

Boone County, Missouri



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Nora Dietzel
Nora Dietzel, Recorder of Deeds



Title of Document: DECLARATION OF COVENANTS,
CONDITIONS, RESERVATIONS,
EASEMENTS AND RESTRICTIONS OF
TIMBERBROOK

Date of Document: August 30, 2022

Grantor /Grantee: ERIC W. KURZEJESKI and LORI S.
KURZEJESKI Co-Trustees of the Eric-Lori
Kurzejeski Trust established by Revocable Living
Trust Indenture dated June 19, 1996 as amended

Grantor/Grantee Address: ERIC W. KURZEJESKI and LORI S.
KURZEJESKI Co-Trustees of the Eric-Lori
Kurzejeski Trust established by Revocable Living
Trust Indenture dated June 19, 1996 as amended

Legal Description: See Page 1 of the Document

Reference Book and Page: Book _____, Page _____

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DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS, EASEMENTS AND RESTRICTIONS OF TIMBERBROOK

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the undersigned is the owner of the following described real property situated in Boone County, Missouri (the "Property"), to-wit:

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 48 NORTH, RANGE 13 WEST, COLUMBIA, BOONE COUNTY, MISSOURI AND BEING PART OF TRACT 1A AND TRACT 1B AS SHOWN IN THE SURVEY RECORDED IN BOOK 866, PAGE 187 AND DESCRIBED BY THE TRUSTEE'S DEED RECORDED IN BOOK 5414, PAGE 113 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST CORNER OF SAID SECTION 32, AS SHOWN IN THE SURVEY RECORDED IN BOOK 881, PAGE 902; THENCE WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER, N 84°09'00"W, 1024.66 FEET; THENCE LEAVING SAID SOUTH LINE N 7°29'40"W, 189.09 FEET; THENCE N 0°41'10"W, 217.20 FEET; THENCE N 10°58'05"E, 75.50 FEET; THENCE N 9°52'10"W, 73.10 FEET; THENCE N 20°10'35"E, 82.05 FEET; THENCE N 41°08'20"E, 35.75 FEET; THENCE N 64°03'50"E, 263.95 FEET; THENCE N 23°20'55"W, 164.20 FEET TO THE SOUTH LINE OF TRACT 2 OF THE SURVEY RECORDED IN BOOK 751, PAGE 76; THENCE WITH SAID SOUTH LINE N 68°46'55"E, 155.00 FEET; THENCE S 84°09'00"E, 705.54 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE LEAVING SAID SOUTH LINE AND WITH THE EAST LINE OF SAID SECTIONS, 1°27'30"W, 151.05 FEET TO THE NORTHEAST CORNER OF KURZEJESKI SUBDIVISION PLAT 1, RECORDED IN PLAT BOOK 49, PAGE 33; THENCE LEAVING SAID EAST LINE AND WITH THE LINES OF SAID SUBDIVISION, N 87°56'55"W, 114.05 FEET; THENCE S 43°38'40"W, 37.65 FEET; THENCE S 26°02'10"W, 73.75 FEET; THENCE S 19°55'10"W, 69.40 FEET; THENCE S 8°05'40"W, 32.50 FEET; THENCE S 26°37'35"E, 23.85 FEET; THENCE S 28°20'25"W, 59.55 FEET; THENCE S 0°57'55"W, 57.35 FEET; THENCE S 87°01'50"E, 211.00 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE LEAVING THE LINES OF SAID SUBDIVISION AND WITH THE EAST LINE OF SAID SECTION, S 1°27'30"W, 529.90 FEET TO THE POINT OF BEGINNING AND CONTAINING 21.21 ACRES.

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WHEREAS, the Property has been subdivided into separate parcels as shown by the Timberbrook, Plat No. 1 Final Plat recorded in the deed records of Boone County, Missouri in Plat Book 56, Page 19 (the "Subdivision Plat"), a copy of which is attached hereto as **Exhibit "A"**, described as follows:

101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, C1, D1 and D2.

to be known as "Timberbrook."

WHEREAS, the undersigned desires to place the covenants and restrictions contained herein upon all of the above-described Property for its benefit and for the benefit of all future owners of the foregoing lots; and

WHEREAS, the undersigned desires that said covenants and restrictions shall constitute covenants running with the land and the present and all future successive owners of the above described lots shall have the right to invoke and enforce said restrictions.

NOW, THEREFORE, the undersigned does hereby impose the covenants and restrictions herein set out on all of the foregoing lots, which covenants and restrictions (sometimes referred to herein as these "Covenants") are covenants running with the land whether or not the same are mentioned in subsequent conveyances, and said covenants and restrictions are binding upon the undersigned and its successors in title to the above-described Lots and to its successor and assigns forever, to-wit:

COVENANTS

Each owner of any of lots 101 through 133, both inclusive, and D2 as shown by the Subdivision Plat (each a "Lot Owner"), by acceptance of the deed for such lot (each a "Lot" as hereafter further defined in DEFINITIONS below), agrees to perform, upon such Lot Owner's Lot and with respect to the dwelling or outbuilding and improvements located thereon, all maintenance, repairs, replacements and upkeep which are required of such Lot Owner by these Covenants, and to observe all use restrictions provided for by these Covenants and to observe and conform with all easements, covenants and restrictions provided for by these Covenants.

USE RESTRICTIONS

1. **Single Family Residences**. That each Lot may be used only for single family residential dwelling purposes, and not more than one single family residential dwelling may be constructed on each Lot.

2. **Dwelling Size; Garages; Exterior**.

a. *One Story Ranch Style Dwellings*. No one story, ranch style dwelling, built on a slab or on a crawl space, or on a non-walkout basement or pit basement, shall be permitted on any Lot unless the Enclosed Floor Area of the ground floor thereof (the main floor thereof) contains not less than one thousand six hundred (1,600) square feet. As used in these Covenants, "Enclosed Floor Area" means the finished interior square footage of the dwelling exclusive of

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open or enclosed porches, patios, garages and any basement space or cellar space. In the event of a dispute over the calculation of square footage, the square footage determined on behalf of the Architectural Control Committee, and accepted by the Architectural Control Committee, shall be deemed to be the correct calculation of square footage for the purposes of these Covenants.

b. *Ranch Style, One Story One Family Dwelling With Walkout Basement.* No ranch style, one story dwelling, shall be built on a walkout basement (a basement from which one may "walk out" onto the immediately adjacent surface of the ground) on any Lot, unless the Enclosed Floor area of ground floor thereof (the main floor thereof) exclusive of open or enclosed porches, patios, and garages, and exclusive of any space in the said walkout basement, contains not less than one thousand six hundred (1,600) square feet of finished space.

c. *One- and One-Half Story or Two-Story Dwellings.* No one and one half or two-story dwelling, shall be permitted on any Lot, unless the Enclosed Floor Area thereof, exclusive of open or enclosed porches, patios, and garages, and exclusive of any space in any basement (whether or not a walk out basement), and exclusive of any space in any cellar, shall contain not less than one thousand eight hundred (1,800) square feet of finished floor space.

d. *Split-Level, Tri-Level, or Multi-Level Dwellings.* No split-level, tri-level, or four-level dwelling, or multi-level dwelling shall be permitted upon any Lot, unless the Enclosed Floor Area thereof, contained within all levels of such dwelling, shall contain not less than one thousand eight hundred (1,800) square feet of total finished floor space, excluding any space in open or enclosed porches, patios, or garages and any space in the basement (walkout or non-walkout) or cellar, but the floor accessed by the front door at ground level or the ground level front yard shall be the main floor of a split level dwelling.

e. *Garages.* No dwelling shall be permitted on any Lot unless such dwelling is constructed with an attached garage for two (2) or more automobiles.

f. *Driveway.* Each Lot Owner is responsible for constructing and maintaining a driveway providing access to such owner's Lot from the public roads within the Timberbrook. All driveways must be constructed of concrete. Any such driveway may be constructed of a size, at a location and in a manner only as approved by the Architectural Control Committee.

g. *Exterior.*

i. *Surface Covering.* No dwelling or other building shall be permitted on any Lot unless the same is constructed with exterior finish materials, items, and components (including exterior finishes, exterior walls and roofs, gutters, downspouts, windows, doors, shutters, and all other exterior components) which are approved, in advance of use, by the Architectural Control Committee. The exterior finish materials for each dwelling or other building must include only materials as follows:

ii. Exterior finish materials must consist of stone, brick, Dryvit (or other approved EFIS materials, meaning synthetic stucco materials), or stucco; or

iii. James Hardie plank or its equivalent (meaning concrete siding planks comparable to James Hardie planks).

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NO VINYL SIDING SHALL BE PERMITTED TO BE INSTALLED, KEPT OR MAINTAINED ON ANY DWELLING OR OTHER BUILDING ON ANY LOT.

iv. Roof Pitch. All dwellings placed within each Lot must have a roof with a pitch approved by the Architectural Control Committee.

v. Roof Materials. The colors for shingles on the roofs of the dwellings and other outbuilding, detached building or outside storage shed (permanent or portable) placed or constructed on any Lot must be approved by the Architectural Control Committee. Metal roofs must be approved by the Architectural Control Committee.

3. Architectural Control Committee Approvals. Each and every outbuilding, detached building or outside storage shed (permanent or portable) placed or constructed on any Lot may not be constructed or placed on a Lot until the plans, specifications and location of the same have been approved in writing by the Architectural Control Committee, which approval will take into account the front, rear and side yard building lines shown on the Subdivision Plat.

4. Fences. No fence may be constructed or placed on a Lot unless the same is approved prior to installation. Fences must be either four feet (4'), five feet (5'), or six feet (6') in height (which shall be the maximum height). No wooden fences, woven wire fences, chain link fences, wire fences, or chain fences shall be permitted.

5. No Mobile Homes. That no mobile home or house trailer may be located on any Lot regardless of whether or not the same is located on a permanent foundation.

6. No Inoperable Vehicles or Equipment. That no partially dismantled, nonoperating, wrecked, junked or discarded vehicle or equipment of any kind may be located on any Lot visible from a public roadway.

7. Vehicles Stored Out of Sight. No boats, farm equipment, commercial vehicles, trailers, or trucks (except pickup trucks which are less than four (4) tons) shall be stored outdoors on a Lot visible from a public roadway.

8. No Commercial Animal Facilities. That no commercial dog kennel is permitted on any Lot, no commercial feed Lot is permitted on any Lot and no commercial confined feeding of poultry is permitted on any Lot.

9. Limitation of Livestock and Animals. No livestock (including, without limitation, swine), reptile, or other animal may be raised, kept, or bred on any Lot, except that appropriate dogs, cats and other common household pets may be kept provided the same are not kept, bred or maintained for any commercial purpose. Any animal permitted must be always kept within the Lot Owner's Lot, under sanitary conditions and so as to not constitute a nuisance to the owner or occupant of any other Lot. For the purposes of these Covenants, an appropriate dog is a dog which is not vicious and which does not bark causing a nuisance to the owner or occupants of any other Lot.

