

# DECLARATION

FOR

## HOMEVIEW CONDOMINIUM

### ARTICLE I

#### CREATION; DEFINED TERMS

Section 1.1. Creation of the Condominium. Pursuant to the provisions of Chapter--4.2 of Title 55 of the Code of Virginia ("Condominium Act"), The Boyd Group, LLC, a Virginia limited liability company ("Declarant"), hereby creates a condominium comprised of the land described as submitted land in Exhibit A hereto, located within Henrico County, Virginia ("Land"), together with all improvements thereto and all easements, rights and appurtenances thereunto appertaining ("Property"). The name of the condominium is Homeview Condominium" ("Condominium").

Section 1.2. Defined Terms. Except as otherwise defined herein or in Section 1.3 of the Bylaws comprising Exhibit B hereto, all terms used in the condominium instruments shall have the meanings specified in section 55-79.41 of the Condominium Act. All exhibits referred to in the condominium instruments are exhibits to this Declaration.

### ARTICLE 2

#### BUILDINGS ON THE LAND; UNIT BOUNDARIES

Section 2.1. Location and Dimensions of Buildings. The location and dimensions of each building on the Land are depicted on the "Plats" attached as Exhibit D hereto.

Section 2.2. Units. The location of units within each building and their dimensions are shown on the "Plans" attached as Exhibit E hereto. The Common Element Interest Table attached as Exhibit C hereto is a list of all units, their identifying numbers, location (all as shown more fully on the Plats and Plans), type and the Common Element Interest appurtenant to each unit determined on the basis of size. The "size" of each unit is the total number of square feet contained therein determined by reference to the dimensions shown on the Plats and Plans.

Section 2.3. Unit Boundaries. The boundaries of each unit are as follows:

(a) Upper and Lower (horizontal) Boundaries: The upper and lower boundaries of the unit are the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

- (1) Upper Boundary: The horizontal plane as shown on the Plats and Plans.
- (2) Lower Boundary: The horizontal plane of the top surface of the undecorated concrete or gypcrete floor.

(b) Vertical (perimetric) Boundaries: The vertical boundaries of the unit are the vertical planes which include the back surface of the wallboard of all walls bounding the unit extended to intersections with each other and with the upper and lower boundaries.

(c) The owner may install within the unit a heating and air-conditioning apparatus serving that unit. Those portions of the heating and air-conditioning apparatus located outside the unit may be placed with an aperture to the common element grounds or the common element roofs, subject to the approval, as to location and method, by the Declarant. Any portion of a utility system serving a unit which is located outside the unit is a limited common element appurtenant to that unit. Any portion of a utility system or other apparatus serving units with apertures between them (e.g., pipes, conduits, ducts) which is located partially within and partially outside the unit is a limited common element appurtenant to the units served.

Section 2.4. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the common elements and the units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of maintenance and repair responsibilities between the unit owner and the Association.

Section 2.5. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between units and subdivision of units is permitted subject to compliance with the provisions therefor in Section 5.7 and 8.4 of the Bylaws and in sections 55-79.69 and 55-79.70 of the Condominium Act.

### ARTICLE 3

#### COMMON ELEMENTS

Section 3.1. Limited Common Elements. Pursuant to section 55-79.54(a)(6) of the Condominium Act, the Declarant reserves the exclusive right to assign parking spaces as limited common elements for the exclusive use of certain unit owners to whose units these parking spaces shall become appurtenant. The Declarant may assign such a common element as a limited common element parking space pursuant to the provisions of section 55-79.57 of the Condominium Act by causing an appropriate amendment to this Declaration or to the Plans to be executed and recorded. If, prior to settlement on a unit, a person acquires the right to the assignment of a limited common element, the Declarant shall evidence the right to such an assignment in the deed to the unit to which such limited common element parking space shall appertain. If a unit owner acquires the right to the exclusive use of such a limited common element subsequent to settlement on the unit, the Declarant may but need not evidence the unit owner's right to such an assignment in a separate written agreement with the unit owner.

Section 3.2. Reserved Common Elements. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses in designated common elements to the Association or to any unit owners and to establish a reasonable charge to such unit owners for the use and maintenance thereof. The common elements or portions thereof so designated shall be referred to as Reserved Common Elements. Such designation by the Board shall not be construed as a sale or disposition of the common elements.

