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PAID RECORDED - OAKLAND COUNTY  
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

**FIRST AMENDMENT TO AMENDED AND RESTATED MASTER DEED  
OF  
BRYNMAWR CONDOMINIUM**

WHEREAS, Brynmawr was established as a residential condominium project in the Township of West Bloomfield, County of Oakland, State of Michigan, by the recording of a Master Deed in Liber7108, Page 523-557 inclusive, Oakland County Records; and designated as Oakland County Condominium Subdivision Plan No. 238; and,

*0000238*

WHEREAS an Amended and Restated Master Deed was recorded on July 30, 1998 in Liber 18775 at Page 157 et seq.;

*18-34-452-000ent*

WHEREAS, Brynmawr is administered by Brynmawr Condominium Association, the Michigan non-profit corporation designated to administer the affairs of the project pursuant to said Master Deed; and,

*(9/1)*

WHEREAS, amendments to the Amended and Restated Master Deed and the Condominium Bylaws (Exhibit A to the Master Deed) were duly proposed, adopted and approved by the requisite majority of the co-owners on May 10, 2006, and the requisite majority of first mortgagees as per MCL 559.190 and MCL 559.190a on October 14, 2006 for the purposes of generally updating same and reallocating certain duties.

NOW, THEREFORE, the following text shall supercede and replace the previous texts of the deed and provisions as set forth below and any prior amendments adopted prior to the date of this amendment.

***Restated Condominium Bylaw Amendments:***

*To delete the existing text of Section 3 F and replace it with the following:*

**ARTICLE I, Section 3.**

F. **Annual Meeting** Annual Meetings of members of the corporation shall be held during the month of May at such date, time and place as the Board of Directors shall direct. At such meetings there shall be elected by ballot of the Co-owners a Board of Directors in accordance with the requirements of the Association Bylaws. The Co-owners may also transact at annual meetings such other business of the Corporation as may properly come before them.

*To delete the text of Section 3 J which permitted action by the membership without a meeting.*

*To delete the existing text of Section 4 and replace it with the following:*

**Section 4. Books and Records.** The Association shall keep detailed books of account showing all expenditures and receipts of administration, and which shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and the Co-owners. Such accounts and all other non-privileged Association records shall be open for inspection by the Co-owners and their mortgagees during reasonable working hours. The Association shall prepare and distribute to each Co-owner at least once a year a financial statement, the contents of which shall be defined by the Association. The books of account shall be reviewed or audited at least annually by qualified independent auditors; provided, however, that such auditors shall be certified public accountants but any audit need not be certified unless so desired by the Board. Any institutional holder of a first mortgage lien on any Unit in the Condominium shall be entitled to receive a copy of such annual financial statement within ninety (90) days following the end of the Association's fiscal year upon request therefore. The cost of any such review or audit and any accounting expenses shall be expenses of administration.

*To delete the existing text of Section 5 and replace it with the following:*

**Section 5. Board of Directors.** The affairs of the corporation shall be governed by a Board of Directors all of whom must be members of the corporation or the legal spouse of a member except that officers, partners, trustees, employees or agents of members that are legal entities and not individual persons may be designated by such entities to serve as directors, if elected, of the corporation. Directors shall serve without compensation. No candidate for election or appointment to the Board of Directors shall be eligible if delinquent in the payment of any sum of money owed to the Association. Only one person per Unit shall be eligible as a candidate notwithstanding the fact that the Unit is jointly owned by two or more persons and/or entities. If a member is a partnership then only a partner thereof shall be qualified and eligible to serve as a director. If a member is a corporation, then only a shareholder or a director thereof shall be qualified and eligible to serve as a director. Any Co-owner landlord who is neither a partnership nor a corporation shall be qualified and eligible to serve as a director only in his or her individual capacity and the tenant or agent of such landlord shall not be qualified or eligible to serve as a director. Directors may be compensated but only upon affirmative vote of at least sixty percent (60%) of the Co-owners.

*To delete the last sentence of the existing text of Section 5 B which required mortgagee approval for self management.*

*To delete the existing text of Section 8 (g) and replace it with the following:*

**(g) Officers and Directors Liability Insurance.** Officers and directors liability insurance shall be carried in such limits as the Board of Directors may from time to time determine to be appropriate. The liability insurance shall cover any persons who now are, or shall become duly elected or appointed directors or officers of the Association. The policy may also have to be endorsed to include "prior acts" coverage for persons who had been duly elected or appointed directors or officers of the Association if it is determined that previous expiring policies do not cover claims for wrongful acts reported after the expiration or termination date of those expiring policies.