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10. No Dumping. That no Lot may be used or maintained as a dumping ground, and no rubbish, trash or garbage may be kept on the premises of any Lot except in sanitary containers.
11. No Waste Burning. That no household trash, household waste or household garbage may be burned on a Lot.
12. Sewage Disposal Regulation. That no sewage disposal system of any kind may be located on any Lot.
13. Loud Vehicles. That no loud vehicles, two-wheel, three-wheel, four-wheel or greater numbered wheel recreational vehicle (motorcycle, moped, powered scooter, powered tricycle, or motor bike) may be operated on any Lot or the roadways leading to a Lot for recreational purposes.
14. No Illegal, Noxious or Offensive Activity. That no illegal, noxious, or offensive activity may be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to a neighbor or the neighborhood.
15. Limitation on Signs. No sign of any kind may be displayed to the public view upon any Lot except signs used to advertise a Lot for sale or rent and said sign shall not exceed two (2) feet by four (4) feet in size.
16. Subdivision of Lots. No Lot may be further subdivided without the approval of the Architectural Control Committee, which approval may be withheld in the sole and absolute discretion of the Architectural Control Committee.
17. Hunting. No hunting of any kind will be permitted on Common Areas.
18. Lot D2. Lot D2 is considered a yard (as defined below) and may not be used for any purpose, and no improvements may be constructed thereon, other than landscaping without the approval of the Architectural Control Committee, which may be withheld in its sole discretion.

ARCHITECTURAL CONTROL

19. Architectural Approval Required. No dwelling, garage, building, fence, wall, exterior light pole, communication tower, satellite dish exceeding thirty-five inches (35") in diameter, playground equipment, gazebo or other structure or improvement (including, without limitation, pools), whether permanent or temporary, may be erected, constructed, placed or altered on any Lot unless the plans and specifications therefor, including, without limitation, the materials to be used in such construction, have been approved by the Architectural Control Committee. The person desiring to do any of the foregoing shall submit plans and specifications for the same to the Architectural Control Committee showing placement on the Lot, elevations, designs, floor plan dimensions, color of roof, color of exterior walls, construction materials and other necessary data to enable the committee to determine if said dwelling, garage, building, fence, wall, exterior light pole, communication tower, satellite dish, gazebo or other structure or improvement is compatible with these restrictions and the other improvements located on the other Lots in the vicinity of said Lot. The Architectural Control Committee has the authority to grant deviations or waivers of any restrictions listed in Sections 1 through 18 hereof, both inclusive, of these Covenants if, in the discretion of the Architectural Control Committee, such deviation or waiver is consistent with the

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Timberbrook at the time of such grant. The approval or disapproval of said plans and specifications by the Architectural Control Committee will be in writing. In the event the committee or its designated representative shall fail to approve or disapprove said plans and specifications in writing within thirty (30) days after receipt of the same and in the event no suit to enjoin the construction of any said improvement has been commenced prior to the completion of the same, no approval of said plans and specifications is required. The Architectural Control Committee will interpret these Covenants as needed for the application and enforcement of these Covenants. Any decision of the Architectural Control Committee made in good faith will be binding upon and enforceable against all persons, including, without limitation, Lot Owners. No member of the Architectural Control Committee is liable to any person for reasonable decisions made in good faith. As used in these Covenants, a "person" is to be liberally construed to mean individuals and all forms of organizations and other associations, whether legal, equitable or otherwise recognized by a court of competent jurisdiction.

20. Initial Architectural Control Committee. The initial Architectural Control Committee is composed solely of Jeffrey C. Hemme or such other person designated by Hemme Construction, LLC. The Architectural Control Committee may designate in writing a representative to act for it.

When Jeffrey C. Hemme, or a person designated by Hemme Construction, LLC is not acting as the Architectural Control Committee, Developer shall have the right to remove any member of the committee, to designate the new member or members of the committee, to change the number of members of the committee and to assign all of its rights under these Covenants to any other person by a written assignment specifically referring to the provisions of this paragraph. In the event of the death, resignation or removal of any member of the committee, Developer shall designate the successor member or members of the committee.

After Developer no longer owns any of the Lots subject to these Covenants, the Architectural Control Committee the Association's Board may act as the Architectural Control Committee or elect such committee members. The new committee will be composed of three (3) members, with one member elected for a term of one (1) year, one member elected for a term of two (2) years, and one member elected for a term of three (3) years with separate election to be held for each of the three members, and then each year thereafter as the term of a member expires one member will be elected annually at the annual or a special meeting of the Board to serve for a period of three (3) years. A member of the successor committee must be a Lot Owner; however, the committee may employ a competent agent (e.g., an architect) to act for it that is not a Lot Owner. In the event of the death, resignation or disqualification of any member or the successor committee elected thereafter, the Board shall elect a successor committee member at its next meeting.

No member of the Architectural Control Committee shall receive any compensation for services performed.

COVENANTS

21. Owner Obligations. Each Lot Owner by acceptance of a deed, contract for deed or other form of conveyance therefore, whether or not it is so expressed in any such deed, contract or

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other conveyance, is deemed to covenant and agree to perform the terms of these Covenants, including, without limitation, as follows:

a. *Landscaping.* To landscape said owner's Lot in a manner so as to comply with the following requirements, to-wit:

i. sod is required on all yards of each dwelling constructed on each Lot. The yards of a dwelling include the front, side and back yards. The "front yard" is defined as that area commencing at the front corners of the dwelling, extending out to the side lot line, then forward to the curb. The "side yard" is defined as the area of the Lot not improved with a dwelling which is not the front or rear yard. The "rear yard" is defined as that area commencing at the rear corners of the dwelling, extending out to the side lot line, then away from the dwelling to the rear lot line. The front, side and rear of a dwelling may be reasonably designated by the Lot Owner with the consent of the Architectural Control Committee; and

ii. three (3) deciduous, evergreens, or ornamental trees, with a minimum 2" caliper (measured 3 feet above the top of the root ball), must be placed in the front yard; and

iii. a planting bed with at least six (6) three-gallon shrubs must be included in the landscaping plan; and

iv. an irrigation system must be installed for all yards of each Lot; and

v. all landscaping must be installed within 30 days of occupancy, except for dwellings first occupied between November 15 and March 1 of successive calendar years, when such installation must occur within ninety-days of such March 1; and

vi. all sod and planted grass will be kept in a neatly mowed and well-maintained condition.

22. Developer Obligations. Developer shall, at no cost to the Association or a Lot Owner (other than Developer while Developer owns a Lot), as soon as practical following the recording of this Covenants of record in Boone County, Missouri:

a. Construct Vecchi Lane and Kuzzie Ct. (as shown on the Subdivision Plat) in a condition acceptable to the City of Columbia (the "City");

b. Install all utility lines, including, without limitation, water, electric, fiber internet and sewer within utility easements shown on the Subdivision Plat to make such services available for connection by each Lot Owner;

c. Conform the Property to all City ordinances and perform all contractual obligations of Developer with the City, Boone County, the Missouri Department of Natural Resources, and any other governmental authority, associated with the approvals for the development of Timberbrook made prior to the recording of the Subdivision Plat, including, without limitation, Lots C1, D1 and D2 and each other Lot in Timberbrook. The obligations associated with this covenant include, without limitation, signage, obligations for construction of

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drainage facilities, landscaping and hardscaping associated with the stream buffer, and any other matters shown to be constructed on the Subdivision Plat, if any.

Anything in these Covenants to the contrary notwithstanding, the covenants of Developer listed in this Section 22 remain the obligation of the Grantor and are not assignable to subsequent Lot Owners, whether or not such Lot Owners acquire the Developer's Rights (as hereafter defined), unless the assignment of the Developer's Rights purports to assign such obligation, specifically refers to this Section 22 and the successor to the Developer's Rights assumes the Developer's obligations under this Section 22 by specific reference hereto.

EASEMENTS

23. Grant of Sign and Landscape Easements. The undersigned does hereby grant and create a common, nonexclusive, perpetual sign and landscape easement over and across lots D1, D2, C1 and areas designated as "Utility Easements" on lots 111, 132 and 133 for the use and benefit of the present and future owners of the Lots subject to these Covenants and for the use and benefit of the Association, who shall have the right to use such easement area for construction, maintenance in a good and clean condition, repair in good and working order and replacement of signs, hardscaping and landscaping (and granting appropriate access to the same for use by its members and service providers) purposes.

24. Grant of Utility Easements. The undersigned does hereby grant and create a common, nonexclusive, perpetual utility easement as shown on the Subdivision Plat for the use and benefit of the present and future Lot Owners subject to these Covenants and for the use and benefit of the Association, who shall have the right to use such easement area for construction, maintenance in a good and clean condition, repair in good and working order and replacement of utility lines (and granting appropriate access to the same for use by its members and service providers) purposes.

25. Grant of Plat Easements. The undersigned does hereby grant and create a common, nonexclusive, perpetual easements for the purpose designated on the Subdivision Plat for the use and benefit of the present and future Lot Owners subject to these Covenants and for the use and benefit of the Association, who shall have the right to use such easement area for construction, maintenance in a good and clean condition, repair in good and working order and replacement of improvements for the purpose designated on the Subdivision Plat (and granting appropriate access to the same for use by its members and service providers) purposes.

THE ASSOCIATION

26. Formation. Timberbrook Homes Association (the "Association") shall be formed for the purposes of owning, and providing maintenance of Common Areas and Common Elements, enforcement of the Covenants and for the further purposes described in the Articles of Incorporation of acting as an association of the Lot Owners of Timberbrook, and for the further purposes of enforcing any of the provisions of these Covenants which are to be enforced by the Association. The Developer shall cause the Association to be formed, by causing the same to be incorporated under the laws of the State of Missouri.

27. Articles of Incorporation and Bylaws. The Developer shall cause the Association to be formed not later than the first sale of a Lot, by causing the same to be incorporated in

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accordance with the general not-for-profit corporation law of the State of Missouri and substantially in the form of the Articles of Incorporation attached hereto as **Exhibit "B"**. The Association shall organize, adopt, and execute "Bylaws" which are to serve as the operating documents for the administration of the Association. The Bylaws shall be and substantially in the form of the Bylaws attached hereto as **Exhibit "C"**, which may be amended from time to time as provided in the Articles and Bylaws and applicable law.

28. Administration. Timberbrook shall be administered by the Association, which, in turn, shall be managed by a board of directors (sometimes referred to herein as the "Board" or the "Board of Directors" and the members being sometimes referred to as "Directors") elected and constituted as hereinafter provided in these Covenants. The Board shall have general responsibility to administer Timberbrook, approve the annual budget of the Association, provide for the collection of monthly or other assessments from Members, and arrange and direct or contract for the management of Timberbrook, and otherwise administer with respect to any matter generally pertaining to enhancing, maintaining, benefitting and promoting Timberbrook.

29. Board of Directors. The first Board shall consist of three (3) Directors elected in the following manner: The members of the first Board shall be named by the Developer and shall serve until their successors are duly elected and qualified. Thereafter, so long as Jeff Hemme is serving on the Architectural Control Committee (or the Developer has the right to appoint the member(s) of such committee), the Directors shall be natural persons elected by Hemme Construction, LLC. Directors appointed by the Developer are not required to be Lot Owners. Except for Directors appointed by the Developer, Directors shall be natural persons holding interests in Lots, other than the Developer, elected by a majority of the members of the Association existing at the time of the election.

30. General Powers and Duties of the Association. The Association, for the benefit of all Lot Owners and their lessees, shall provide for, and shall acquire and shall pay out of the Maintenance Fund hereinafter provided for, the following:

a. All maintenance, repairs, replacements, servicing and upkeep for Common Areas and Common Elements, including without limitation, sign or other improvements constructed by Developer or the Association in any easements which are established for the benefit of Timberbrook and/or the Association; construction, demolition, reconstruction and all maintenance, repairs, replacements, servicing, and upkeep when deemed necessary to the following, including, but not limited to: any trail, bikeway, pedestrian pathway, entryway monument, entryway structure, sign, lighting, electrical systems, irrigation systems, berms, stormwater facilities or detention areas, decorations and any other structures or improvements placed in any easement area by or for the benefit of Timberbrook and/or the Association; and

b. A policy or policies insuring the Association and its members, and its Board against any liability to any persons, including Lot Owners or their invitees or tenants, instant to the ownership and/or use of the Common Area or Common Element in such limits as the Board shall, in its sole and absolute discretion, from time to time, determine appropriate. The annual limits of coverage shall be reviewed at periodic intervals by the Association's Board. Such insurance shall be payable to the Association in trust for the benefits of the Association, the Board and the Lot Owners. The Association shall also obtain Worker's Compensation Insurance to the extent necessary to comply with any applicable laws and statutes of the State of Missouri; and

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c. Upon ten (10) days' notice to the manager or the Association's Board, and upon the payments of a reasonable fee set by the Association's Board, the furnishing to any Lot Owner a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing for such owner; and

d. When the Association's Board, in its sole and absolute discretion, deems it advisable to do so, the retaining of the services of such accountants, attorneys, managers, employees and other persons as the Board shall, in its sole and absolute discretion, deem necessary to discharge the Association's duties; and

e. The cutting of grass and weeds within all Common Areas; and

f. Establishing reasonable rules and regulations governing the use of Common Areas to protect the privacy of all Lot Owners, in the use and enjoyment of their Lots, provided that no use of the Common Areas for hunting purposes may be permitted; and

g. Providing for the payment of taxes and assessments, general and special, levied against or by reason of the other easements established by these Covenants or the Subdivision Plat which is separate and apart from amounts assessed against the servient Lot Owner; and

h. Obtaining, providing and paying for any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or other items which the Association is required to secure or pay for pursuant to the terms of these Covenants, or the Association's Bylaws, or by law, or which in the Association's opinion shall be necessary or proper for the maintenance and operation of Timberbrook as a first class urban development, or for the enforcement of any restrictions set forth in these Covenants; and

i. In the discretion of its Board, providing for the maintenance and repair of any portion of any Lot or of any dwelling or outbuilding or improvement located on any Lot or of any utility line located inside a Lot, if such maintenance or repair is reasonably necessary to protect the Association or Common Areas, Common Elements or Timberbrook, or any part, portion or aspect of the value of Timberbrook or the Subdivision Plat, or any part thereof, or any other portion of a dwelling or outbuilding or any other dwelling or outbuilding, or of a Lot, when the Lot Owner or Owners of said Lot have failed or refused to perform said maintenance or repairs within a reasonable time after written notice of the necessity of said maintenance or repairs has been delivered by the Association's Board; provided, however, that no such written notice shall be required in case of an emergency; and provided further, however, that the Board shall levy a special individual Lot assessment against the Lot and Lot Owner or Owners for the cost of the maintenance or repairs, which shall constitute a lien upon the Lot and its improvements, in addition to the lien hereinafter provided for ordinary assessments; and

j. Enforcing any provision of these Covenants.

31. Entry into Lots. The Association, or its agents, or its Directors, may, upon reasonable notice except in case of emergency, enter any Lot when necessary in connection with any lawn maintenance, or any other maintenance or construction or reconstruction for which the Association is responsible, or which it is authorized or empowered to perform. It, or its agents or Directors may likewise, after reasonable notice (which shall not be required in the case of

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reasonable emergency) enter any dwellings or other improvements contained on any Lot and any lawn, contained on any Lot, or any improvement contained on any Lot for maintenance, repairs, construction or painting, if same is reasonably necessary in connection with any maintenance or construction for which the Association is responsible or for which it is authorized to perform. Such entry shall be made with as little inconvenience to the Lot Owners as practicable, and any damage caused thereby shall be repaired by the Association, at the expense of the Maintenance Fund established as hereinafter provided for.

32. Lot Owner Upkeep of Property. The Lot Owners shall perform all lawn maintenance, irrigation, landscaping work, and services of any nature whatsoever necessary to cause their Lot and all lawns, trees, shrubs, landscaping, buildings, and other improvements thereon located kept and maintained in a clean, safe, neat, and aesthetically pleasing manner within standards of reasonableness. In the event of any dispute over the standards set forth above, such dispute shall be resolved by the Architectural Control Committee. Any decision made by the Architectural Control Committee in its sole discretion shall be final and binding upon all parties.

33. Limitation Upon Power of Association and Board. The powers of the Association and its Board as hereinabove set forth shall be limited in that they shall have no authority to acquire and pay for out of the Maintenance Fund any capital additions and improvements (other than for the purpose of replacing or restoring portions of improvements within the Common Areas, Common Elements or improvements on Lots destroyed or damaged payable out of the insurance proceeds actually received, subject to all of the provisions of these Covenants) having a total cost in excess of Ten Thousand Dollars (\$10,000.00), nor shall the Association or its Board authorize any structural alterations, capital additions to, or capital improvements to the Common Areas and Common Elements requiring an expenditure in excess of Ten Thousand Dollars (\$10,000.00), without in each case obtaining the prior approval of a majority of the members of the association and obtaining the written approval or waiver of any mortgagee holding any deed of trust on at least three (3) Lots, provided any such mortgagee notifies the Board of its ownership and desire to have the right to so approve.

34. Rules and Regulations. A majority of the Board may adopt and amend administrative rules and regulations and such reasonable rules and regulations as it may deem advisable for the use, operation, maintenance, conservation and beautification of the Common Areas and Common Elements, and for the health, comfort, safety and general welfare of the Lot Owners and occupants of dwelling or outbuildings located on the Lots, and for the general appearance of Timberbrook.

35. Active Business. Nothing hereinabove contained shall be construed to give the Association or its Board authority to conduct an active business for profit on behalf of the Lot Owners or any of them.

MEMBERSHIP IN THE ASSOCIATION

36. Membership in the Association. The Association shall consist of Lot Owners. Each Lot Owner, as herein described in these Covenants, to which title has been conveyed to by the Developer, its assignees, or successors in ownership shall automatically become a member of the Association upon conveyance. The member shall be subject to the jurisdiction of the Association as a member, subject to all applicable assessments set forth in these Covenants, and entitled to

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all rights and privileges as bestowed on members as set forth in these Covenants. Membership is mandatory for all Lot Owners and may not be opted out of. Each Lot shall be granted one (1) membership in the Association, regardless of the number of individuals or any other entity or entities listed as the Lot Owner of record. Membership in the Association cannot, under any circumstances, be partitioned or separated from ownership of the Lot. No Lot Owners or Owners shall execute any deed, lease, mortgage, or any other instrument transferring an interest in the Lot without inclusion therein of both the Lot Owner's interest in the Lot and the corresponding membership in the Association. Once a membership attaches to a Lot, the membership is non-severable under any circumstances. Any such deed, lease, mortgage, or instrument devised to transfer the interest in a Lot without expressly including the transfer of the corresponding membership shall be deemed to have included the transfer of the membership.

37. Voting Rights. The Association shall have one class of voting membership. Members shall have one (1) vote at all Association meetings for each Lot in which they hold a membership interest as set forth in these Covenants. When more than one (1) person or other entity holds such an interest in any Lot, all such persons or entities shall be deemed a sole member and retain one (1) vote per corresponding Lot. In no event shall one (1) Lot be entitled to more than one (1) vote.

ASSESSMENTS, MAINTENANCE FUND, AND OTHER EXPENDITURES

38. Creation of a Lien and Personal Obligation for Assessments. The Developer, for each Lot contained within Timberbrook and for all present and future owners of each such Lot, hereby agrees, and each owner of each Lot within Timberbrook by acceptance of a deed therefore, whether or not it shall be so expressed in any deed, or other conveyance, shall be deemed to covenant and agree to pay to the Association, or the duly authorized officers, representatives, or agents of the Association: (1) the Initial Assessment hereinafter described; and (2) Annual Assessments and charges hereinafter described; (3) and any and all Special Assessments and charges of any kind or nature whatsoever, however denominated, provided for by these Covenants.

All such sums and assessments shall be fixed, established and collected from time to time as provided in these Covenants. All such Initial Assessments, Annual Assessments and Special Assessments, and other sums and assessments, together with interest thereon and costs of collection thereof as may be hereinafter provided for, shall be a charge on the Lots, and each of the Lots, and shall be a continuing lien upon the Lot and each of the Lots against which each such assessment or charge is made. Each such assessment or charge shall also be the joint and several personal obligation(s) of the person or persons who were the owners of the Lot at the time when the assessment fell due. The personal obligation shall not pass to such owner's successors in title unless expressly assumed by them.

39. Purpose of Assessments. The assessments levied by the Association shall constitute the Maintenance Fund (defined below), and shall be used exclusively by the Association to discharge its duties and obligations as provided for by these Covenants, and for the purpose of promoting the recreation, health, safety and welfare of the Lot Owners and residents of Timberbrook, and in particular for the enforcement of those covenants and all terms hereof, and all restrictions set forth in these Covenants and for the improvement, maintenance and beautification of, and the providing of maintenance, repairs, services, and facilities for, other improvements within easements created herein to be maintained or improved by the Association.

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To discharge such other duties and obligations as shall be conferred upon the Association by the terms and conditions of these Covenants, including but not limited to the payment of taxes and insurance on the Common Areas and Common Elements and any other duties as needed which may be deemed necessary by the Association or its Board that are not expressly set forth in these Covenants.

40. Maintenance Fund. The Initial Assessments, Annual Assessments or charges, and Special Assessments (all as hereafter defined) established and collected under the terms of these Covenants shall constitute a fund to be known as the "Maintenance Fund."

41. Initial Assessment and Annual Assessment. All Lots within Timberbrook shall each become, and thereafter perpetually be, subject to an Initial Assessment and, thereafter, Annual Assessments as follows:

a. Initial Assessment. When a Lot is conveyed, the grantee thereof (other than the Developer) shall be immediately subject to an Initial Assessment ("Initial Assessment") in the sum of Two Hundred Dollars (\$200.00) for such Lot. The conveying party shall be obligated to cause the grantee to immediately remit to the Association the Initial Assessment in the sum of Two Hundred Dollars (\$200.00) for such Lot and shall be personally responsible for seeing to it that such remittance is made. To be clear, each time a Lot is conveyed, the grantee of such Lot is obligated to remit \$200.00 to the Association and the grantor of such Lot is liable to the association if such remittance is not made upon the transfer of such Lot. The Initial Assessment is in addition to the Lot Owner's liability to the Association for the Annual Assessment (paragraph b below of this Section 41).

b. Annual Assessment. Each Lot which is owned by a party other than Developer shall, commencing with January 1 of that year which next begins following the date when the Lot became subject to the Lot Owner's Initial Assessment, be subject to "Annual Assessments." The first Annual Assessment for a Lot Owner other than the Developer shall, therefore, be due and owing on the first day of that calendar year which next begins after the Lot becomes subject to the Initial Assessment. Annual Assessments are due and owing on January 1 of each calendar year and must be paid to the Association within thirty (30) days of such date, or as otherwise determined by the Board. Once a Lot becomes subject to the Annual Assessments provided for by this paragraph b of this Section 41, such Lot shall thereafter be perpetually subject to such Assessments. The Annual Assessments may be adjusted, up or down, by the Board of the Association, as of January 1 of each calendar year, in the Board's discretion. The Annual Assessment for the calendar year in which the Association is incorporated is Four Hundred Seventy-Five Dollars (\$475.00). For purposes of clarity, beginning January 1 of the calendar year following the calendar year in which the Developer transfers a Lot to another person, such other person shall be liable for the Annual Assessment. That is, if a Lot Owner (the "grantor"), other than the Developer, transfers a Lot to another person (the "grantee"), the grantor remains liable for the entire Annual Assessment for the calendar year the grantor transfers the Lot to the grantee, and the grantee is responsible for the Annual Assessment thereafter. Nothing in these Covenants is intended to limit the grantor (as used in this paragraph) from collecting a pro-rated (or any other) share of the Annual Assessment from the grantee (as used in this paragraph).

c. Increases and Decreases in Assessments. Each of the Initial Assessment provided for by paragraph a above of this Section 41, and the Annual Assessments provided for

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by paragraph b above of this Section 41 can be adjusted, up or down, as of January 1 of each year, at the discretion of the Association's Board. If any of the Assessments provided for by this Section 41 are to be altered, up or down, by the Board, then the Board shall, either prior to or during the first sixty (60) days of a calendar year, notify each Lot Owner of the sum of the Assessments which shall be in effect for such calendar year, and in the absence of such notification, the Assessments for such calendar year shall continue in the amounts established for the previous calendar year.

d. Installments. Initial Assessments shall be due and owing, in one lump sum, as of the date when the Lot becomes subject to the Initial Assessment. The Board may, in its discretion, elect to have Annual Assessments be paid/payable in monthly, semi-annual, or quarterly installments, instead of annually, as the Board determines appropriate. The sum of each Assessment or installment must be paid within thirty (30) days of the date when due and if not so paid, shall be Late.

42. Special Assessments. In addition to the Initial and Annual Assessments authorized above, the Association may levy in any assessment year, a special assessment, as determined by the Board, against all Lots (or less than all Lots) which are subject to assessment as of the end of such year, applicable to that year only (each sometimes referred to as a "Special Assessment" or, collectively, as the "Special Assessments"), for the following purposes:

a. Capital Improvements. The cost of any construction or reconstruction, or unexpected repair or replacement of a capital improvement upon the Common Area, or otherwise determined to be for the mutual or common benefit of all Lot Owners or Timberbrook, and any necessary fixtures and personal property related thereto.

b. Remediation of Violations. If a Lot Owner fails to satisfy any maintenance obligations imposed upon such Lot Owner by these Covenants, by providing for the maintenance, repairs and replacements of the dwelling or outbuilding improvements, lawns and landscaping located within the boundary lines of his Lot, as required by these Covenants, and if the Association's Board, in its reasonable discretion, deems the performance of such maintenance, repair or replacement to be necessary to protect the Association, or the Common Areas and Common Elements, or any Lot or any portion of a dwelling or outbuilding located within any Lot, or any of the values of all or any part of Timberbrook, and if the Lot Owner has failed or refused to perform said maintenance, repair or replacement within a reasonable time after written notice of the necessity for same has been delivered by the Board (provided, however, that no such written notice shall be required in the case of an emergency). Special Assessments provided for by this Section 42.b or to be assessed as provided in this Section 42.b (each "Special Lot Assessments") shall be added to, and become a part of the assessments to which the Lot is subject, and shall constitute a lien upon the Lot, and shall be enforceable in that manner provided for in the provisions of this ASSESSMENTS, MAINTENANCE FUND, AND OTHER EXPENDITURES article.

c. Special Tax Bills for Public Improvements/Common Improvements. All costs assessed against the Association for all public improvements, whether now or hereafter existing, which benefit Timberbrook, or any substantial number of Lots located within Timberbrook, as determined by the Association's Board.

d. Special Assessment for Replacement or Non-Periodic Maintenance. In the event a necessity for a replacement of or for any capital improvement located within any portion

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of the Common Areas and Common Elements, should occur, and in the further event the sum of the Annual Assessments then on hand shall be insufficient to cover the costs of such repair or replacement, together with the sum of other costs to be paid therefrom, or shall not have established a sufficient reserve for such repair or replacement (a requirement that such reserve be established, although possibly advisable, shall not be implied herefrom), then the entire sum of the costs of such repair or replacement, or of any non-periodic maintenance or repair of any kind or nature whatsoever shall be apportioned equally among all of the Lots then subject to Annual Assessments, and that portion of such costs apportioned to each such Lot shall constitute a Special Assessment against each such Lot.

e. Shortages. In the event the Annual Assessments to be paid to the Association shall, in any year, be insufficient to enable the Association and its Board to perform the Association's duties and obligations under these Covenants, then the excess of the costs incurred by the Association in performing its duties and obligations, over and above the sum of the Annual Assessments paid to the Association in such calendar year, shall constitute a Special Assessment of all Lots which are subject to such Assessments as provided for by these Covenants. Such Special Assessment shall be equally apportioned among all such Lots which are subject to such Assessments under these Covenants.

43. Uniform Rate of Assessment. In all cases, the rates of those assessments hereinabove provided for by these Covenants must be fixed at a uniform rate for all Lots which are subject to the specific Assessments, except for Special Lot Assessments.

44. Alteration of Number of Lots. It is understood that the Developer reserves the right to amend the Subdivision Plat by changing the number of Lots, by subdividing Lots, and by changing the boundary lines of Lots. Any Lots owned by the Association are not Lots subject to Assessment

45. Enforcement of Assessments. All Assessments provided for by these Covenants (or if the sum of any installment of such Assessments as established by the Board) shall be delinquent ("Late") if not paid within thirty (30) days of the due date thereof. Each such Assessment (or any installment thereon) not paid within thirty (30) days of the due date thereof, shall immediately be subject to a daily charge ("Late Payment Charge") at the interest rate of 18% per annum ("Interest") until paid. Such daily Late Payment Charge shall become a part of the Assessment which is unpaid and shall be considered an Assessment for all purposes under these Covenants. The Assessment and Late Payment Charge must be paid by the Lot Owner of the applicable Lot.

All Assessments and accrued Interest thereon, at the rates described in this Section 45, and all costs of collection incurred by the Association in seeking to enforce payment of an Assessment, and Interest thereon, and/or in seeking to foreclose upon or to enforce the lien for such Assessment (including, but not limited to, reasonable attorney's fees) shall be due and payable by the Lot Owner to the Association, and the Association may collect such Assessments (and all subsequent Assessments). All costs of collection of Assessments, including reasonable attorney's fees, shall be added to and shall constitute a part of such Assessments and shall be chargeable and collectable as part of the Assessments. The Board or any officer or officers of the Association, or any managing agent hired by the Board to manage the affairs of the Association, may enforce Assessment as follows:

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a. All Assessments provided for by these Covenants shall constitute the personal obligations of the Lot Owners who own those Lots which are charged with said Assessment. If more than one person owns a Lot, then such obligation shall be the joint and several obligations of all such persons who own said Lot. In addition, such Assessment shall constitute a lien against a Lot Owner's Lot and all improvements located thereon, including any dwelling located thereon, if not paid in a timely manner.

b. In addition to any lien arising from an unpaid Assessment (and the accumulated and accrued interest thereon), all costs incurred by the Association in collecting said Assessment from said Lot Owner(s), including the Association (or other applicable government entity's) reasonable attorney's fees, court costs, and other litigation expenses, shall be added to and shall likewise constitute a part of the Assessment which constitutes a lien against said Lot. Said costs of collection also shall be chargeable to and collectible personally from any Lot Owner who fails to pay same in a timely manner.

c. The Association, acting through its Board, or any member of such Board or any officer, or its managing agent, if any (or any applicable government agency in the event of a Special Assessment under Section 42.c of these Covenants), may collect said Assessment by a lawsuit against the Lot Owner(s). Alternatively, or in addition, the Association or applicable government agency, or their agents or assigns, may foreclose its lien against the Lot charged with the Assessment lien, and recover as a part of such action all interest, costs, and reasonable attorney's fees of such foreclosure action of such lawsuit, or both.

d. No Lot Owner may waive or otherwise avoid liability for the Assessments provided for in these Covenants because of the non-use of a Lot or the non-use of the Common Areas. Ownership of a Lot shall be all that is necessary to become liable for the payment of an Assessment under these Covenants.

e. The lien to secure the payment of an Assessment shall be in favor of the Association (or any applicable governmental entity, in the event of a Special Assessment pursuant to Section 42.c of these Covenants) and the Board of the Association (or any applicable governmental entity) shall have the discretion as to whether or not to enforce said lien, and as to the manner of such enforcement.

f. Any lien against a Lot may be foreclosed upon in the same manner as a mortgage against real property under any available foreclosure procedures allowable under Missouri law the manner and means of which to be determined by the Association Board or any applicable government authority.

46. Relation of Assessment Lien to Other Liens and Encumbrances. An Assessment lien in favor of the Association (or any applicable government authority) shall be subordinate to the lien of any mortgage or deed of trust which is placed against any Lot and filed of record in the office of the Recorder of Deeds of Boone County, Missouri, at any time prior to the effective date of the Assessment lien. Said Assessment lien shall be superior to the lien of any mortgage or deed of trust filed of record against any Lot after the date of such Assessment (or any applicable government authority).

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47. Exempt Property. The following property subject to these Covenants shall be exempt from the Assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) Common Areas and Common Elements; (c) all Lots owned by the Association; and (d) Developer until sold, rented, leased or occupied as a residence; provided, however, that no property used or held for residential purposes shall be exempt from assessment and that no property owned by the Developer shall be exempt from any Special Assessment levied by any applicable government authority pursuant to Section 42.c above.

MODIFICATION

48. Changes to the Covenants. The covenants, restrictions and provisions contained herein may at any time hereafter be amended, modified or abrogated only upon the act or written consent of Developer and the Architectural Control Committee; provided, however, after Developer no longer owns any of the Lots (or holds any beneficial interest in any Lot), the covenants, restrictions, and provisions contained herein may be amended, modified or abrogated only by the Association upon the written consent of the owners of two-thirds (2/3) or more of the Lots subject to the provisions of this document.

ENFORCEMENT

49. The Association, the Developer and any owner of any above described Lot subject to the provisions of this document may enforce the provisions of this document and shall have the right to proceed in law or in equity, or both, against any person or persons violating or attempting to violate any of the provisions of this document, including the remedy of injunction or damages, or both, and said remedies are cumulative and not exclusive, and in any said legal proceedings the prevailing party shall have the right to recover from the other party all reasonable litigation expenses including reasonable attorney fees. The Association, may, but has no obligation to, remediate any violation of these Covenants without the need for court order and by any peaceful means necessary, all at the sole cost and expense of the corresponding Lot Owner, which costs and expenses may be assessed as Special Lot Assessments and shall be and do constitute a lien on such Lot when assessed as provided in Section 42.b. Each Lot Owner, by accepting a deed for the Lot Owner's Lot, shall be deemed to have covenanted and agreed, and does covenant and agree, that such Lot Owner totally and completely and unconditionally releases, discharges and exonerates the Association, its Board of Directors and its officers, employees, contractors, and designees, from all actions taken by them pursuant to these Covenants, and from all Special Lot Assessments which arise out of or are imposed pursuant to these Covenants, provided only that the Association, its officers, Board of Directors, employees or designees or contractors exercise good faith and their best judgment.

DEFINITIONS

Capitalized terms in these Covenants have the meaning ascribed thereto. Capitalized terms not defined in these Covenants have the plain meaning of such word or phrase. The following terms have the ascribed definition in these Covenants:

50. The term "Lot" as used herein means any of the above described Lots 101 through 133, both inclusive, and D2 except in the event hereafter said Lot is subdivided into smaller Lots by survey, plat, deed or other document, each said smaller Lot shall thereupon also be deemed a

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“Lot” under the provisions of this document. Nothing in this definition grants the authority to subdivide a Lot without the permission of the Architectural Control Committee. Lot “C1” and lot “D1” shown on the Subdivision Plat are Common Areas.

51. The Initial Assessments, Annual Assessments or charges, and Special Assessments described above and established hereunder are sometimes collectively referred to as the “Assessments.”

52. Any and all rights of the Developer described in these Covenants are collectively referred to as the “Developer’s Rights.” The Developer’s Rights are assignable by the Developer in total only (with the sole exception of the Developer’s covenants listed in Section 22 above) to a subsequent Lot Owner by assignment included in the deed transferring a Lot to such assignee (or a separate assignment recorded contemporaneously with the recording of a deed vesting ownership of a Lot in the successor Developer).

53. “Developer” means, initially, Eric Kurzejeski, and, upon an assignment of the Developer’s Rights, then “Developer” means the assignee of the Developer’s Rights. To be clear, the assignee is the Developer for all purposes of these Covenants upon the assignment of the Developer’s Rights, except as provided in Section 22 above. No successor Developer shall be liable for claims against the Developer arising prior to the date said successor assumed the Developer Rights.

54. “Common Area” means and includes the following:

- a. The land of lots “C1” and “D1” as shown on the Subdivision Plat; and
- b. Any other "Common Area" designated as "Common Area" on the Subdivision Plat or any plat of property which is annexed to Timberbrook, if any; and
- c. The following, which are hereby specifically designated as "Common Areas":
 - i. Any land containing, or easements for the existence of, any entryway, monuments, entryway gates, or entryway signs for Timberbrook; and
 - ii. Any land containing, or any easements for the location of, any entryway structures, monuments or signs for Timberbrook and all landscaping therefor; and
 - iii. Any Common Areas or Common Elements shown by the Subdivision Plat; and
 - iv. The land containing any lake, pond or similar impoundment, and any stormwater facility, and all parts and components of any such lake, pond, impoundment or stormwater facility; and
 - v. Any land which is subject to any landscaping easement; and
 - vi. Any stormwater impoundments or stormwater detention areas; and

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vii. Any easements shown by the Subdivision Plat (or a plat of property hereafter annexed to Timberbrook, if any); and

viii. Any land containing pedestrian trails, pedestrian access easements, trails or paths or similar improvements which are established by the Subdivision Plat (or a plat of property hereafter annexed to Timberbrook, if any) or otherwise; and

ix. Any Lot, easement, land or parcel which the Developer may hereafter declare to be Common Area or to be subject to an easement, the terms of which are such that the same shall be treated as if such area is Common Area.

55. "Common Elements" means the Common Areas described in Section 54 above, and all buildings, structures and other improvements now or hereafter erected or constructed thereon, and the following:

a. All entryway monuments, entryway structures, entryway signs, lawns, trees, shrubs, plants, ground cover and other growing material, lighting, light fixtures and all other landscaping and improvements placed on any Common Area, and any other structures or improvements of any kind or nature whatsoever placed on any Common Area; and

b. Any ponds, lakes, stormwater detention basins or stormwater facilities, whether or not located within any Common Area, as all such ponds, lakes, stormwater detention basins or stormwater facilities shall be considered to be Common Elements regardless of where same may be located; and

c. Entryway monuments, entryway structures and entryway signs for Timberbrook, and all landscaping therefor and lighting therefor, and all improvements associated therewith; and

d. Landscaping, and all structures and improvements of any kind or nature whatsoever, located within any Common Area or any landscaping easements; and

e. Trees, shrubs, lawns, ground cover and other landscaping located within the Common Areas which are not publicly maintained; and

f. Any pedestrian trails and trail easements and any pedestrian or biking trails and other associated improvements located thereon and all improvements related thereto which are not publicly maintained; and

g. Any stormwater facilities, wherever same shall be located, and whether located within Common Areas or any Lot; and

h. Any land located within any sign, drainage and landscaping easements established by the Subdivision Plat or otherwise; and

i. All trees, shrubs, grass, groundcover, flowers, plants and other growing materials, and all berms, monuments, lighting, electrical fixtures, lines and equipment, and irrigation systems and equipment, and other improvements of every kind, nature and description whatsoever located within any other Common Area; and

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j. All entryway monuments and signs located throughout Timberbrook, wherever located, and the land containing same, and all trees and shrubs and growing materials which provide landscaping therefor, and all lighting therefor, and all irrigation systems therefor, and all parts and components of such lighting systems and irrigation systems; and

k. Any structures or improvements located within any Common Area; and

l. The Common Areas themselves; and

m. Any pedestrian trail easements, trail easements, pedestrian easements or walkway easements established by the Subdivision Plat or otherwise, and any pedestrian or biking trails and associated improvements placed thereon, and all improvements related thereto; and

n. Amenities, wherever located within Timberbrook, which are intended for use by the Lot Owners, if any; and

o. All drainage easements shown by the Subdivision Plat, and any drainageways, stormwater flowages, wet or dry creeks or streams, or wet or dry or intermittent streams or creeks, located within Timberbrook, whether located within a Common Area or elsewhere, as all conduits, streams (wet, dry or intermittent), ditches, swales and similar geographic features which provide for stormwater flow or stormwater drainage from more than one Lot shall be considered to be Common Element and Common Area, whether located within the boundaries of a Lot or any defined Common Area.

Nothing in these Covenants obligates a Developer to construct any Common Elements not expressly promised in Section 22 above.

MISCELLANEOUS

56. Invalidation of any one of the provisions of this document by judgment or court's decree shall not in any way affect the validity of the other provisions herein which shall remain in full force and effect.

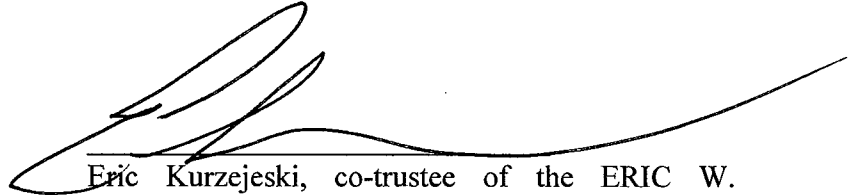
[Signature Page Follows]

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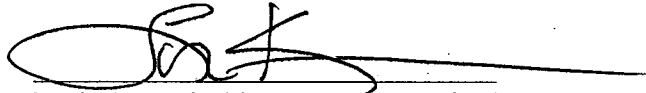
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IN WITNESS WHEREOF, the undersigned has hereunto executed this document this 30 day of August, 2022.



Eric Kurzejeski, co-trustee of the ERIC W. KURZEJESKI and LORI S. KURZEJESKI Co-Trustees of the Eric-Lori Kurzejeski Trust established by Revocable Living Trust Indenture dated June 19, 1996 as amended



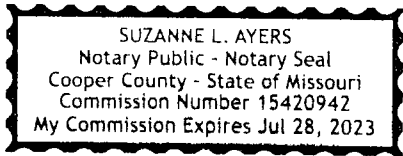
Lori Kurzejeski, co-trustee of the ERIC W. KURZEJESKI and LORI S. KURZEJESKI Co-Trustees of the Eric-Lori Kurzejeski Trust established by Revocable Living Trust Indenture dated June 19, 1996 as amended

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this 30 day of August, 2022, before me personally appeared Eric Kurzejeski and Lori Kurzejeski, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that each executed the same as such individual's free act and deed with due authority as the sole co-trustees of the ERIC W. KURZEJESKI and LORI S. KURZEJESKI Co-Trustees of the Eric-Lori Kurzejeski Trust established by Revocable Living Trust Indenture dated June 19, 1996 as amended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Name Printed: Suzanne L. Ayers
Notary Public



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MORTGAGEE'S SUBORDINATION AGREEMENT

First Midwest Bank of the Ozarks, a corporation and holder of the Note secured by the Deed of Trust recorded in Book _____, Page _____, Deed Records of Boone County, Missouri, does hereby subordinate said Deed of Trust to the above-described Covenants.

Dated this 30 day of August, 2022.

First Midwest Bank of the Ozarks
[mortgage holder name]

By: Wesley Parks

Name Printed: Wesley Parks

Title: SVP

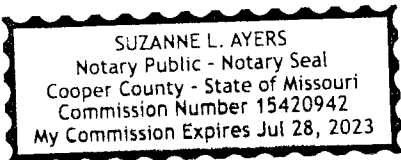
STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this 30 day of August, 2022, before me personally appeared Wesley Parks [name], Senior Vice President [title] of First Midwest Bank of the Ozarks [mortgage holder], a corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same with due authority of such bank's shareholders and board, as the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Suzanne L. Ayers
Notary Public

Name Printed: Suzanne L. Ayers



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Exhibit "A"

Subdivision Plat

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Exhibit "B"

Form of Articles of Incorporation

[See Attached]

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ARTICLES OF INCORPORATION

TIMBERBROOK HOMES ASSOCIATION,
A GENERAL NOT-FOR-PROFIT CORPORATION

HONORABLE JOHN R. ASHCROFT
SECRETARY OF STATE
CORPORATIONS DIVISION
P.O. BOX 778
JEFFERSON CITY, MISSOURI 65101

We, the undersigned ("Incorporators"),

Table with 2 columns: Name, Street, City, State & Zip Code. Rows for Director 1, Director 2, Director 3 with placeholder [Address].

being natural persons of the age of eighteen (18) years or more and citizens of the United States, for the purpose of forming a corporation (sometimes referred to herein as the "corporation" or the "Association") under the "General Not-For-Profit Corporation Law" of the State of Missouri, do hereby adopt the following Articles of Incorporation:

- 1. Name. The name of the corporation is: TIMBERBROOK HOMES ASSOCIATION.
2. Mutual Benefit Corporation. The corporation is a mutual benefit corporation.
3. Registered Office and Agent. The address of the corporation's initial Registered Office in the State of Missouri is: c/o Missouri Corporate Solutions, Inc., Columbia, Missouri 65203, and the name of its initial Registered Agent at said address is: Missouri Corporate Solutions, Inc. The street address for such agent is 2635 S. Providence Road, Suite 105, Columbia, Missouri 65203.
4. First Board of Directors. The first Board of Directors shall be three (3) in number and the initial directors of the corporation are the Incorporators, each of whom shall serve until replaced at the first annual meeting of the Corporation.
5. Members of Corporation. The Corporation will have members as more fully defined and described in that document titled "Declaration of Covenants, Conditions, Reservations, Easements and Restrictions of Timberbrook," a development in Columbia, Boone County, Missouri, which has been recorded in Book _____ at Page _____ of the real estate records of Boone County, Missouri. As more fully defined and described in such Declaration ("the Covenants") the Corporation shall have members. Members shall be the tract owners within Timberbrook ("the Development"), as described in the Covenants, which are owned by persons other than Eric Kurzejeski or any assignee of the Developer's Rights (Eric Kurzejeski or his assignee of the Developer's Rights are referred to herein collectively as the "Developer"); provided that if the

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Developer holds a tract for rental or lease purposes or uses same for residential purposes then the Developer, as the case may be, shall also be a Member with respect to such tract held for rental or lease purposes or used for residential purposes. If a tract is rented or leased by the Developer or any assignee of the Developer's rights, or is used for residential purposes, then, immediately, a membership shall attach to such tract and the tract owner of such tract shall be a member. The qualifications of membership are more fully set forth and described in the Covenants.

a. The characteristics, qualifications, rights, limitations and obligations attaching to members shall be those more fully described in the Covenants, which provides, generally, as follows: members shall have one (1) vote at all meetings of the Corporation for each tract in which they hold the interest required for membership as described in the Covenants. When more than one person in any tract holds an interest in any tract, the vote for such tract shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any tract.

b. So long as the Developer holds a beneficial interest in the Development (such period referred to as the "Developer Period"), in the manner described in the Covenants, the Board of Directors shall consist of three (3), five (5), seven (7), or some other odd number of Directors, as provided for by the Covenants. The members of the first Board of Directors, which shall consist of three (3) until further action by the Board, are named herein, and shall serve until the first annual meeting of the members of the Association and, thereafter, until their successors are duly elected and qualified. During the Developer Period, all directors shall be elected annually at each annual meeting of the members. During the Developer Period, the Board of Directors shall consist of natural persons (who need not be tract owners) elected by the Developer. After the Developer Period, the Board of Directors shall consist of three (3), five (5), seven (7) or some other odd number of natural persons, who shall be the Directors, and who must be holders of ownership interests in tracts, elected by the members of the Association. The Directors shall otherwise be elected in that manner, and for those terms specified in the Bylaws of the Corporation as same are from time to time in existence.