Section 3.3. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve defective, obsolete or non-functional portions of the common elements, including without limitation any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

ARTICLE 4

EASEMENTS

In addition to the easements created by sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are hereby granted:

Section 4.1. Easement to Facilitate Sales. All units shall be subject to an easement in favor of the Declarant pursuant to section 55-79.66 of the Condominium Act. The Declarant reserves the right to use any units owned or leased by the Declarant as models, management offices, sales offices or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Prior to assignment as limited common elements, the Declarant shall have the right to restrict the use of certain common element parking spaces for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain common element parking spaces for models, sales, management, customer service and similar purposes. The reservation of this easement to facilitate sales also applies to the additional land. This easement shall continue until the Declarant has conveyed to unit owners other than the Declarant all the units in the Condominium which the Declarant has the right to create.

Section 4.2. Easement for Access and Support.

(a) Access. The Declarant reserves in favor of the Declarant, managing agent and any other person authorized by the Board of Directors the right of access to any common element or unit as provided in section 55-79.79 of the Condominium Act and Section 5.9 of the Bylaws. In case of emergency, such entry shall be immediate whether or not the unit owner is present at the time. Further, until the expiration of the warranty period, such entry shall be permitted to inspect or perform warranty related work (for the benefit of the unit being entered, other units or the common elements) whether or not the unit owner or the unit owners association consents or is present at the time.

(b) Support. Each unit and common element shall have an easement for lateral and subjacent support from every other unit and common element.

Section 4.3. Declarant's Right to Grant Easements.

The Declarant shall have the right prior to the termination of the Declarant Control Period, to grant and reserve easements and rights-of-way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities.

Section 4.4. Cross-Easement for Use of Grounds, Driveways and Parking Facilities.

(a) Grant of Easement. Each unit owner of any unit located on any portion of the land described in Exhibit A hereto is hereby granted a non-exclusive right and easement of enjoyment in common with others of the amenities, grounds, driveways and parking facilities constituting a portion of the common elements (other than any limited common elements) of the Condominium ("Facilities").

(b) Extent of Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(1) the right of the Association to charge guests reasonable fees for the use of the Facilities;

(2) the right of the Declarant prior to the termination of the Declarant Control Period to grant and reserve easements and rights-of-way through, under, over and across the Facilities, for the installation, maintenance and inspection of the lines and appurtenances for public or private water sewer, drainage, gas, electricity, telephone, television reception and other utilities; and

(3) the right of the Association to adopt rules and regulations governing the use of the Facilities.

(c) Delegation of Use. Any person having the right to use and enjoy the Facilities may delegate such rights to the tenants who occupy portions of the Land and additional land and to such other persons as may be permitted by the Association.

(d) Rights to Use. Each person having the right to use the Facilities and each person to whom such right has been delegated shall comply with the rules and regulations regarding such use, as such rules and regulations may be established and amended from time to time by the Board of Directors. Such rights to use (except for access) may be suspended upon failure of a unit owner to pay condominium assessments, whether such unit owner owns a unit in the same or in an adjacent condominium, or upon failure of a tenant (other than in a condominium unit) to pay rent to the landlord of the unit which such tenant occupies.

#### ARTICLE 5

##### AMENDMENT TO CONDOMINIUM INSTRUMENTS; REQUIRED CONSENT

No amendment of the Declaration may be made without the prior written approval of the required percentage of Mortgagees where such approval is provided for in Section 8.5 of the Bylaws or where such approval is required elsewhere in the condominium instruments or by the Condominium Act. No amendment to the condominium instruments shall diminish or impair the rights of Mortgagees under the condominium instruments without the prior written consent of all Mortgagees, nor diminish or impair the rights of the Declarant under the condominium instruments without the prior written consent of the Declarant. No amendment may modify this Article or the rights of any person hereunder. Except as specifically provided in the condominium instruments, no provision of the condominium instruments shall be construed to grant to any unit owner, or to any other person, any priority over any rights of Mortgagees.

#### ARTICLE 6

##### RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each condominium unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the units owned by the Declarant.

#### ARTICLE 7

##### NO OBLIGATIONS

Nothing contained in the condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct or provide any improvements except to the extent required by the Condominium Act.

