

**FIRST AMENDMENT TO AMENDED AND RESTATED MASTER DEED**

**New Victorian Condominium**

New Victorian Condominium Association, a Michigan nonprofit corporation (the "Association"), whose address is c/o Andrew Daily, President of the Association, 333 East Cady Street, Northville, Michigan 48167, hereby amends the Amended and Restated Master Deed in accordance with Sections 90 and 90a of the Condominium Act. Upon recordation in the office of the Wayne County Register of Deeds of this Amendment, said First Amendment to the Amended and Restated Master Deed made and executed on this \_\_\_ day of \_\_\_\_\_, 2020, shall become effective.

**WITNESSETH:**

**WHEREAS**, New Victorian Condominium was established as a condominium project pursuant to the Michigan Condominium Act (being Act 59 of Public Acts of 1978, as amended) (the "Act"), the original Master Deed recorded at Liber 36043, Page 47, Wayne County Records, known as Wayne County Condominium Subdivision Plan No. 658, and the First Amendment to Master Deed was recorded on March 9, 2009, at Liber 47749, Page 798, Wayne County Records (the "First Amendment"), a Second Amendment to Master Deed was recorded on February \_\_, 2020, at Liber \_\_\_\_, Page \_\_, Wayne County Records (the "Second Amendment"), and an Amended and Restated Master Deed was recorded on February \_\_, 2020, at Liber \_\_\_\_, Page \_\_, Wayne County Records (together the "Master Deed").

**WHEREAS**, the Association wishes to amend the Master Deed in accordance with Sections 90 and 90a of the Condominium Act.

**WHEREAS**, the Association held a meeting of the members on January 30, 2020, at which the members of the Association approved this First Amendment by a two-thirds Co-owner vote. This First Amendment was then approved by the mortgagees in accordance with MCL 559.190a.

**WHEREAS**, this Amendment neither enlarges the Common Elements of the Condominium nor alters the formula for determining existing percentages of value in the Condominium.

The Master Deed shall be amended upon recording with the Wayne County Register of Deeds, as required by Section 73 of the Condominium Act (MCL 559.173).

**NOW, THEREFORE**, the New Victorian Condominium Condominium Master Deed is hereby amended as follows:

1. Article VI, Section 2 of the Amended and Restated Bylaws attached to the Amended and Restated Master Deed as Exhibit A is hereby amended by replacing in its Article VI, Section 2 of the Amended and Restated Bylaws with the following Article VI, Section 2:

Section 2.      **Leasing and Rental of Units.**

**A. Right to Lease.**

This Article VI, Section 2(A) shall apply only to Units 1 through 8 and shall not apply to Unit 9. Co-owners leasing their Units prior to the effective date of the Amended and Restated Master Deed may continue leasing their Units, provided the provisions of the Condominium Documents are strictly followed and an approved lease form is on file with the Association prior to the effective date of the Amended and Restated Master Deed. No Co-owner may lease or sublease any Unit within the Condominium without the written approval of the Association after the effective date of the Amended and Restated Master Deed. Approval by the Association will not be given if the leasing of such Unit would result in any one person or entity, their affiliates or commonly owned entities leasing more than one (1) Unit at any given time. Approval by the Association will not be given if the leasing of such Unit would cause the number of leased Units in the Condominium to exceed Fifty (50%) percent of the total number of Units in the Condominium; or (c) the Co-owner whose Unit is to be leased has not resided in that Unit for at least eighteen (18) months. In the event of a sale or transfer of ownership of a leased Unit, or in the event such a Unit is no longer being leased or held out for lease, all rights to lease that Unit will terminate and no further leasing of the Unit will take place without full compliance with this Section. Additionally, no Co-owner will lease less than an entire Unit in the Condominium, and all leases shall:

- (i) be for an initial term of not less than one (1) year;
- (ii) require the lessee to comply with the Condominium Documents;
- (iii) provide that failure to comply with the Condominium Documents constitutes a default under the lease; and
- (iv) provide that the Board of Directors has the power to terminate the lease or to institute an action to evict the tenant and for money damages after fifteen (15) days' prior written notice to the Co-owner in the event of a default by the tenant in the performance of the lease including for violation of any provisions of the Condominium Documents.

For purposes of these Condominium Bylaws, “lease” shall refer to: (i) any occupancy agreement, whether or not in writing or for rent or other consideration, where the Unit is not occupied by the Owner, or an immediate family member of the Owner; and (ii) any form of occupancy agreement or arrangement under which the Owner of a Unit permits another Person to occupy all or less than all of a Unit. The term “lease” shall include, but is not limited to, an oral or written lease, an oral or written license, or an occupancy or possessory arrangement facilitated by AirBNB, Booking.com, Expedia, FlipKey, HomeAway, Homestay, Hotels.com, House Trip, Priceline.com, Roomorama, Tripping.com, Trivago, VRBO and VayStays or any other similar format, website or online platform. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, all of the provisions of the Condominium Bylaws and all leases, rental agreements and occupancy agreements shall so state.

### **B. Corporate Ownership.**

This Article VI, Section 2(B) shall apply only to Units 1 through 8 and shall not apply to Unit 9. Whenever any Unit is owned by a corporation, partnership, trustee, or other entity, such Co-owner through its officers or agents, i.e., president or chief executive officer, partner, or trustee, must designate in writing one particular person or family that is entitled to occupy the Unit. The designated person or family must be an employee of or have an ownership or legal interest, e.g., being a named beneficiary of the trust, in the entity owning the Unit. Only the designated person or family, its caregivers, co-habitants, and guest may use the Unit otherwise the occupancy arrangement will be considered a “lease.” The intent of this limitation being to prevent the purchase and use of any Unit for corporate housing purposes. The Board of Directors may adopt and enforce Rules and definitions in furtherance, but not in contradiction, of this provision. The Board of Directors further has the authority to deny occupancy of any Unit by any person or family if the Board of Directors, in its sole discretion, determines that the Co-owner of such Unit is intending to or seeking to circumvent the meaning or intent of this Article VI, Section 2(B).

### **C. Exception to Fifty (50%) Percent Leasing Limitation.**

This Article VI, Section 2(C) shall apply only to Units 1 through 8 and shall not apply to Unit 9. Notwithstanding the foregoing or anything to the contrary in this Section, the Association recognizes that there may arise circumstances beyond a Co-owner’s control that may justify an exception to allow the temporary leasing of a single Unit, regardless of the Fifty (50%) percent rental limitation or the eighteen (18) month residency requirement. If extenuating circumstances should exist, a Co-owner may apply to the Board for permission to lease their Unit, providing a written explanation of the extenuating circumstances. If the following circumstances exist, and so long as leasing of the Unit will not result in that Co-owner or any related person or entity leasing more than one (1) Unit in the Condominium, then in the sole discretion of the Board of Directors, the Association

may allow a Co-owner to lease their Unit even though Fifty (50%) percent or more of the Units may already be leased and even though the Co-owner may not have resided in their Unit for at least eighteen (18) months:

- (i) A Co-owner must relocate to a nursing home or similar facility for a period likely to exceed six (6) months;
- (ii) A Co-owner must relocate for medical purposes (treatment, rehabilitation or recuperation) for a period likely to exceed six (6) months;
- (iii) A Co-owner must relocate for employment purposes for a period likely to exceed six (6) months;
- (iv) A Co-owner or the estate of a Co-owner must rent a Unit due to an inability to sell the same without incurring a financial loss as a result of mortgage liens recorded against the Unit exceeding the fair market value of the Unit;
- (v) The Unit to be leased is encumbered by a mortgage guaranteed by the Department of Veterans Affairs (in such case the Board of Directors must approve the request); or
- (vi) Any other extenuating situation approved by the Board of Directors.

#### **D. Procedures for Leasing.**

The leasing of Units in the Condominium will conform to the following provisions:

- (i) A Co-owner desiring to rent or lease a Unit, will disclose that fact in writing to the Association at least ten (10) days before presenting a lease form to a potential lessee and shall supply the Association with a copy of the exact lease form for its review for its compliance with the Condominium Documents. The Association shall be entitled to approve or not approve any such proposed lease transaction in accordance with the provisions of this Section. The Association may also require the use of a standard lease form. If no lease form is to be used, then the Co-owner shall supply the Association with the name and address of the potential lessee or other occupant(s), along with the amount and due dates of any rental or compensation payable to the Co-owner, and the term of the proposed arrangement. Co-owners who do not live in the Unit they own must keep the Association informed of their current correct address, phone

number(s), and an emergency phone number. The Board of Directors may charge such reasonable administrative fees for reviewing, approving and monitoring lease transactions in accordance with this Section as the Board, in its discretion, may establish. Any such administrative fees shall be assessed to and collected from the leasing Co-owner in the same manner as the collection of Assessments under Article II above. This provision shall also apply to occupancy agreements.

- (ii) Tenants or Nonco-owner occupants shall comply with all of the conditions of the Condominium Documents and all leases and rental agreements will so state.
- (iii) If the Association determines that the tenant or Nonco-owner occupant has failed to comply with the conditions of the Condominium Documents, the Association shall take the following actions:
  - (a) The Association shall notify the Co-owner by certified mail advising of the alleged violation by tenant.
  - (b) The Co-owner shall have fifteen (15) days after receipt of such notice to investigate and correct the alleged breach by the tenant or advise the Association that a violation has not occurred.
  - (c) If after fifteen (15) days the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the Co-owners on behalf of the Association an action for eviction against the tenant or Nonco-owner occupant for breach of the conditions of the Condominium Documents. The relief set forth in this Section may be by summary proceeding, although the Association may pursue relief in any Court having jurisdiction and whether by summary proceeding or otherwise. The Association may hold both the tenant and the Co-owner liable for any damages caused by the Co-owner or tenant in connection with the Unit. The Co-owner will be responsible for reimbursing the Association for all costs incurred in obtaining judicial enforcement of its rights, including reasonable attorney's fees.
- (iv) When a Co-owner is in arrears to the Association for Assessments, the Association may give written notice of the

arrearage to a tenant occupying a Co-owner's Unit under a lease or rental agreement. After receiving the notice, the tenant will deduct from rental payments due the Co-owner the arrearage and future Assessments as they fall due and pay them to the Association. The deductions will not be a breach of the rental agreement or lease by the tenant. If the tenant, after being notified, fails or refuses to remit rent, otherwise due the Co-owner, to the Association, then the Association may (1) prohibit the tenant from utilizing any of the General Common Elements of the Condominium, (2) issue a statutory Notice to Quit for non-payment of rent and enforce that notice by summary proceedings and/or (3) initiate proceedings pursuant to MCL 559.212(4)(b) of the Condominium Act.

**E. Partial Exemption for FNMA, FHA, Institutional Lenders and Association.**

Notwithstanding everything contained in this Section; Fannie Mae, the Federal Housing Administration, any institutional holder of a first mortgage upon a Unit and/or the Association who is in possession of a Unit after foreclosure of the mortgage or lien, or after the acquisition of title to the Unit by a deed delivered in lieu of foreclosure of the mortgage or Assessment lien, will not be subject to the limitations in this Section with respect to the following:

- (i) the number of Units that may be leased at any time;
- (ii) the minimum lease term; and
- (iii) any requirement concerning the form and content of any lease, or as to the Association's prior review and approval of any lease, but this exemption will not apply to such person's or entity's successor, transferee, assignee or designee.

**F. Lease Service Charges.**

For residential Units 1-8, any Co-owner who leased their Unit, or part of their Unit, in a calendar year shall pay an annual tenant fee to the Association. The annual tenant fee shall initially be \$1,800.00, but the Board of Directors shall have the right to adjust this amount annually in its reasonable discretion as an estimate of damage to Common Elements caused by Nonco-owner occupants. For the first full calendar year following the effective date of these Amended and Restated Bylaws, the annual tenant fee for Co-owners leasing their Units prior to the effective date of the Amended and Restated Master Deed and for whom an approved lease form is on file with the Association prior to the effective date of the Amended and Restated Master Deed shall be \$1,350. The annual tenant fee shall be payable in twelve monthly installments with the first monthly installment for any Co-owner to be paid with the first monthly assessment of the calendar year following any year in which the Co-owner leased their Unit. The annual tenant fee is intended to reimburse the

Association for ordinary administrative costs associated with monitoring residential leases and compliance with the Condominium Documents. This annual tenant fee does not waive any rights or remedies of the Association under the Condominium Documents.

In addition, in each situation where the Association through a Board member, contractor or management agent is asked to provide emergency service to a tenant or Nonco-owner occupant due to the unavailability of the Landlord or Co-owner of the Unit, a reasonable administrative fee, as established by the Board in its discretion, will be levied to the Co-owner's account. Any Co-owner may file with the Association a written request not to respond to such requests by a tenant or Nonco-owner occupant of that Co-owner's Unit and in such cases the Association will not respond. The Association will have no liability for not responding and will be indemnified and held harmless by the Co-owner for any damages or liability resulting from the Association's failure to respond.

2. In all other respects, the Master Deed, Condominium Bylaws and Condominium Subdivision Plan, including any and all amendments thereto, remain in full force and effect and are hereby ratified and reconfirmed.

[SIGNATURE ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Association has caused this First Amendment to the Amended and Restated Master Deed to be executed the day and year first above written.

**New Victorian Condominium Association, a Michigan nonprofit corporation,**

By: \_\_\_\_\_  
Name: Andrew Daily  
Its: President

STATE OF MICHIGAN                    )  
                                                  ) ss  
COUNTY OF WAYNE            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, the foregoing First Amendment to the Master Deed was acknowledged before me by Andrew Daily, President of the New Victorian Condominium Association, a Michigan nonprofit corporation, on behalf of and by authority of the corporation.

\_\_\_\_\_  
Notary Public,  
Wayne County, Michigan  
My Commission Expires: \_\_\_\_\_  
Acting in \_\_\_\_\_ County, Michigan

**Drafted by and when recorded, return to:**

Matthew W. Heron, Esq.  
HIRZEL LAW, PLC  
37085 Grand River Avenue, Suite 200  
Farmington, Michigan 48335  
(248)478-1800