## **Article II**

*To delete the existing text of Section 3 A, B, C, and D and replace it with the following:*

**Section 3. Determination of Assessments.** Assessments shall be determined in accordance with the following provisions:

**A. Budget, Additional Assessments.** The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves. Failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Co-owner's obligation to pay the allocable share of the common expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget each Unit Co-owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notified of the monthly payment which is due not more than ten (10) days after such new annual or adjusted budget is adopted.

An adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis shall be established in the budget and must be funded by regular monthly payments as set forth in Section 3 below rather than by additional or lump sum assessments. At a minimum, the reserve fund shall be equal to ten (10%) percent of the Association's current annual budget on a non-cumulative basis. Since the minimum standard required by this Section may prove to be inadequate for this particular Condominium, the Association of Co-owners should carefully analyze the Condominium to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes from time to time. The funds contained in such reserve fund should be used for major repairs and replacements of Common Elements.

Upon adoption of an annual budget by the Board of Directors, copies of said budget shall be delivered to each Co-owner and the assessment for said year shall be established based upon said budget, although the failure to deliver a copy of the budget to each Co-owner shall not affect the liability of any Co-owner for any existing or future assessments.

If the Board of Directors at any time determines, in its sole discretion that the assessments levied are or may prove to be insufficient:

- (1) to pay the costs of operation, management, insurance, maintenance and repair of the Condominium;
- (2) to provide replacements of existing Common Elements;
- (3) to provide additions to the Common Elements not exceeding Four Thousand Dollars (\$4,000.00), in the aggregate, annually, or
- (4) in the event of emergencies,

the Board of Directors shall have the authority to increase the general assessment or to levy such additional or special assessment or assessments without Co-owner approval as it shall deem to be necessary.

The Board of Directors shall also have the authority, without Co-owner consent, to levy assessments pursuant to the provisions of Article V, Section 5 hereof. The discretionary authority of the Board of Directors to levy general and/or additional assessments pursuant to this subsection shall rest solely with the Board of Directors for the benefit of the Association and the members thereof, and shall not be enforceable by any creditors of the Association or the members thereof.

**B. Special Assessments.** Special assessments, other than additional assessments referenced in subsection (a) of this Section 3, may be made by the Board of Directors from time to time and

approved by the Co-owners as hereinafter provided to meet other needs or requirements of the Association, including, but not limited to:

- (1) assessments for additions to (and not repair or replacement of) the Common Elements of an aggregate cost exceeding Four Thousand Dollars (\$4,000.00) per year;
- (2) assessments to purchase a Unit upon foreclosure of the lien for assessments described in Section 5 hereof;
- (3) assessments for any other appropriate purpose not elsewhere herein described.

Special assessments referred to in this subsection (but not including those assessments referred to in subsection 2(a) above which may be levied in the sole discretion of the Board of Directors) shall not be levied without the prior approval of more than sixty (60%) percent of all Co-owners. The authority to levy assessments pursuant to this subsection is solely for the benefit of the Association and the members thereof and shall not be enforceable by any creditors of the Association or the members thereof except in the event that the Association may voluntarily and conditionally assign the right to levy assessments to any lender in connection with any voluntary loan transaction entered into by the Association.

*To amend the existing text of Section 4 to reflect a new late charge amount of \$35.00.*

*To delete the existing text of Section 6 A, B and C and replace it with the following:*

**Section 6. Enforcement.** The Association may enforce collection of delinquent assessments by a suit at law for a money judgment or by foreclosure of the statutory lien that secures payment of assessments, or both in accordance with the Act. Pursuant to Section 139 of the Act, no Co-owner may assert in an answer or set-off to a complaint brought by the Association for nonpayment of assessments the fact that the Association or its agents have not provided the services or management to the Co-owner. All Association remedies are cumulative and not alternative.

Each Co-owner, and every other person who from time to time has any interest in the Condominium, shall be deemed to have granted to the Association the unqualified right to elect to foreclose such lien either by judicial action or by advertisement. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purpose of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each Co-owner and every other person who from time to time has any interest in the Condominium, shall be deemed to have authorized and empowered the Association to sell or to cause the Unit to be sold with respect to which the assessment(s), is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each Co-owner of a Unit in the Condominium acknowledges that at the time of acquiring title to such Unit, the Co-owner was notified of the provisions of this Section and that the Co-owner voluntarily, intelligently and knowingly waived notice of any proceedings brought by the Association to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject Unit. The Association, acting on behalf of all Co-owners, may bid in at the foreclosure sale, and acquire, hold, lease, mortgage or convey the Unit.

