Declaration duly executed and acknowledged by the Board of Directors of the Association and recorded with the Register of Deeds of Sedgwick County, Kansas.

ARTICLE XVI
MISCELLANEOUS

16.01 Term. The covenants, conditions, easements, assessments and restrictions of this Declaration shall inure to the benefit of and be enforceable by Developer, the Association, or the Owner of any Single-Family Residence and their

respective legal representatives, heirs, successors, assigns and grantees, for a term of twenty (20) years from the date of recording hereof, after which time the covenants, conditions and restrictions hereof shall be automatically extended for successive periods of ten (10) years unless repealed per Article XV, Section 15.03.

16.02 Severability. All of the covenants, conditions and restrictions contained in this Declaration shall be construed together, but if it shall at any time be held that any one or more of such covenants, conditions or restrictions, or any part thereof, is invalid or for any reason becomes unenforceable, no other covenant, condition or restriction or any part thereof, shall be affected or impaired.

16.03 Construction and Interpretation. In constructing, interpreting and applying the provisions of this Declaration, they shall be held to be minimum requirements adopted for the promotion of a general plan and common theme for the improvement and development of the Property and the health, safety, comfort, convenience and general welfare of the Owners. It is not the intent of this Declaration to interfere with any provisions of any law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises; nor is it the intention of this Declaration to interfere with or abrogate or annul easements, covenants, or other agreements between parties; provided, however, that where this Declaration imposes a greater restriction upon the use or occupancy of any Building Site or upon the construction of Improvements, or in connection with any other matters that are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits, or by such covenants, easements and agreements, then in that case the provisions of this Declaration shall control.

16.04 Notice. A written or printed notice, deposited in the United States Post Office, with postage prepaid thereon, and addressed to the Owner(s) at the last address listed with the Association, shall be deemed to be sufficient and proper notice for any purpose of this Declaration where notices are required, unless otherwise provided herein.

16.05 Waiver and Exceptions. The failure by Developer, the Association, or of any Owner to enforce any of the covenants, conditions, restrictions, easements, assessments or reservations to which the Property or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other covenant, condition, restriction, easement, assessment or reservation.

16.06 Mortgage Protection Clause. No breach of the covenants, conditions, easements or restrictions herein contained nor the enforcement of any provisions herein, shall defeat or render invalid the lien of any mortgage made in good faith and for value, but all of these covenants, conditions, easements and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure sale, or deed in lieu thereof.

****** Signature Pages Follow ******

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

Declarant: Murdock Properties, LLC

By: _____

Louis J. Robelli, Managing Member

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED that on this ____ day of _____ 2024 before me the undersigned, a Notary Public in and for the County and state aforesaid, came **Louis J. Robelli, on behalf of Murdock Properties, LLC** as Managing Member, who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, on the day, month and year first above written.

_____
Notary Public

My Appointment Expires:

Developer: Air Capitol Land Company

By: _____

Louis J. Robelli, Managing Member

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED that on this ____ day of _____ 2024 before me the undersigned, a Notary Public in and for the County and state aforesaid, came **Louis J. Robelli, on behalf of Air Capitol Land Company as Managing Member**, who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, on the day, month and year first above written.

_____
Notary Public

My Appointment Expires: