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Grantee QUAIL CREEK TOWNHOMES

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Bettie Johnson, Recorder of Deeds

RECORDER OF DEEDS CERTIFICATE
BOONE COUNTY, MISSOURI
NON-STANDARD DOCUMENT

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Bettie Johnson
Recorder of Deeds
801 E Walnut, Room 132
Columbia, Missouri 65201
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DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS, EASEMENTS AND RESTRICTIONS OF QUAIL CREEK TOWNHOMES, A PLANNED UNIT DEVELOPMENT

Developer/ Grantor: **Quail Creek Condos, LLC,** a Missouri limited liability company [address: Quail Creek Condos, LLC, Attn: Ed Skrabal, Manager, 2304 Longview Drive, Columbia, MO 65203]

Grantee: **Quail Creek Townhomes Owners' Association,** a not for profit corporation of the State of Missouri [mailing address: c/o Quail Creek Condos, LLC, Attn: Ed Skrabal, Manager, 2304 Longview Drive, Columbia, MO 65203]

Re: The following described real estate situated in Boone County, Missouri:

Lot 401 of Quail Creek West Plat 4, as shown by plat recorded in Plat Book 40 at Page 16 of the Boone County Records.

Date of Document: February 28, 2008

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Re: The following described real estate situated in Boone County, Missouri:

Lot 401 of Quail Creek West Plat 4, as shown by plat recorded in Plat Book 40 at Page 16 of the Boone County Records.

DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS, EASEMENTS AND RESTRICTIONS OF QUAIL CREEK TOWNHOMES, A PLANNED UNIT DEVELOPMENT

[THIS DECLARATION OF COVENANTS CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES]

THIS DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS is made on this 28th day of February, 2008, by **Quail Creek Condos, LLC,** a limited liability company of the State of Missouri, which is hereinafter referred to as "the Developer" [the Developer's mailing address is: Quail Creek Condos, LLC, Attn: Ed Skrabal, Manager, 2304 Longview Drive, Columbia, MO 65203].

WITNESSETH:

BACKGROUND RECITALS
["Recitals"]

This Declaration is executed and recorded by the Developer in view of the following facts, matters, and circumstances:

The Developer is the owner of a parcel of land situated in Columbia, Boone County, Missouri, which is described Lot 401 of Quail Creek West Plat 4 by plat recorded in Plat Book 40 at Page 15 of the Real Estate Records of Boone County, Missouri. Such parcel may be referred to herein as "the Parcel".

The Parcel has been subdivided into twelve (12) lots ("Lots"), Common Areas, and a private street/private drive, known or to be known as "Fabian Drive" ("the Private Drive" or "the Private Street") by a "Final Plat" of "Quail Creek West Plat 6," which has been recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri ("the Plat").

The Developer intends to commit the Parcel, which has been so subdivided into lots, Private Drive and Common Areas by the above-described Plat, and all of the Lots, Units and parcels and tracts of real estate contained within the boundaries of such Parcel and the boundaries of the parcel platted by such Plat, to certain easements, restrictions, reservations and covenants which are hereinafter provided for by this Declaration.

The Developer, therefore, desiring and intending that the several owners, mortgagees, occupants and other persons hereafter acquiring any interest in the Parcel, or any improvements located thereon, shall at all times enjoy the benefit of, and shall hold their interests subject to the rights, easements, privileges, covenants, assessments and restrictions hereinafter set forth (all of

which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of the Property, and are established for the purposes of enhancing and protecting the values, desirability and attractiveness of the Property), executes and records this Declaration accordingly.

THIS DECLARATION OF COVENANTS CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES

DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

NOW, THEREFORE, in view of the foregoing Recitals, the Developer hereby declares that all of the real estate contained within the Parcel of real estate ("the Parcel"), Lot 401 of Quail Creek West Plat 4, and which is platted by, and is the subject matter of the Plat of "Quail Creek West Plat 6" ("the Plat"), recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri, and the Lots and Units, Common Areas, the Private Drive and other improvements now or hereafter contained within the Parcel, and any Buildings or improvements now or hereafter located within the Parcel, shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, liens, charges and assessments, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the real estate and the Buildings, and Dwellings and Units now or hereafter located thereon. These easements, covenants, restrictions, conditions, liens, charges and assessments shall run with the real estate and the real property, and shall be binding on all parties having or acquiring any right, title or interest in the above described Parcel (or any portion thereof). The provisions of this Declaration shall apply to each Lot, Building and Unit hereinafter described, and to all present and future owners thereof, and shall run with each such Lot and Unit, and shall be binding upon and shall inure to the benefit of each Lot Owner and Unit Owner thereof. The Developer hereby further declares as follows:

ARTICLE I
DEFINITIONS AND MISCELLANEOUS TERMS AND CONDITIONS

This instrument shall hereafter for convenience and for purposes of brevity and clarity, be defined as the "Declaration". For the purposes of brevity, certain words, phrases and terms used in this "Declaration" are defined as follows, and the following terms and conditions shall apply:

Section 1. "Association" means a not for profit corporation of the State of Missouri, to be known as "Quail Creek Townhomes Owners' Association," or by a similar name, as the Developer in the Developer's discretion shall find to be appropriate. For example, if such name is determined not to be available, then such Association shall bear a name similar thereto (as is determined to be available by the Secretary of State of the State of Missouri) and as shall be determined appropriate by the Developer in the Developer's discretion. All references in this Declaration to "the Association" shall mean such not for profit corporation, and its successors and assigns, which shall serve as the Association of Lot Owners and Unit Owners hereinafter described, and shall have the powers, duties, privileges, immunities and obligations conferred upon the Association by this Declaration.

Section 2. "Builder" means and refers to an individual, company or corporation who or which constructs a Building within the Development. The Developer may sell a Lot or Lots to a Builder,

other than the Developer for purposes of building or constructing a Building and improvements located upon such Lot(s). However, any such Building or improvement shall be constructed solely pursuant to the Architectural Control provisions set forth in this Declaration.

Section 3. "Building" or "Residential Building" means and refers to a separate, distinct, freestanding structure, located within the Development, which is built, constructed, designed or intended for occupancy by one or more Living Units. In most cases, the Buildings will contain two (2) Living Units, each of which will occupy one of the "A" Lots and one of the "B" Lots shown by the Plat of Quail Creek West Plat 6, recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri; meaning that two (2) Lots (an A Lot and a B Lot) shown by the said Plat will, in most cases, contain, in combination, one Building, with each of such Buildings containing two (2) Living Units, which are attached to each other and located within the same Building, and with the lot line separating the two (2) Lots running through the center of the common or part wall which separates the two (2) Living Units that are located within the Building from each other. It is possible that a Lot or Lots may contain a Building which contains a single Living Unit, meaning a single family dwelling, although that is unlikely. In most cases two (2) Lots, in combination, will contain a single Building which will contain two (2) Living Units. Each Lot is intended for conveyance to a separate "Unit Owner" as hereinafter defined, but portions of each Lot will nevertheless constitute Common Area as hereinafter defined and described.

Section 4. "City" shall mean and refer to the City of Columbia, Missouri, a municipal corporation of the State of Missouri. The Parcel lies within the corporate limits of the City and is subject to the jurisdiction of the City.

Section 5. "Class A Member" shall mean a Class A Member of the Association and shall mean a Unit Owner of a Unit owned by a person other than the Developer and its assignees and a Builder; provided that if the Developer or a Class B Member or a Builder holds a Unit for rental or lease purposes, it shall be the "Unit Owner" with respect to such Unit, and shall be deemed to be a "Class A Member" with respect to such Unit held for rental or lease purposes. If a Unit is rented or leased by the Developer, or any assignee of any of the Developer's rights hereunder, or any Class B Member or a Builder, then, immediately upon the renting or leasing thereof, the Unit Owner of such Unit (regardless of whether same is the Developer or any assignee of the Developer or the holder of any other Class B membership rights) shall become a Class A Member of the Association with respect to such Unit, and shall, with respect to such Unit, be subject to assessment as a Class A Member. Such Unit shall continue after such renting or leasing to be a Unit to which Class A membership rights and duties and obligations attach. The qualifications for Class A membership are set forth below in Article II.

Section 6. "Class B Member" shall mean a Class B Member of the Association and shall mean the Developer and any person to whom the Developer shall have assign all or a portion of its rights as the Developer under the terms and provisions of the Declaration. Except as specifically provided in Section 11 of this ARTICLE I, to the contrary, with respect to Deeds of Trust, mortgages or security instruments executed by the Developer, a conveyance by the Developer by Warranty Deed, Deed of Trust or other conveyance shall not be deemed to be an assignment of any of its rights as the Developer, unless such rights are specifically mentioned therein. Such rights can otherwise

be assigned only by an assignment by the Developer which specifically refers to the rights of the Developer under this Declaration.

Section 7. "Common Area" shall mean any real estate contained within the Parcel, other than the Units, and shall also mean any "C" Lots shown on the Plat [e.g., Lots C606, C607 and C 609] and any other Common Area or Common Lot or Common Unit, or any other Common Improvements or Common Areas shown upon any Plat, and it shall further include that portion of the Land within the Parcel which contains the Private Drive ("Fabian Drive"), and associated parking areas, and the entryway to the Development leading from Louisville Drive. Common Areas shall further include the following:

i. ALL OF THE LAND WITHIN EACH LOT ON THE OUTSIDE OF (MEANING TO THE EXTERIOR OF) THE FOLLOWING [SUCH LAND WHICH INCLUDES THE FOLLOWING TO BE A PART OF A "UNIT"]:

- THAT PART OF THE BUILDING WHICH IS LOCATED ON SUCH LOT, MEANING THAT PART OF THE BUILDING WHICH CONTAINS THE LIVING UNIT LOCATED ON SUCH LOT; AND

- ALL PRIVATE PORCHES, PATIOS, PORTICOS, COURTYARDS AND SIMILAR PRIVACY AREAS ACCESSED FROM, OR INTENDED FOR THE USE OF, THE LIVING UNIT LOCATED ON SUCH LOT, AND THE UNIT OWNER AND OCCUPANTS THEREOF [BLACK, WROUGHT IRON FENCES, WHICH MAY BE PERMITTED UNDER THE ARCHITECTURAL CONTROL POWERS OF THIS DECLARATION FOR PURPOSES OF ENCLOSING ALL OR CERTAIN PORTIONS OF THE BACK YARDS FOR LIVING UNITS SHALL NOT BE CONSIDERED TO BE "PRIVACY FENCES" AND THE AREAS LOCATED THEREIN SHALL NOT BE CONSIDERED TO BE "PRIVACY AREAS" FOR PURPOSES OF THIS SECTION, BUT SHALL BE COMMON AREAS, ALTHOUGH LIMITED COMMON AREAS]; AND

- ANY PRIVATE GARAGE LOCATED ON SUCH LOT

[WITH ALL OTHER PORTIONS OF THE LAND LOCATED ON SUCH LOT WHICH DOES NOT CONTAIN SUCH ITEMS TO BE, AND TO BE TREATED AS, AND FOR ALL INTENTS AND PURPOSES TO CONCLUSIVELY BE DEEMED TO BE "COMMON AREA," SUBJECT TO ALL OF THE RESTRICTIONS, BURDENS, DUTIES AND OBLIGATIONS IMPOSED UPON COMMON AREA BY THIS DECLARATION]; AND

ii Any Lots shown by a plat which bear a "C" designation either before or following the Lot number, with all Lots which bear a "C" designation, whether the letter "C" appears before the Lot number or after the Lot number, being Common Area to be owned, held, controlled, managed and maintained by the Association, and meaning Lots C 606, C607 and C 609 and any other C Lots shown by the Plat; and

iii. Any land or easements affecting land containing entryway signs and monuments located at the entrances of the Development; and

iv. The land within any cul-de-sacs or parking areas making up or associated with the Private Drive; and

v. The entryway drives leading to the Private Drive from Louisville Drive, a City of Columbia public street;

vi. Any land or easements affecting land containing entryway signs and monuments located at the entrances of the Development or similar improvements;

vii. Any Landscape Easements, Landscaping and Sign Easements and Landscaping and Sign Easements or similar Easements shown by the Plat, and any areas intended to serve as sites for entryway signs and entryway monuments for the Development; and

viii. Any other Common Areas shown by the Plat or any future Plat, or created by deed or conveyance;

ix. Any land which is subject to any Drainage Easements, Stormwater Easements, or Stormwater Facilities hereinafter described, which serve more than one Lot or more than one Unit;

x. All Easements established by this Declaration or any Plat or otherwise as easements for landscaping, signs, Paths or Trails hereinafter described, or for stormwater purposes or drainage purposes, or sewer or utility purposes, all as hereinafter described in this Declaration or as provided for by any Plat;

xi. Any Common Areas shown by or denoted as a Common Area upon any Plat;

xii. Any Land hereafter dedicated by the Developer or the Developer's assignees as Common Area, or conveyed to the Association as such;

xiii. All easements which are not publicly held, and which are located throughout the Development, at any locations, and which are shown by any Plat, or which are dedicated by this Declaration or any grant of easement, including, but not limited to, any Drainage Easements (which are not publicly held), Scenic Easements, Trail Easements, Pedestrian Easements, Sign Easements, Landscaping Easements, Pedestrian Access Easements, Utility Easements, Utility Line Easements, and other Easements of every kind, nature and description whatsoever which are not publicly held.

As hereinabove stated in this Section 7, and regardless of how titled or owned, all areas of the Land within each Lot, which are located outside of (on the exterior or exterior surfaces of) the following:

– Exterior walls of the Building placed on such Lot, meaning all parts of the Building which contains the Living Unit located on such Lot; and

– Any private garages or carports placed on such Lot which are intended for the use by the Unit Owner of the Living Unit located on such Lot; and

– All areas located within the boundaries of the exterior surfaces of any private patio, courtyard, porch or privacy fenced area located on such Lot which is intended for use by the Living Unit located on such Lot, and the Unit Owner and the occupants thereof [provided that areas located within any fenced in rear yards, which are fenced in in accordance with the Architectural Control Provisions hereinafter set forth in this Declaration (and it is not anticipated that there will be fenced in back yards, although the possibility for same is allowed for) shall not be considered to be "privacy area" or "privacy fenced areas", but rather shall remain Common Areas],

shall be Common Area, it being intended that all Land located within each Lot, other than the Land containing that part of the Building which is located on such Lot (meaning that part of the Building which contains the Living Unit located on such Lot), and the garage or carport for the Living Unit located on such Lot, and any privacy areas (courtyards, patios, porches, porticos or areas located within the boundaries of a privacy fence for the Living Unit located on such Lot) shall, for all intents and purposes be, and be treated as "Common Area," whether or not owned by the Unit Owner or conveyed to the Association; meaning that it shall be Common Area even though titled in the name of the Lot Owner/Unit Owner and even though the Lot Owner or Unit Owner pays taxes thereon. All such Land shall be subject to a perpetual, irrevocable easement, running with the Lot, which binds the Unit Owner/Lot Owner of the Lot, and all present and future Unit Owners/Lot Owners of each Lot, and which runs in favor of the Association, the terms of which such easement shall be such that, whether or not the said portions of the Lot (i.e., those portions located outside the boundaries of the exterior walls of that part of the Building located on the Lot, the private courtyards, patios, garages, etc.) is titled in the name of the Unit Owner/Lot Owner or the Association, such areas of said Lots shall nevertheless be conclusively treated as, and shall conclusively be Common Area, and shall, for all intents and purposes, be Common Area. The foregoing provisions of this Section notwithstanding, however, all of the Land within each Lot which would otherwise be "Common Area," shall be "Limited Common Area," in that access thereto and egress therefrom, and use thereof, shall be limited to the Unit Owner/Lot Owner of the Unit located on such Lot and the members of such Owner's family, and such Owner's guests and invitees, except to the extent that same contains any driveway or walkway required for obtaining access to or egress from adjacent Unit(s) (with any such driveway or walkway being a Limited Common Area for both or all such Units); provided, however, that same shall also be subject to an easement in the Association, in order that the Association shall have unlimited access thereto and egress therefrom in order to perform all lawn and landscaping and driveway and walkway maintenance, repairs, replacements, snow removal and other duties which are imposed upon the Association with respect to Common Areas of the Development by the following provisions of this Declaration.

THEREFORE, EVEN THOUGH THE LOTS ARE NOT SUBDIVIDED INTO UNITS (THAT PORTION OF THE LOT CONTAINING THE LIVING UNIT) AND COMMON AREA, ALL PARTS OF THE LAND LOCATED WITHIN THE LOT, ON THE EXTERIOR OF THE EXTERIOR WALLS OF THAT PART OF THE BUILDING LOCATED ON SUCH LOT, AND ANY GARAGES OR CARPORTS LOCATED ON SUCH LOT WHICH ARE INTENDED FOR USE BY THE UNIT OWNER(S) OF THE LIVING UNIT LOCATED ON SUCH LOT, AND ANY PRIVACY AREAS, SUCH AS COURTYARDS, PORCHES, PORTICOS, PATIOS AND OTHER PRIVACY AREAS ARE AND SHALL BE TREATED AS AND SHALL BE COMMON AREAS, ALTHOUGH SAME SHALL, AS HEREINABOVE DESCRIBED IN THIS SECTION, BE "LIMITED COMMON AREA." ALL OF SAME SHALL OTHERWISE BE COMMON AREA AND SHALL BE SUBJECT TO ALL OF THE RESTRICTIONS AND CHARACTERISTICS OF COMMON AREA AS DESCRIBED IN THIS DECLARATION.

Section 8. "Common Elements" shall mean the Common Areas described in Section 7 above, and all driveways, walkways, Stormwater Facilities, structures, other improvements, trees, shrubs, lawns and other landscaping items and materials located thereon, and other improvements of any kind or nature whatsoever located thereon or hereafter placed or erected or constructed thereon, with the term "Common Elements" to further include:

i. The Private Drive, and the entryways and entryway driveways leading to the Private Drive from the adjacent City of Columbia street, Louisville Drive, and all parts and components of the Private Drive and of such entryway, and any parking areas attached to such Private Drive; and

ii. Landscape and Sign Easements shown by the Plat, and signs, monuments, structures and landscaping located thereon, and any lighting or irrigation systems or other improvements located thereon;

iii. Any entryway structures, monuments, landscaping or other entryway improvements for the Development;

iv. Any Sign or Landscaping Easements located at any location in the Development;

v. Any landscaped street islands or medians, and the landscaping therefor;

vi. Any and all improvements located on any Common Area;

vii. Any Pedestrian Trail or Path Easements established by the Plat or this Declaration or otherwise, and all paths, trails and walks and associated improvements located therein;

viii. Any other Common Areas or Common Elements established by this Declaration (including the provisions of Section 7 above), or by any Plat or any grant from or declaration of the Developer, or otherwise;

ix. All ditches, swales, drains, drainageways and drainways, and drainage structures, and flowages for stormwater and Stormwater Facilities of every kind, nature and description whatsoever, which serve more than one Lot or Unit or more than one Living Unit;

x. Drainageways and drainways and drainage provided for by any Common Area;

xi. Any utility lines, sewer lines or similar installations or facilities located within a Lot, or within the boundaries of a Unit, which serve more than one Unit;

xii. Any Stormwater Facilities located at any location within the Development provided for by this Declaration;

xiii. All drives, walkways, walks, lawns, trees, shrubs and plantings located within any of the Common Areas described in Section 7 above [including but not limited to the lawns, ground cover, trees, shrubs, landscaping, driveways, walkways, sidewalks and other improvements of any kind or nature whatsoever within those portions of the Lots which are conveyed to the individual Unit Owners but are classified and described as being "Common Area" under the provisions of Section 7 above];

xiv. Any sewer lines, water lines or similar facilities or improvements located within any Common Area, as described in Section 7 above, other than those which are publicly owned, but which serve more than one Unit or Living Unit;

xv. Stormwater drains located within any Common Area or within the boundaries of any Lot or Unit, which serve more than one Lot or Unit;

xvi. Irrigation systems for all lawns and landscaping located throughout the Development, including within the Lots and Units (other than within any private courtyards or other privacy areas), and all parts and components of such systems.

xvii. Electrical lines and other utility lines located within or beneath the concrete floor slabs for any Living Units located within a Building, which serves the various Living Units located within the Building, all of which such lines and conduits shall be Common Elements, and perpetual easements for the continued location, maintenance, repair, replacements, servicing and upkeep of same and use of same being hereby established, which such easement shall run in favor of the Association and the Unit Owners of each of the Units served thereby;

xviii. All electrical boxes, control, meters and electrical facilities which will be placed on the exterior wall(s) of one or more of the Living Units located within a Building, and which provide electrical service to any other Living Unit located within the Building, it being intended that easements on exterior wall surfaces to the perpetual keeping and improvement of and maintenance, repair, replacement, use and operation of all electrical boxes, electrical meters, electrical hookup and other similar facilities of any kind which are placed on the exterior wall of any Building, and which serves more than one Living Unit within that Building, shall be and the same are hereby established, with such easements to run in favor of the entity which provides the utility service [example: the City], and in favor of the Association, and in favor of the Unit Owners of all other Units served by the facility;

ix. Controls, control boxes, electrical supplies and similar installations, for the irrigation systems which irrigate the Common Areas, and which are placed or may be placed on the exterior walls of the various Living Unit, perpetual easements for the continued location, maintenance, repair, replacement, servicing, an upkeep and use of such items being hereby established, with such easements to run in favor of the Association and with such easements and such items to be Common Elements. [Note: It is intended that controls and connections and similar items serving the irrigation system will appear on the exterior walls of certain of the Buildings, and easements for the continued location, maintenance, repair, replacement, servicing, upkeep and use of same are established, with such easements and such items to be Common Elements.]

The provisions of this Section 8 notwithstanding, however, "Common Elements" shall not include any part or portion of a Living Unit or that part of the Building which contains such Living Unit, and Common Elements, therefore, shall not include:

a. The exterior walls for such Building or any part or component of such exterior walls;

b. The gutters and downspouts;

c. Exterior decks, exterior patios, exterior porches, and exterior courtyards;

d. Exterior windows and doors or the hardware therefor;

e. The roof and roof structure and roof coverings for the Building;

f. The floor slabs or any of the foundations, footings or other structural components of the Building;

g. Any garage or carport for the Living Unit located within a Lot;

h. Private sidewalks, or parking areas, or private drives serving only the separate, individual Living Units,

with all of same to be owned by the "Unit Owner". [Note: The ownership in the individual Unit Owners of:

- The exterior walls for that part of the Building containing the Unit Owner's Dwelling Unit;

- The gutters and downspouts serving the Unit Owner's Unit;

- The roof and roof structure and roof coverings for that portion of the Building covering or serving the Unit Owner's Unit;

- The private sidewalks or parking areas or private drives serving only the separate individual Dwelling Unit of the Unit Owner,

notwithstanding, the Association shall, as hereinafter described, provide all maintenance, repairs and replacements for the Exterior Building Components hereinafter described and for Private Drive and for the driveways and walkways and sidewalks located within the Lots in front of the Buildings.]

In addition, privacy fences located throughout the Development shall be Common Elements and shall be maintained, repaired and replaced as such, but any fences which are permitted to be used to fence in rear yards of Units shall not be Common Elements unless the Board of Directors of the Association in its sole, absolute, unlimited and unfettered discretion elects to consider same as being Common Elements.

Section 9. "Declaration" means this instrument.

Section 10. "Developer" shall mean "Quail Creek Condos, LLC", a Missouri limited liability company, and shall further refer to any person or persons to whom such limited liability company, or its successors, shall assign all or any portion of its rights as the Developer under the terms of this Declaration. A conveyance by the Developer by Warranty Deed or otherwise shall not be deemed to be an assignment of any of the Developer's rights as the Developer unless such rights are specifically mentioned in such conveyance. Such rights can only be assigned by a written assignment, deed, deed of trust or other similar instrument by the Developer, which specifically refers to the rights of the Developer under this Declaration. The provisions of this Section to the contrary notwithstanding, a conveyance by the Developer of any of the Property by deed of trust or mortgage, shall be deemed to carry therewith all of the rights of the Developer, as set forth in this Declaration, with respect to the property subject to the deed of trust or mortgage, including all Architectural Control rights attributable thereto, and all Class B voting rights attributable thereto. In other words, a conveyance by the Developer by deed of trust or mortgage shall be deemed to include therein all rights of the Developer (and Class B memberships) with respect to the real estate described in such deed of trust or mortgage, which shall be subject to the lien of the deed of trust or mortgage.

Section 11. "Development" shall mean the Parcel and all Buildings and improvements located thereon, and all Lots and Units contained therein, and all Common Areas and Common Elements located therein, and all rights pertinent thereto.

Section 12. "Exterior Building Components". For purposes of this Declaration, the term "Exterior Building Components" shall mean the following parts and components of each Building, including those of the following parts and components which house or serve only a single Living Unit:

a. The exterior coverings for and exterior finishes for the exterior walls of the Building, including exterior sheeting and siding, brick, stone, painted surfaces and other finishes for the exterior surfaces of the Building and its eaves and trim; and

b. The roof shingles for, and felt below roof shingles for, and roof sheeting for the roof for the Building (meaning that all roofs shall be "Exterior Building Components") and flashings; and

c. The gutters and downspouts for the Building; and

d. Cosmetic surfaces of any private deck or porch [but only the surfaces, such as paint or stain, with the balance of same to be a "Structural Component"]; and

e. Cosmetic exterior surfaces of windows and window frames and sills, doors and door frames, and garage doors and frames, but not the glass therefor or the doors or windows themselves, or the frames therefor, or the glass therefrom or hardware therefor; and

f. The driveways and sidewalks in the front of the Building,

with "Exterior Building Components" all including all such components for garages, covered parking spaces and carports and exterior storage areas, if any. [Note: All Exterior Building Components shall be maintained, repaired, replaced and serviced by the Association; provided, however, that any such maintenance, repairs, replacements, servicing or upkeep of any Exterior Building Component which is made necessary by fault, negligence, neglect, action or failure to act or breach of duty under this Declaration of any Unit Owner or the occupants of any Unit shall be solely the responsibility of such Unit Owner of such Unit.]

"Exterior Building Components" shall not include the following "Structural Components":

a. Any structural elements or components of a Dwelling Unit which constitutes a part of a Unit, or of those parts or components of that part of the Building which house such Dwelling Unit, including floor slabs, footings, floors, subfloors, foundations, beams, columns, trusses, any other load bearing member and similar load bearing members, all of which such structural components must be maintained, repaired and replaced by the individual Unit Owner;

b. Exterior windows or doors, or the frames therefor or the hardware therefor (including garage doors, if any), or any of the parts or components of such exterior doors or windows or the frames therefor, all of which, other than the exterior cosmetic surfaces thereof, shall be maintained, repaired and replaced by the individual Unit Owners;

c. Private court yards, patios or decks, other than the cosmetic surfaces therefor, which such private patios, decks or similar items shall be Structural Components to be maintained, repaired or replaced by the Unit Owner, but the Association shall provide painting or staining therefor;

d. The trusses for and other parts of the structure for the roof, other than the shingles, felt or tar paper beneath the shingles, roof sheeting and flashings;

e. The chimneys and flues; and

f. The structural components of exterior walls, other than the exterior coverings and cladding [meaning the brick, stone and exterior sheeting].

Section 13. "Family" or "family" shall be deemed to mean an individual or married couple, and the children thereof, and no more than two other persons related directly to the individual or married couple by blood or marriage, occupying a single Living Unit with single kitchen facility. A Family may include not more than one additional person, not related to the family by blood or marriage; provided that such additional person may be provided with sleeping accommodations, but not with kitchen facilities in addition to those utilized by the family. The above provisions of this Section to the contrary notwithstanding, two unmarried adults, and their respective children, may occupy a Living Unit and shall be a "Family" or "family." Short term guests shall be permitted, and there shall be no prohibitions upon renting or leasing of Living Units. The above provisions of this Section to the contrary notwithstanding, and any of the provisions of this Declaration to the contrary notwithstanding, the term "Family" or "family" shall also include a living arrangement wherein not more than three (3) adult persons, not all of whom are related to each other by blood, marriage or

adoption, are sharing a single Living Unit as a not for profit housing arrangement. In other words, three (3) persons living together in a single Living Unit, not all of whom are related by blood, marriage or adoption to each other, shall, in addition to a "Family", as defined above, also, for purposes of this Declaration, be deemed to be a "Family." There shall be no prohibitions upon renting or leasing of Living Units. The provisions of this Section to the contrary notwithstanding, and any of the provisions of this Declaration to the contrary notwithstanding, if the provisions of the applicable zoning ordinances, as such ordinances are now in effect or as they shall, hereafter, be enacted, modified or amended or placed in effect, define a "Family", in a more restrictive manner, then the more restrictive definitions of the applicable zoning ordinances (including those hereafter put into effect) shall apply and shall define a "Family" for all purposes of this Declaration.

Section 14. "Landscaping Easements" or "Landscape Easements" or "Landscaping ESMTs" or "Landscape ESMTs" or "Sign Easements" or "Sign ESMTs" (all of such terms shall be synonymous) shall mean and refer to any Landscaping Easements, Landscaping ESMTs, Landscape Easements, Landscape ESMTs, or Sign Easements or Sign ESMTs, or Landscape and Sign Easements, or Landscape and Sign ESMTs, established by a Plat, and all land contained therein and all improvements located thereon, all of which such Easements shall be Common Elements, and shall be owned by, held by and controlled by the Association, and are established by the Plat for the benefit of the Association and for the benefit of all Lot Owners and Unit Owners. All land contained within the boundaries of any of such Easements shall be subject to the control of, and to the obligations of maintenance, repair and replacement by the Association, as hereinafter specifically described in this Declaration.

Section 15. "Limited Common Areas" means and includes those Common Areas which are reserved for the use of a certain Unit or certain Units, and the owners and occupants thereof, to the exclusion of all other Units, and the owners and occupants thereof. The Common Areas located within each Lot, as such Common Areas are described in Section 7 of this ARTICLE I, are Limited Common Areas reserved to the exclusive use of the Lot Owner/Unit Owner of the Lot and of the Living Unit located within such Lot, and the tenants thereof and the family members thereof, and the guests and invitees thereof, to the exclusion of all other Lots/Units and Lot Owners/Unit Owners and occupants of all other Lots and Units; provided, however that any driveway, walkway, sidewalk or similar improvement located within any Lot which is required for purposes of obtaining vehicular or pedestrian access to or egress from an adjacent Lot/Unit shall be a Limited Common Area/Limited Common Element reserved for the use and benefit of the Unit Owners/Lot Owners of both of the adjacent Lots/Units, and the tenants and occupants thereof and their family members, guests and invitees. Any area located within any privacy fence, private courtyard, private patio or similar private area for any Living Unit which might otherwise be considered to be Common Area shall be Limited Common Area (and all improvements located thereon shall be Limited Common Elements) reserved for the exclusive use of the Unit Owner of the Living Unit intended to be served thereby, and their tenants and family members and guests and invitees; provided that any area within any fenced in rear yard (and it is not anticipated that there will be fenced in rear yards, although the possibility for same is left) shall still be and be considered to be "Common Areas" under the provisions of this Declaration but shall be limited Common Areas, their use being limited to the occupants of the Living Unit, the rear yard of which is fenced in pursuant to the Architectural Control Powers hereinafter set forth in this Declaration.