Notwithstanding the foregoing, a judicial foreclosure action shall not be commenced, nor shall any notice of foreclosure by advertisement be published, until the expiration of ten (10) days after mailing, by first class mail, postage prepaid, addressed to the delinquent Co-owner(s) at his/her or

their last known address of a written notice that one or more installments of the annual assessment and/or a portion or all of an additional and/or a special assessment levied against the pertinent Unit is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within ten (10) days after the date of mailing. Such written notice shall be accompanied by or in the form of a written Affidavit of an authorized representative of the Association that sets forth (i) the Affiant's capacity to make the Affidavit, (ii) the statutory and other authority for the lien, (iii) the amount outstanding (exclusive of interest, costs, attorney fees and future assessments), (iv) the legal description of the subject Unit(s), and (v) the name(s) of the Co-owner(s) of record. The Affidavit may contain other information that the Association of Co-owners considers appropriate as per the Michigan Condominium Act including but not limited to the amount of any unpaid interest, costs, attorney fees, future assessments, court costs and/or unpaid monetary fines. Such Affidavit shall be recorded in the office of the Register of Deeds in the County in which the Condominium is located prior to commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing to the Co-owner. If the delinquency is not cured within the ten (10) day period, the Association may take such remedial action as may be available to it hereunder or under Michigan law. In the event the Association elects to foreclose the lien by advertisement, the Association shall so notify the Co-owner and shall inform the Co-owner that he/she may request a judicial hearing by bringing suit against the Association.

The expenses incurred in collecting unpaid assessments, including interest, costs, actual attorney's fees (not limited to statutory fees), late charges, unpaid monetary fines and advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Co-owner in default including late charges and unpaid monetary fines, if any, and shall be secured by the lien on the Co-owner's Unit. In the event of default by any Co-owner in the payment of any installment of the annual assessment levied against the Co-owner's Unit, and/or in the event of default by any Co-owner in the payment of any installment and/or portion of any additional or special assessment levied against the Co-owner's Unit, or any other obligation of a Co-owner which, according to these Bylaws, may be assessed to and collected from the responsible Co-owner in the manner provided in Article II hereof, the Association shall have the right to declare all unpaid installments of the annual assessment for the applicable fiscal year (and for any future fiscal year in which said delinquency continues) and/or all unpaid portions or installments of the additional or special assessment, if applicable, immediately due and payable. The Association also may discontinue the furnishing of any utility or other services to a Co-owner in default upon seven (7) days written notice to such Co-owner of its intention to do so. A Co-owner in default shall not be entitled to utilize any of the General Common Elements of the Condominium, shall not be entitled to vote at any meeting of the Association, and shall not be entitled to run for election as a director or be appointed an officer of the Association so long as such default continues; provided, however, this provision shall not operate to deprive any Co-owner of ingress or egress to and from the Co-owner's Unit. In a judicial foreclosure action, a receiver may be appointed to collect a reasonable rental for the Unit from the Co-owner thereof or any person claiming under such Co-owner as provided by the Act.

To delete the existing text of Section 7 and replace it with the following:

**Section 7. Liability of Mortgagee.** Notwithstanding any other provisions of the Condominium Documents, the holder of any first mortgage covering any Unit in the Condominium which acquires title to the Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale in regard to said first mortgage, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the acquisition of title by such holder, purchaser or assignee (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit).

Article IV

To delete the existing text of Article IV and replace it with the following:

**Section 1. Insurance Responsibility of the Association.** The Association shall carry property insurance, general liability insurance, officers and directors liability insurance, workers compensation insurance, if applicable, and such other insurance as the Board may determine to be appropriate with respect to the ownership, use and maintenance of the General and Limited Common Elements of the Condominium and the administration of Condominium affairs. Such insurance shall be carried and administered in accordance with the following provisions:

**A. Insurance Responsibility of the Association and the Co-owners.** It shall be each Co-owner's responsibility to determine by personal investigation the nature and extent of insurance coverage needed to protect his/her Unit, his/her personal property located within his/her Unit or elsewhere in the Condominium and for his/her personal liability for occurrences within his/her Unit or upon the Limited Common Elements appurtenant to his/her Unit and also for additional living expenses. Each Co-owner may obtain insurance coverage at his/her own expense upon the building items within his/her Unit which were furnished with the Unit by the Developer however it will be considered to be excess insurance since the Association's property insurance will be primary coverage as described below. The Association shall purchase insurance for the benefit of the Association, the Co-owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of Certificates of Insurance with mortgagee endorsements to the mortgagees of the Co-owners. Each Co-owner and the Association shall use their best efforts to obtain insurance whereby the insurers waive their rights of subrogation as to any claims against any Co-owner and the Association.

**B. Insurance of Common Elements.** All Common Elements of the Condominium shall be insured against fire, perils covered by a standard extended coverage endorsement, vandalism, malicious mischief and any other cause of loss deemed advisable by the Board of Directors of the Association, in an amount equal to the maximum insurable replacement value, including code reconstruction, if applicable, as determined annually by the Board of Directors of the Association in consultation with the Association's insurance carrier and/or its representatives in light of commonly employed methods for the reasonable determination of replacement costs. Such coverage shall include interior walls within any Unit and the pipes, wires, conduits and ducts contained therein and shall further include all building items including fixtures, equipment and trim within a Unit which were furnished with the Unit by the Developer. Each Co-owner shall be solely responsible to insure all betterments, improvements, and additions to their Unit and its appurtenant Limited Common Elements. The property insurance coverage shall be written on a Blanket Amount basis including an Agreed Value clause for the entire Condominium with appropriate provisions in order that no coinsurance provisions shall be invoked by the insurance carrier in a manner that will cause loss payments to be reduced below the actual amount of any loss (except in the unlikely event of total project destruction and the insurance proceeds failed, for some reason, to be equal to the total cost of replacement). All information in the Association's records regarding insurance coverage shall be made available to all Co-owners upon request and reasonable notice during normal business hours so that the Co-owners shall be enabled to judge the adequacy of such coverage. Upon re-evaluation and effectuation of coverage, the Association shall notify all the Co-owners of the nature and extent of all changes in coverages.

**C. General Liability Insurance.** General liability insurance shall be carried in such limits as the Board of Directors may from time to time determine to be appropriate. The general liability insurance shall cover: (1) the Association; (2) each Co-owner of the Condominium but only with respect to his/her liability arising out of the ownership, maintenance or repair of that portion of the premises which is their duty as such; and (3) any person or organization while acting as a managing agent for the association. The

liability insurance carried by the Association shall, where appropriate, contain cross-liability endorsements to cover liability of the Co-owners as a group to another Co-owner.

**D. Officers and Directors Liability Insurance.** Officers and directors liability insurance shall be carried in such limits as the Board of Directors may from time to time determine to be appropriate. The liability insurance shall cover any persons who now are, or shall become duly elected or appointed directors or officers of the Association. The policy may also have to be endorsed to include "prior acts" coverage for persons who had been duly elected or appointed directors or officers of the Association if it is determined that previous expiring policies do not cover claims for wrongful acts reported after the expiration or termination date of those expiring policies.

**E. Premium Expense.** All premiums upon insurance purchased by the Association pursuant to these Bylaws shall be expenses of the Association.

**F. Proceeds of Insurance Policies.** Proceeds of all insurance policies owned by the Association shall be received by the Association, held in a separate account, and distributed to the Association, the Co-owners and their mortgagees as their interests may appear; provided, however, whenever Article V of these Bylaws requires the repair or reconstruction of the Condominium, any insurance proceeds received by the Association as a result of any loss requiring repair or reconstruction shall be applied for such purpose. Hazard insurance proceeds shall never be used for any purpose other than for repair, replacement or reconstruction of the project unless all of the holders of mortgages on Units, and all Co-owners, in the Condominium have given their prior written approval.

## **ARTICLE VI**

*To delete the existing text of Section 1 and replace it with the following:*

**Section 1. Residential Use.** No Unit in the Condominium shall be used for other than residential purposes and the Common Elements shall only be used for purposes consistent with those set forth in this Section 1. No Unit shall be used for any commercial, manufacturing, industrial or business purposes that create any nuisances or liability exposures, such as, but not limited to, customer/client/patient visits, noise, traffic or parking congestion, odors, vibrations or anything else that might detract from the peaceful and residential character of Brynmawr. Timesharing and interval ownership is prohibited.

*To delete the existing text of Section 3 and replace it with the following:*

**Section 3. Alterations and Modifications of Units and Common Elements.** No Co-owner shall make alterations in exterior appearance or make structural modifications to the Co-owner's Unit (including interior walls through or in which there exist easements for support or utilities) or make changes in any of the Common Elements, Limited or General, without the advance express written approval of the Board of Directors (which approval shall be in recordable form), including, but not by way of limitation, exterior painting or the erection of antennas, lights, aerials, awnings, doors, shutters, newspaper holders, mailboxes, basketball backboards or other exterior attachments or modifications, nor shall any Co-owner damage or make modifications or attachments to walls between Units which in any way impair sound conditioning. Over the air reception devices including but not limited to satellite dish antennas shall not be attached or installed upon any general common element without the advance written permission of the Board of Directors. Over the air reception devices such as satellite dish antennas may be installed within Units or Limited Common Elements in accordance with the rules and regulations of the Federal Communications Commission. No attachment, appliance or other item may be installed which is designed to kill or repel insects or other animals by light or humanly audible sound.