6. Purposes. The purpose or purposes for which the Corporation is organized are as stated in the Declaration, including, without limitation:

a. To act as a homeowners' association for tract owners and homeowners of a development located in Boone County, Missouri, known as "Timberbrook" and platted as "Timberbrook";

b. To have those purposes, and to discharge those functions, provided for the Association by the Covenants;

c. To serve as the Association named in the Covenants;

d. To serve as the Association for the tract owners in the Development described in the Covenants;

e. To fulfill all duties and obligations to the Owners of tracts located within the Development, which are imposed upon the Corporation formed hereby (hereinafter referred to as "the Association") by the Covenants;

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- f. To act as a Homeowners Association for all tract owners located within the Development;
- g. To levy, assess, collect , use and administer assessments against the members of the Association as described in the Covenants and to expend same as described in the Covenants;
- h. To enforce those covenants, restrictions and requirements as to use and occupancy provided for by the Covenants, and to enforce all provisions of the Covenants;
- i. To provide for all maintenance, services, repairs, upkeep and operations and other services which are to be performed by the Association pursuant to the Covenants;
- j. To establish rules and regulations for the government and administration of the Association, and the Development;
- k. In no event to carry on or conduct an active business for profit, or to in any manner engage in lobbying or political activities of any kind or nature whatsoever, and in no event to support political activities or political candidates of any kind or nature whatsoever;
- l. To have all of the common law and statutory powers of a Missouri corporation which is not for profit, and which are not in conflict with the terms of these Articles of Incorporation or the Covenants;
- m. To have all of the powers and duties set forth in Chapter 355 of the Revised Statutes of Missouri;
- n. To hold all funds resulting from the collection of assessments from the tract owners of tracts located within the Development, and all funds collected by way of assessments paid by the members of this Corporation, and to hold such funds, in trust, for the benefit of the Owners of tracts located within the Development, and to use such funds in accordance with the Covenants;
- o. To levy, assess, collect, use and administer assessments against its members for use by the Corporation in discharging its duties as hereinabove described;
- p. To provide facilities for the social and cultural pursuits of the residents of the Development;
- q. To encourage and provide facilities for the athletic, recreational, social and cultural pursuits of residents of the Development;
- r. To carry on any and all pursuits and activities consistent with the purposes of the Corporation as hereinabove described.;
- s. To own, manage, operate and maintain the Common Areas and Common Elements of the Development.

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7. **Bylaws.** The Board of Directors of the Corporation shall adopt Bylaws, rules and regulations for the government of the Corporation, which may be changed from time to time. The power to make, alter, amend or repeal the Bylaws for the regulation and management of the affairs of the Corporation shall be vested in the Board of Directors and members of the Corporation as set forth in the Bylaws of the Corporation and as set forth in the Covenants.

8. **Members and Voting Rights.** The voting rights and powers of the members of the Corporation shall be as established by the Covenants, which is hereby incorporated herein by reference the same as though fully set forth herein.

9. **Declaration.** The Declaration is incorporated herein by reference the same as though fully set out herein. Unless it is plainly evident from the context that a different meaning is intended, all terms used herein shall have the same meaning as they are defined to have in the Covenants.

10. **No Benefit to Private Persons.** No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its members, Directors, officers or other private persons except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered.

11. **Restriction on Activity.** No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation not affecting the Development, and the Corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

12. **Dissolution.** If the Corporation shall be voluntarily or involuntarily dissolved pursuant to the laws of the State of Missouri, the assets of the Corporation in the process of dissolution shall be applied and distributed as follows:

a. All liabilities and obligations of the Corporation shall be paid, satisfied and discharged, or adequate provisions shall be made therefor;

b. Assets held by the Corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

c. Assets held with a charitable, religious, eleemosynary, benevolent, educational or similar use, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, trusts, societies or other organizations engaged in a charitable, religious, eleemosynary, benevolent, educational or similar activity pursuant to a plan of distribution adopted as provided by the laws of the State of Missouri dealing with not-for-profit corporations;

d. Any remaining assets shall be distributed, in equal shares, to the Owners of the tracts located within the Development, with Common Areas and Common Elements being conveyed to all tract owners as equal tenants in common; provided, however, that the Attorney General of the State of Missouri shall be notified of the intention to so distribute such assets, in writing, at least thirty (30) days prior to such distribution.

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13. **Management of Affairs of Corporation.** Except to the extent otherwise specifically provided to the contrary by these Articles of Incorporation, the Covenants, or the Bylaws of the Corporation, the management and administration of the Corporation and its business and affairs, shall be vested in the Corporation's Board of Directors.

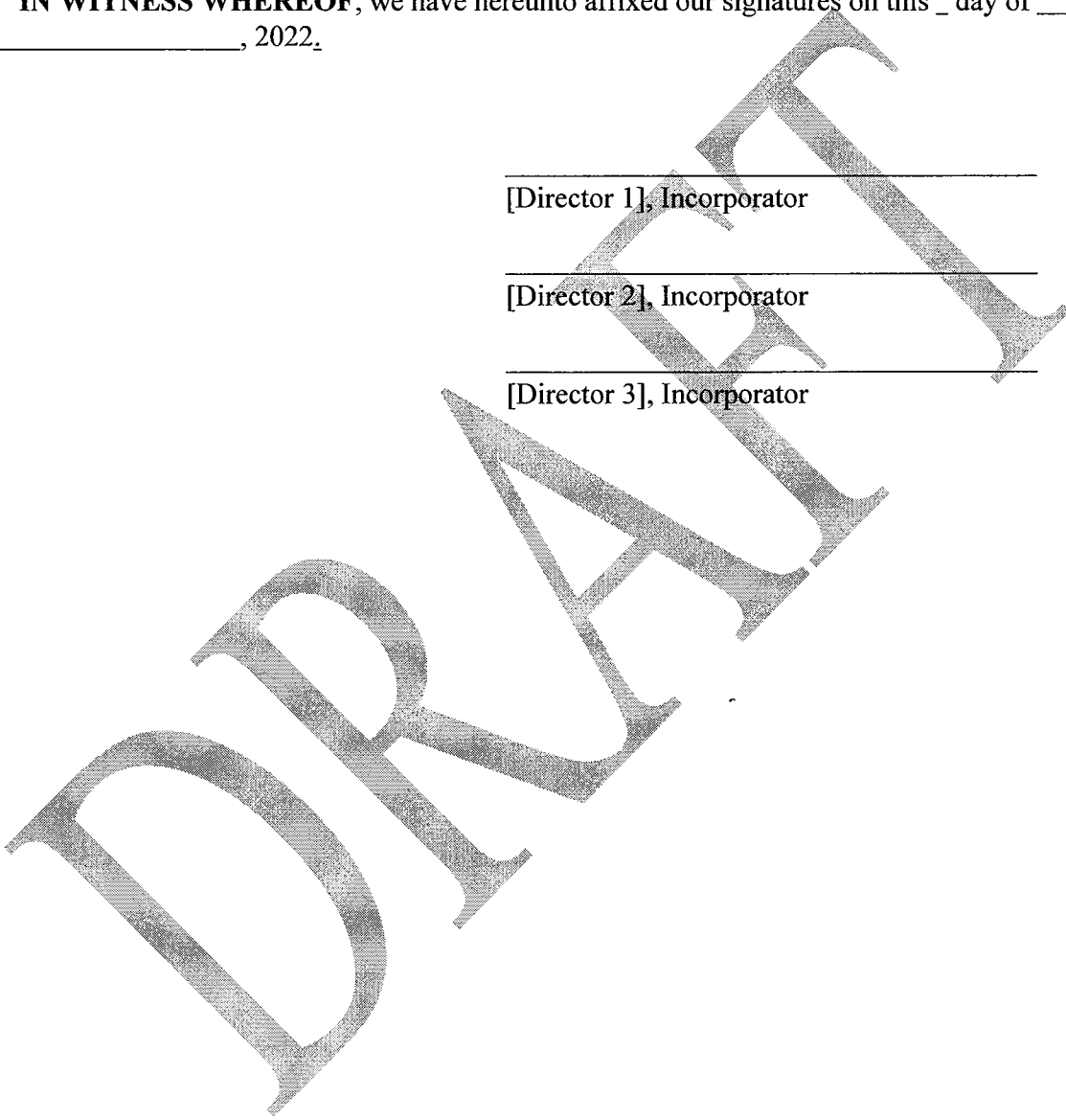
14. **Perpetual Duration.** The period of duration of the Corporation is: perpetual.

IN WITNESS WHEREOF, we have hereunto affixed our signatures on this _ day of _____, 2022.

[Director 1], Incorporator

[Director 2], Incorporator

[Director 3], Incorporator



Boone County, Missouri

BOONE COUNTY MO AUG 30 2022

Unofficial Document Exhibit "C"

Form of Association Bylaws

[See Attached]

Boone County, Missouri

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BOONE COUNTY MO AUG 30 2022

**BYLAWS
OF
TIMBERBROOK HOMES
ASSOCIATION**

Adopted: _____, 2022

DRAFT

Nora Dietzel, Recorder of Deeds

Unofficial Document
BYLAWS
OF
TIMBERBROOK HOMES ASSOCIATION

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BYLAWS OF TIMBERBROOK HOMES ASSOCIATION

Article I. Name and Location.

Section 1. Name. The name of the corporation is Timberbrook Homes Association, hereafter referred to as "the Association".

Section 2. Principal Office. The principal office of the corporation shall be located in Wooldridge, Boone County, Missouri, or at such other place as the Association's Board of Directors shall from time to time designate.

Article II. Definitions.

Section 1. Terms Defined. The following terms shall have the following meanings when used in these Bylaws:

(a) General Definitions. "Declaration" means the Declaration of Covenants, Conditions, Reservations, Easements and Restrictions of Timberbrook," made by Eric Kurzejeski ("the Developer"), and recorded in the Real Estate Records of Boone County, Missouri, as amended from time to time as provided therein.

(b) Other Definitions. Unless it is plainly evident from the context that a different meaning is intended, all other terms used herein shall have the same meaning as they are defined to have in the Declaration.