Section 16. "Limited Common Elements" means and includes the Limited Common Areas and all improvements therein which are reserved for the use of the owners or occupants of a certain Unit or certain Units, to the exclusion of all other Units and the owners or occupants thereof.

Section 17. "Living Unit" or "Dwelling Unit" shall mean that part of a Building designed and intended as a residence for a single Family. In most cases, pairs of Lots will contain, together, a single Building, with each of such Lots containing a single Living Unit. For example, Lots 601A and 601B, as shown by the Plat of Quail Creek West Plat 6 recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri ("the Plat") will, in combination, contain a single Building, with the lot line between such two (2) Lots dividing one Living Unit from the other Living Unit contained within the Building. The Building on such Lots will contain two (2) Living Units, with one Living Unit being located on one Lot, Lot 601A, and the other Living Unit being located on the other Lot, Lot 601B, and with the lot line running through the center of the common or party wall between the two (2) Living Units. Each of the Lots will, therefore, contain a single Unit as described in this Declaration. If a Lot contains a Building which contains a single Living Unit then that Living Unit will be a part of a "Unit" as defined in this Declaration. If two (2) Lots contain a single Living Unit, meaning a Single Family House, those Lots will contain, in combination, one (1) Living Unit, and one (1) "Unit". In most cases each Building will contain two (2) Living Units, with each Living Unit (one on an "A" Lot and one on a "B" Lot) constituting a portion of a Unit and with one (1) Living Unit being located on each A Lot and one (1) Unit being located on each B Lot. In some cases a Building may contain a single Living Unit, in which case such Building will constitute a part of one "Unit". In most cases, that part of each Building which includes therein a single Living Unit will be located on one of the Lots, meaning that each Lot will contain a Building or part of a Building which contains a single Living Unit. For all purposes under this Declaration, a "Living Unit" will be a part of a "Unit". The term "Unit" means:

a. Each single Living Unit;

b. All parts and components (interior and exterior) of that Building or that part of the Building which includes such Living Unit;

c. All garages and carports for such Living Unit;

d. All private porches, patios, porticos, courtyards and similar privacy areas for such Living Unit [but not including portions of the back yards of Units which are fenced pursuant to the Architectural Control provisions of ARTICLE VIII of this Declaration, and which shall remain Common Area]; and

e. All of that part of the land located within the Lot that contains the Living Unit, which contains the items and improvements described in subparagraphs a through d above, with the remainder of the land of the Lot to be Common Area, but it shall be Limited Common Area devoted to the Living Unit.

All of such items described in a through e above (including that part of the Building which includes the Living Unit, and all Structural Components of such part of the Building, and the roof for such part of the Building and the exterior walls for such part of the Building, and all systems

within and serving the Living Unit located within such part of the building, and all of that part of the Land within the Lot which contains such items), shall be a "Unit."

Section 18. "Lot" shall mean each of the Platted Lots 601A, 601B, 602A, 602B, 603A, 603B, 604A, 604B, 605A, 605B, 606A and 606B, located within the Parcel, as shown by the Plat of Quail Creek West Plat 6 recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri and any modifications, amendment or replat of any of such Lots as shown by such Plat. It is intended that a "Lot" shall be the location of a Living Unit. Each of the Lots will, generally, contain a single Living Unit. However, a Lot will contain either:

- An entire Building, which contains a single Living Unit (example: a single family Dwelling/single family detached house) or two (2) Living Units [and any Lot which does contain two (2) Living Units shall be deemed to contain two (2) Units as defined in this Declaration, the intention being that such Lot will then be resubdivided into separate Lots or Units, each of which contains a single Living Unit]; or

- A part of a Building, which contains a single Living Unit; or

- A part of a Living Unit if a Single Family Dwelling is built across lot lines, on two (2) Lots.

In the majority of the cases, a Building will occupy two (2) Lots [an A Lot and a B Lot], with each of such Lots containing one of the Living Units within such Building. Therefore, in most cases, each Lot will contain a single "Unit", with the term "Unit" being generally described in Section 17 above and being more fully described in Section 31 below, and with all areas of the Land of each Lot located outside of the Unit on such Lot to be treated as "Common Area", even though titled in the name of the Lot Owner/Unit Owner of such Lot, although it shall be Limited Common Area. In certain limited instances a Lot may contain the entirety of a Building which contains a single Living Unit, meaning that a Lot may contain a single family dwelling/detached house, in which case the term "Unit" will be as generally described in Section 17 above and will be more fully described in Section 31 below, and all areas of the Land on such Lot located outside of the Unit on such Lot will be treated as and will be deemed to be "Common Area", even though titled in the name of the Lot Owner/Unit Owner of such Lot, although it shall be Limited Common Area. In very limited situations a Lot may contain two (2) Living Units, but the intention would then be to resubdivide such Lot into Units or separate Lots, with each containing a single Living Unit, and in any event all portions of the Lot located outside the boundaries of the "Unit(s)", as generally described in Section 17 above and as more fully described in Section 31 below shall be deemed to be and shall be treated as "Common Area", even though titled in the name of a Lot Owner/Unit Owner. In other cases, two (2) Lots may contain one (1) Living Unit and only one (1) Unit.