The foregoing is subject to the applicable provisions of the Michigan Condominium Act governing improvements or modifications if the purpose of the improvement or modification is to facilitate access to or movement within the Unit for persons with disabilities under the circumstances provided for in the Act at MCL 559.147a, as amended from time to time. No Unit boundaries shall be relocated nor shall any Unit be subdivided.

The Co-owner shall be responsible for the maintenance and repair of any such modification or improvement. In the event that the Co-owner fails to maintain and/or repair said modification or improvement to the satisfaction of the Association, the Association may undertake to maintain and/or repair same and assess the Co-owner the costs thereof and collect same from the Co-owner in the same manner as provided for the collection of assessments in Article II hereof. The Co-owner shall indemnify and hold the Association harmless from and against any and all costs, damages, and liabilities incurred in regard to said modification and/or improvement.

No Co-owner shall in any way restrict access to any plumbing, water line, water line valves, water meter, sprinkler system valves, sump pumps, or any element which affects an Association responsibility in any way. Should access to any facilities of any sort be required, the Association may remove any coverings or attachments, including, but not limited to, patios and finished basements of any nature that restrict such access and will have no responsibility for repairing or reinstalling any materials, (whether or not installation thereof has been approved hereunder), that are damaged in the course of gaining such access, nor shall the Association be responsible for monetary damages of any sort arising out of actions taken to gain necessary access.

## Article VII

*To delete the existing text of Section 2 and replace it with the following:*

**Section 2. Insurance.** Upon request, the Association shall notify each mortgagee appearing in said book of the name of each company insuring the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief and the amounts of such coverage.

## **Amended and Restated Master Deed Amendments**


*To delete the existing text of Article IV C (1) (a) and replace it with the following:*

(a) Unit, Limited Common Elements. The primary responsibility for maintenance, decoration, repair and replacement, including all costs associated therewith, of a Unit, including all fixtures, improvements and personal property located therein or elsewhere throughout the Project, and the Limited Common Elements described in Paragraphs B. (1) through (3), (5) and the auxiliary furnaces described in Paragraph B. (9) shall be borne by the Co-owner(s) of the Unit or Units to which said Limited Common Elements are assigned. Each Co-owner shall also be responsible for only maintenance and decoration of the Limited Common Elements described in Paragraph B. (10). In the case of Limited Common Elements that are shared by more than one Unit, Co-owner borne expenses shall be incurred by the Association and assessed equally to each of the Units sharing said Element. This shall include common hallway carpet, tile, fire extinguishers, emergency signs and lights, light fixtures, fuse boxes/circuit breaker panels, motorized lifts for the disabled, all cleaning services and shall further include the water heaters and furnaces. All such assessments shall be due with the next monthly assessment becoming due, and shall be secured by the statutory lien on each Unit provided by the Act, and



collectible in accordance with the provisions of Article II of the Amended Condominium Bylaws.

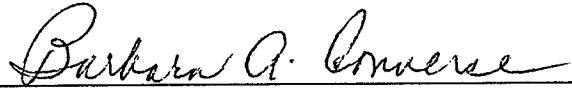
BRYNMAWR CONDOMINIUM ASSOCIATION

BY:   
 Richard Farrell, President

FREDERIC  
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STATE OF MICHIGAN)  
 ) ss.  
 COUNTY OF OAKLAND)

The foregoing First Amendment to the Amended and Restated Master Deed of Brynmawr Condominium Association was acknowledged before me, a notary public on the 2<sup>ND</sup> day of <sup>November</sup> ~~October~~, 2006, by Richard Farrell, known to me to be the President of Brynmawr Condominium Association, a Michigan non-profit corporation, who acknowledged and certified that the foregoing amendment was duly approved by affirmative vote of the co-owners of the Association and their first mortgagees and that he has executed this First Amendment to the Amended and Restated Master Deed as his own free act and deed on behalf of the Association.

  
 \_\_\_\_\_, Notary Public  
Oakland County, Michigan  
 My commission expires: 7/10/2012  
 Acting in the County of Oakland

DRAFTED BY AND WHEN RECORDED  
 RETURN TO:  
 D. DOUGLAS ALEXANDER (P29010)  
 ALEXANDER, ZELMANSKI & LEE, PLLC  
 44670 ANN ARBOR RD., STE. 170  
 PLYMOUTH, MI 48170

Barbara A Converse  
 Notary Public State of MI  
 County of Oakland  
 My Commission Expires 7 / 10 / 2012  
 Acting in County of Oakland