Article III. Membership in the Association

Section 1. Tract Owners Members. Every tract Owner of a tract owned by a party other than the Developer and the Developer's assignees shall be Member of the Association, shall be subject to the jurisdiction of the Association, shall be subject to assessments levied by the Association under the provisions of the Declaration, and shall be entitled to all rights and provisions of membership in the Association. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation as members of the Association. There shall be one membership in the Association appurtenant to the ownership of any tract which is subject to assessment by the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any tract which is subject to assessment by the Association. Ownership of a tract shall be the sole qualification for membership in the Association. Membership in the Association cannot, under any circumstances, be partitioned or separated from ownership of a tract subject to the jurisdiction of the Association. Any covenant or agreement to the contrary shall be null and void. No tract Owner shall execute any deed, lease, mortgage or other interest in the tract and his or her corresponding membership in the Association, it being the intention hereof to prevent any severance of such combined ownership. Any such deed,

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lease, mortgage or instrument purporting to affect the one without including also the other, shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein. The Developer, or those to which it assigns all or any part of its rights as the Developer under the terms of the Declaration shall have the rights set forth in the Declaration and these Bylaws and shall become a member upon and following the termination of the Developer Period as hereinafter provided, for each tract in which the Developer (or its successor) holds the interest required for membership by this Article III. The Developer shall also be a member before termination of the Developer Period for all tracts in which the Developer resides upon or holds such tract for residential rental or lease purposes.

Article IV. Voting Rights

Section 1. One Class of Voting Rights. The Association shall have one (1) class of voting memberships. The qualifications for membership, and the identities of the members, and the nature and extent of the voting rights of Members shall be as specified in the Declaration.

Article V. Membership Meetings

Section 1. Place of Meetings. Meetings of the membership shall be held at the principal office or place of business of the corporation, or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

Section 2. Annual Meetings. The first annual meeting of the members of the Association shall be held at a reasonably convenient location within Boone County, Missouri selected by the Board, within 365 days following the formation of the Association, or 180 days following the first day of the first calendar year which next begins after the conveyance of the first tract contained within the Development to a person other than Developer (or its successor), whichever shall last occur. Thereafter, the annual meetings of the members of the Association shall be held within the first 180 days following the close of each calendar year, at such times as the Board of Directors shall determine appropriate.

Section 3. Special Meetings. Special meetings of the membership may be called at any time for the purpose of considering matters which, by the terms of the Declaration, or by the terms of the Association's Articles of Incorporation, or by the terms of these Bylaws, require the approval of some or all of the members, or for any other reasonable purpose. Said meeting shall be called by a written notice, authorized by a majority of the Board of Directors, or upon a petition signed by twenty percent (20%) of the Members of the Association having been presented to the Association's Secretary. The notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the members present, either in person or by proxy.

Section 4. Notice of Meetings. Except when otherwise provided by the Declaration and except when notice is waived as hereinafter provided, written or printed notice of any annual or special meeting of the members shall be sent by the Secretary of the corporation to all members

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by mailing the same, postage prepaid, at least ten (10) days and not more than forty (40) days prior to the meeting, addressed to the members at their respective addresses as recorded upon the membership books of the Association. Notice may also be accomplished by service of same upon the member at his or her tract or last known address. Notice by either such method shall be considered as notice served. Any notice shall state the place, day and hour of the meeting and the purpose or purposes for which it is called. No notice of any annual or special meeting of the members is required if all members file with the records of the meeting written waivers of such notice. In the absence or disability of the Secretary, notice as provided for in this Section may be sent out by any such officer as may be designated by the Board of Directors.

Section 5. Waiver of Notice. Any member may waive notice of any membership meeting, either in writing or by telegram, signed by the member whether such member attends the meeting or not. The presence of a member at any membership meeting shall be deemed to constitute a waiver by the member of notice to the meeting unless such member attends for the express purpose of objecting to the transaction of business at the meeting.

Section 6. Quorum. The presence of twenty percent (20%) of the members of the Association, either in person or by proxy, shall constitute a quorum for the transacting of business at all meetings of the members, unless a greater quorum is required for the transaction of the particular business by the Declaration. Unless otherwise specified by these Bylaws or the Declaration, or by the Association's Articles of Incorporation, or by law, decisions at membership meetings shall be by the majority vote of the members present. If a quorum is not present, a majority of the members present can adjourn the meeting to another date and time not less than forty-eight (48) hours from the time the original meeting was called, unless otherwise required by the Declaration at which time the quorum requirement shall be reduced by one-half (1/2). No notice of such date and time shall be required.

Section 7. Proxies. A member may appoint any other member or the Developer or the manager or managing agent of the Association, if any, as his or her proxy. In no case may any member, (except the Developer or the manager or managing agent, if any) cast more than one (1) vote by proxy. Any proxy must be filed with the Secretary of the Association before the appointed time of each meeting. Unless limited by its terms, any proxy shall continue until revoked by a written notice of revocation filed with the Secretary of the Association or by the death of the member.

Section 8. Meetings, Convened, How. Every meeting of the members, for whatever purpose, shall be convened and chaired by the Association's President, if he or she be present, otherwise by the Vice President, or in his or her or her absence or refusal to act by persons selected by the Board of Directors.

Section 9. Order of Business. The order of business at all annual meetings of the members shall be as follows:

- (a) Roll call and certification of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.

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- (d) Reports of officers, if any.
- (e) Reports of committees, if any.
- (f) Election of inspectors in election.
- (g) Election of directors.
- (h) Unfinished business.

Section 10. New business. In the case of special meetings, the foregoing items Section 9(a) through Section 9(d), both inclusive, shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meetings.

Section 11. Action Without Meeting. Any action by the Members required or permitted to be taken at any meeting may be taken without a meeting if a majority of the members of the Association shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Members.

Article VI. Directors

Section 1. Number and Classification. As long as the Developer's own a beneficial interest in a tract (such period referred to as the "Developer Period"), the Board of Directors of the Association shall consist of three (3) Directors or some other odd number of Directors as shall from time to time be established by the Board of Directors of the Association immediately prior to the Annual Meeting at which Directors are to be elected.

(a) During the Developer Period, all Directors shall be natural persons elected by the Developer (who need not be tract Owners).

(b) After the Developer Period, the Board of Directors shall consist of three (3), five (5), seven (7), or some other odd number of Directors (as determined by the Board of Directors immediately prior to the Annual Meeting of Members at which Directors are to be elected), who must be Owners of ownership interests in tracts, elected by the members of the Association.

(c) During the Developer Period, all Directors shall be elected at the annual meeting of the Association's members and shall serve for one (1) year and until their respective successors are duly elected and qualified.

(d) Prior to the first annual meeting of the members of the Association which is to be held after termination of the Developer Period, the then Board of Directors shall determine the number of persons who shall constitute the Board of Directors for the coming year. At such meeting, all Directors shall be elected. All Directors elected after the Developer Period must be natural persons, who are tract Owners of tracts, or who hold ownership interests in tracts. The Directors elected as such meeting are elected for the following terms:

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(i) One-third (1/3) of the Directors shall be elected to serve a term of office of three (3) years. One-third (1/3) of the number of Directors to be elected shall serve a term of office of two (2) years.

(ii) The remaining Director(s) shall serve a term of office of just one (1) year. If the number of Directors is not divisible by 3, then the number shall be divided up or down to the nearest whole number.

(iii) For example, if the number of Directors is five (5), two (2) officers shall be elected for three (3) years, two (2) for two (2) years, and one (1) for one (1) year. The term of office of the Director(s) receiving the greatest number of votes shall be fixed at three (3) years, and the term of office of the Director(s) receiving the second greatest number of votes shall be fixed at two (2) years; and the term of office of the remaining Directors shall be fixed at one (1) years. Thereafter, at the expiration of each term of office of each respective Director, such Director's successor shall be elected to serve a term of three (3) years.

(e) Directors shall, in all events, hold office until their successors have been duly elected and have held their first annual meeting, and until such occurrence, shall possess all of the powers, authorities, duties, discretions and immunities of Directors, which is to say that a sitting Board of Directors shall serve until a new Board has been duly elected and has held its first meeting.

(f) There shall be no cumulative voting on Directors. In the event of a tie vote, the election to the office of Director shall be determined by lot or as the then serving president of the Association shall otherwise determine, in the exercise of his or her or her reasonable discretion.

(g) If there is a tie vote, then the terms of offices of the Directors shall be determined by lot or as the then-serving president of the Association, in his or her or her sole and absolute discretion, shall determine appropriate. There shall be a single ballot or vote upon all Directors to be elected.

Section 2. Nominating Procedure. The Board of Directors may, in its sole and absolute discretion, constitute a "Nominating Committee," and may place names in nomination to fill the office of Directors. However, whether or not the Board so nominates persons to stand for election as members of the Board of Directors, persons to stand for election as members of the Board of Directors shall or may be nominated from the floor at the annual meeting of the members.

Section 3. Vacancies. The Board shall fill vacancies in its membership occurring between elections. A Board member, who is absent without sufficient cause (such sufficient cause being determined within the sole and absolute discretion of the remaining members of the Board by the majority vote thereof) from three (3) consecutive meetings of the Board may, at the option of the remaining members of the Board, be considered to have resigned, and such vacancies shall be filled by the unanimous vote of the remaining members of the Board; provided, however, that before such option is exercised by the Board, such member shall be given at least eight (8) days written notice that the exercising of such option is an issue to be placed before the Board so that such Board member shall have ample opportunity to appear before the Board to explain his or her absence from the meetings of the Board. For purposes of determining whether or not to exercise

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such option, the size of the Board of Directors shall be deemed to be reduced by one. Vacancies in positions on the Board filled by the vote of the Developer shall be filled by the remaining Directors elected by the Developer.

Section 4. Management. The management of the Corporation's business, funds, assets, deposits, properties and affairs shall be vested in the Board of Directors. The Board of Directors shall, however, if it in its sole and absolute discretion deems it advisable to do so, employ for the Association, a professional manager, management firm or managing agent, at a rate of compensation to be established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize, including, but not necessarily limited to those duties and services specified in the Declaration. The employment of such a manager, management firm or managing agent shall be upon such terms and conditions as the Association's Board of Directors shall, in its sole and absolute discretion, elect. Notwithstanding anything to the contrary hereinabove set forth in this Section 4, the Association or its Board of Directors shall not delegate any of its responsibilities for a term extending beyond the termination of the Developer Period, prior to the conclusion of the Developer Period, and shall not, prior to the termination of such Developer Period, employ any professional manager, managing agent or management firm for a term extending beyond the termination of the Developer Period. Any management agreement shall be terminable by the Association on six (6) months' notice.

Section 5. Term of Office. The term of office of Directors shall be as specified in Section 1 of this Article VI; provided, however, that during the Developer Period, all Directors shall be elected at each annual meeting of the members, meaning that such Directors shall hold office for a term of one (1) year only.

Section 6. Termination of Directorship. The term of any Director who becomes more than thirty (30) days delinquent in the payment of any assessments due under the Declaration, or any share of the common expenses, and/or carrying charges shall be automatically terminated and the remaining Directors shall appoint his or her successor as provided in Section 3 of this Article VI.

Section 7. Compensation. Directors, as such, shall not receive any stated compensation or salaries for their services as Directors.

Section 8. Organization Meeting. The first meeting of the newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors are elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least one (1) such meeting shall be held during each calendar year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least six (6) days prior to the day named for such meeting.

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Section 10. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of any Director.

Section 11. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him or her of the time, place and purpose thereof. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 12. Quorum. At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 14. Fidelity Bonds and Officers and Directors Insurance. The Board of Directors shall, if it in its discretion deems it appropriate to do so, require that all officers and employees of the Association handling or responsible for corporate or trust funds shall furnish adequate fidelity bonds and may purchase Officers and Directors Liability Insurance, the cost of which shall be paid for from the Maintenance Fund or the assessments of members. The premiums on such bonds and insurance shall be paid by the Association.

Section 15. Powers and Duties. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, or by the Declaration or by these Bylaws, directed to be exercised and done by the members of the Association or by the tract Owners. The property, funds and affairs of the Association shall be controlled and managed by the Board of Directors, which shall exercise all powers of the Association not reserved by these Bylaws or by the Declaration or Articles of Incorporation to the members of the Association or the tract Owners. The Association's Board of Directors shall have the authority to employ, discharge and determine the compensation of such management personnel, management firm, managing agent, professional management and employees as in its opinion are needed to do the work of the Association; provided, however, that during the Development Period the Directors shall not delegate responsibilities, or employ managing agents or a management firm, except within those limitations specified by Section 4 of this Article.

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Article VII.

Officers

Section 1. Number. The officers of the Board and the Association shall consist of a President, a Vice-President, a Secretary and a Treasurer. The Board of Directors may, if it in its sole and absolute discretion determines appropriate, also choose and appoint one or more additional Vice Presidents and one or more Assistant Secretaries and Assistant Treasurers, and such additional officers and agents, if any, as it may deem necessary from time to time. Any person may fill more than one of the offices; provided, however, that no person may be both the president and the secretary. The Board may, for example, elect a single person as being the vice president, and the secretary. Such officers shall be selected by the Board of Directors at the organizational meeting of the Board of Directors following the annual meeting of the members of the Association. The President and Vice-President must be members of the Board of Directors. The Secretary and/or Treasurer and any Assistant Secretaries or Assistant Treasurers need not be members of the Board of Directors if the Board of Directors determines such to be the case.

Section 2. Term. The officers shall hold office at the pleasure of the Board of Directors, for a period of one (1) year from the date of their respective elections, and until their successors are duly elected and qualified.

Section 3. Vacancies. A vacancy in any office for any reason shall be filled by the Board of Directors at any meeting for the unexpired portion of the term.

Article VIII.

Duties of Officers

Section 1. General Powers. The officers shall have such power and authority in the control and management of the property and business of the Association as is usual and proper in the case of, and incident to, such corporate officers, except insofar as such power and authority is limited by these Bylaws, or by resolution of the Board of Directors.

Section 2. President. The President shall be the principal officer of the Association, and shall, in general, control and manage the property and affairs of the Association. He or she shall preside at all meetings of the Board of Directors and shall perform such other duties as may be prescribed by the Board of Directors from time to time. He or she shall sign all notes, agreements, conveyances or other instruments in writing made and entered into for or on behalf of the Association. He or she shall have all the general powers and duties which are usually vested in the office of President of a corporation, including but not limited to the power to appoint committees from time to time among the membership of the Association as he or she may, in his or her discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 3. Vice President. The Vice President shall take the place of the President and perform his or her duties whenever the President shall be absent and unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors.

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Section 4. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; he or she shall have custody of the seal of the Association; he or she shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct; and he or she shall, in general, perform all the duties incident to the office of Secretary.

Section 5. Treasurer. The Treasurer shall have responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He or she shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors.

Section 6. Assistant Secretaries. The Assistant Secretaries, in order of succession, shall perform all of the duties of the Secretary in the event of the death, disability or absence of the Secretary, and such other duties, if any, as may be prescribed by the Board of Directors.

Section 7. Assistant Treasurers. The Assistant Treasurers shall, as to the funds entrusted to them, perform all of the duties of the Treasurers.

Section 8. Compensation of Officers. No officer shall receive any salary or other compensation for services rendered to the Association in his or her capacity as an officer of the Association. No remuneration shall be paid to any officer for services performed by him or her for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Article IX.

Liability and Indemnification Of Officers and Directors

Section 1. Liability and Indemnification of Officers and Directors. The Association shall indemnify (to the maximum extent permitted by the law of Missouri) every officer and director of the Association, against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Association) to which he or she may be made a party by reason of being or having been an officer or director of the Association whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors of the Association shall not be liable to the members of the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The officers and directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association or the Development (except to the extent that such officers or directors may also be Owners of tracts) and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right of indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association, or former officer or directors of the Association may be entitled.

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Section 2. Common or Interested Directors. The Directors shall exercise their powers and duties in good faith and with a view of the interests of the Association. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association (including the Developer) in which one or more of the Directors of the Association are Directors or officers or are pecuniarily or otherwise interested, is either void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee therefor which authorizes or approves the contract or transaction, or because of his or her or their votes as counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or is noted in the minutes, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to the members, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed. Common or interested Directors may be counted in determining the presence of a quorum at any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereafter to authorize any contract or transaction with like force and effect as if he or she were not such Director or officer of such other corporation or not so interested.

Article X. Management

Section 1. Management. The Association, by and through its Board of Directors, shall enforce the provisions of the Declaration and of these Bylaws, and shall perform all duties and obligations conferred upon the Association by the Declaration, and shall have all powers, privileges, powers and discretions conferred upon the Association by the Declaration, and shall pay out of the Maintenance Fund, established by the Declaration, for those articles, items, duties and services to be supplied and performed by the Association through the use of such funds under the terms of the Declaration.

Section 2. Manager or Managing Agent. The Association, by and through its Board of Directors, may delegate any of its duties, powers or functions to a manager or managing agent, provided that such delegation shall be revocable upon no more than six (6) months written notice. The Association, and its officers, and its Board of Directors shall not be liable for any omission or improper exercise by the manager or managing agent of any such duty, power or function so delegated. Notwithstanding anything to the contrary set forth in this Section 2, provided that, during the Developer Period, the Association shall not employ any professional manager, for a term extending beyond the termination of Developer Period, and shall not delegate any of its responsibilities for a term extending beyond the termination of the Developer Period.

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Section 3. Duties to Maintain. The Association, shall have the duty and obligation to perform the repairs and maintenance imposed upon the Association and/or the Board of Managers by the Declaration. Each tract Owner shall have the duty and obligation to perform the maintenance upon his or her, her or their tract imposed upon him or her, her or them by the Declaration, and shall be required to perform with respect to each tract, all maintenance not specifically imposed by the Declaration upon the Association and/or the Board of Managers. The tract Owners upon whom collective obligations of maintenance, repair and replacement are imposed by the Declaration, shall have the duty and obligation, to the Association and all other tract Owners, to perform or to cause to be performed the maintenance, repairs and servicing described in the Declaration.

Section 4. Access at Reasonable Times. For the purposes of discharging its duties and responsibilities as provided by these Bylaws and the Declaration, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, through its duly authorized agents, Directors or employees, shall have the right, after reasonable efforts to give notice to the tract Owner, to enter into any tract or any Apartment at any hour considered to be reasonable under the circumstances.

Section 5. Limitation of Liability. The Association, and its Directors, and its officers, shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for out of the Maintenance Fund established by the Declaration, or for injury or damage to person or property caused by the elements or by the Owner of any tract, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to the Owner or occupant of any tract for loss or damage by theft or otherwise of articles which may be stored upon any of the Common Elements. No diminution or abatement of maintenance fund assessments as provided for by the Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements, or the Units or the buildings located thereon, or from any action taken by the Association to comply with any law or ordinance or with the order or directive of any municipal or other governmental authority. The directors, officers and the employees of the Association, and the Association itself (except to the extent of the cost of procuring same), shall not be liable for any failure by the Association to provide or perform any management, maintenance, repairs, servicing, upkeep or other services, or to procure any insurance, required by the Declaration.

Article XI. Assessments.

Section 1. Assessments Provided in Declaration. This Article XI of these Bylaws shall be identical in form and content to assessment provisions of the Declaration, which such provisions are incorporated herein by reference.

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Article XII.

Financial Management

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January of each year. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

Section 2. Books and Accounts. Books and accounts for all funds collected by the Association shall be kept under the direction of the Treasurer, in accordance with good bookkeeping principals consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures affecting the funds collected and the administration of such funds.

Section 3. Auditing. Upon request by a majority of the Board of Directors of the Association, any Treasurer or Assistant Treasurer of the Association, whether present or past, shall submit his or her or her books and records for audit by an independent Certified Public Accountant, retained by the Association at its expense, whose report shall be prepared and certified in accordance with generally accepted auditing principles. In lieu of any such audit by an independent Certified Public Accountant, the Association's Board of Directors may appoint an "audit committee." Such audit committee shall consist of one (1) director and two (2) members of the Association, who are not a members of the Board of Directors. If an audit committee is used, then the books and records shall be audited by such audit committee, which shall report to the Association's Board of Directors and its members.

Section 4. Inspection of Books. The books and accounts of the Association, or of the Treasurer or any Assistant Treasurer thereof, and vouchers accrediting the entries made thereupon, shall be available for examination by the members of the Association, and/or their duly authorized agents or attorneys during normal business hours and for purposes reasonably related to their interests as members.

Section 5. Execution of Corporate Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice President and by the Secretary, and all checks shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time so authorized by the Board of Directors.

Section 6. Seal. The Corporation does not have a seal. The Board of Directors may, if it in its discretion deems it appropriate, provide a corporate seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant Treasurer.

Section 7. Insurance. The Association's Board of Directors shall have the duty to obtain and maintain fire and casualty insurance to the extent reasonably available on any reasonably insurable improvements owned by the Association. The Association's Board of Directors, in its discretion, shall obtain, at the expense of the Association:

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- (a) Such other fire and casualty insurance and physical damage insurance as it finds to be appropriate;
- (b) Such public liability insurance coverages and liability insurance coverages (in such amounts and for such limits) as it finds to be appropriate;
- (c) Worker’s compensation insurance coverages shall be maintained to the extent required by law, and may, if not required by law, nevertheless be maintained if the Directors, in their discretion, find it to be appropriate that such insurance be maintained in effect;
- (d) Officers’ and Directors’ Liability Insurance Coverage, covering the Officers and Directors of the Association, to the extent the Board shall find to be appropriate;
- (e) Such other insurance coverages as the Board finds to be appropriate in its discretion. The Association’s Board of Directors shall have the authority (but not the obligation) to enforce requirements imposed by the Declaration upon tract Owners that tract Owners obtain any insurance coverages.

**Article XIII.
Amendment**

Section 1. Amendment as in Declaration. Those provisions of these Bylaws which also appear in the Declaration may be amended only in that manner provided for the amendment of the Declaration by the Declaration. The remaining provisions of these Bylaws may be amended by the Developer during the Developer Period, and, following termination of the Developer Period, by affirmative vote of a majority of the members present at any meeting of the members at which a quorum is present, and which is duly called for that purpose. Amendments may be proposed by the Board of Directors or by a petition signed by members representing at least twenty percent (20%) of the voting members. A description of any proposed amendment of these Bylaws or the Declaration shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

**Article XIV.
Conflict With The Declaration**

Section 1. Conflict. In the event any of the provisions of these Bylaws, or any provision of an amended version of these Bylaws, conflicts with the terms and provisions of the Declaration in any way whatsoever, these Bylaws shall be deemed to be subordinate and subject to all provisions of the Declaration. All of the terms hereof except where clearly repugnant to the context, shall have the same meaning as in the Declaration. In the event of any conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control.

Section 2. Severability. In the event any provision or provisions of these Bylaws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

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Section 3. Waiver. No restriction, condition, obligation or provision of these Bylaws or the Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 4. Captions. The captions contained in these Bylaws are for convenience only and are a part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

Section 5. Gender, etc. Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

[End of Document]

* * *

Adopted as the Bylaws of Timberbrook Homes Association, a not-for-profit corporation of the State of Missouri, effective the _____ day of _____, 2022 (same being attached to the Declaration, as the first Bylaws of the Association).

MEMBERS OF THE FIRST BOARD OF DIRECTORS OF THE ASSOCIATION:

[Director 1]

[Director 2]

[Director 3]

SECRETARY OF THE ASSOCIATION:

Jeffrey C. Hemme