The provisions of this Section notwithstanding, and any provisions of this Declaration to the contrary notwithstanding, the Developer shall have the right as to any Lot owned by the Developer, without the consent of any persons whomsoever, to:

a. Change the Lot lines;

b. Subdivide Lots so as to create additional Lots or so as to create Units;

c. Combine such Lots or the Units thereon so as to reduce the number of Lots or Units;

d. Otherwise amend or change the Lot lines of such Lots;

e. Subdivide such Lots into one or more Lots or one or more Units, and/or Common Area.

In addition, the Developer reserves the right to approve of all Plats which subdivide Lots owned by others into Units and Common Area or which alter the Lot lines of such Lots owned by others, or which subdivide such Lots or which provide for the creation of additional Lots.

The Developer may not, however, change the Lot Lines or Unit Lines or boundaries of any Lot or Unit owned by a Lot Owner or Unit Owner other than the Developer, or subdivide any such Lot or Unit, or alter the Lot Lines or Unit Lines of any Lot or Unit owned by a person other than the Developer, or in any manner modify or amend the Lot Lines or Unit Lines of Lots or Units owned by persons other than the Developer, without the prior written consent of the Lot Owner or Unit Owner thereof.

The location and description of each Lot shall be fixed by the Plat (provided that the Plat may be amended in the manner hereinabove described in this Section).

If a Building is placed on two (2) Lots, and is built across the lot lines of such Lots, and:

- Such Building contains only a single Living Unit, meaning that such Building constitutes a single family home; or

- The Building contains two (2) Living Units, but the lot line does not run through the center of the common or party wall between the two (2) Living Units,

then, if the Building contains only a single Living Unit, meaning that it is a single family house, then the entirety of such Lots shall constitute a single "Lot" for all purposes under this Declaration, and the Living Unit located within such Building shall constitute a part of a single "Unit", as generally defined in Section 17 above and as more fully described in Section 31 below, and all portions of the Lots (now being treated as a single Lot) located outside of the boundaries of the Unit as defined, generally, in Section 17 above and more specifically defined in Section 31 below, shall conclusively be deemed to be and be treated as "Common Area" even though titled in the name of the Lot Owner/Unit Owner, although it shall be Limited Common Area. If the Building on such Lots contains two (2) Living Units, then, in such event, the Lots which contain such Building shall be resubdivided into new Lots by a resubdivision plat which causes the lot line between such Lots to run through the common wall/party wall which subdivides the two (2) Living Units from each other, and it is contemplated that there will be modifications/ amendments or replattings of Lots in order to accommodate the locations of the common wall/party wall/subdivision line between the Living Units in Buildings.

The above provisions notwithstanding, if for any reason a Building containing two (2) Living Units is located entirely within the boundaries of a single Lot, then such Lot shall be resubdivided into (and if not resubdivided into shall be conclusively deemed to be and treated as having been resubdivided into) two (2) Lots or Units.

In all cases, all portions of a Lot located outside the boundaries of any Unit or Units located on such Lot, as generally defined in Section 17 above and as more fully described in Section 31 below, shall be conclusively deemed to be and conclusively treated as "Common Area", for all purposes under this Declaration, as such "Common Area" is defined in Section 7 above; provided, however, that such Common Areas will be Limited Common Areas as defined in Section 15 above.

All references herein to a "Lot" shall mean only a platted portion of the Parcel which is intended to contain a Building or part of a Building, and shall not include the Lots shown by the Plats with "C" designations, which are not intended to contain Buildings but rather are Common Areas and Common Elements. For example, any Lot which has a designation or letter "C" before a number, shall be a Common Area and shall not be a "Lot". All numbered Lots followed with a "C" designation shall also be Common Areas for purposes of this Declaration and shall not be "Lots" for purposes of this Declaration.

Section 19. "Lot Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Lot. Once a Building has been completed on a Lot, and the Living Unit/Unit within such Lot is a Unit to which a Class A Membership will attach, as hereinafter described in this Declaration, the "Lot" will contain both a "Unit" and Common Area, all as described in this Declaration, and from that point forward, the "Lot Owner" of the Lot will be a "Unit Owner" of the Unit located within such Lot, and the terms "Unit Owner" and "Lot Owner" shall then be synonymous.

Section 20. "Parcel" means the entirety of the Parcel described as Lot 401 by the Plat of Quail Creek West Plat 4 recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri.

Section 21. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 22. "Plat" means the Plat of Quail Creek West Plat 6, recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri, and any modifications or amendments of the said Plat.

Section 23. "Private Street" or "Private Drive", such terms be synonymous, shall mean and refer to Fabian Drive, which is shown by the Plat, and the entryways leading from Louisville Drive, the City street, to Fabian Drive, and any parking area attached to or associated with the said Fabian Drive, other than a parking area located within the boundaries of a Lot. The said Private Street/Private Drive and all of its parts and components, including any lighting, drainage, drainways, curbs, gutters, sidewalks or walkways, shall be "Common Element" of the Development, with the Association to provide all snow and ice removal therefor and cleaning therefor and maintenance, repair and resurfacing of same.

Section 24. "Property" means all the land, property and space comprising the Parcel and all improvements and structures erected, constructed or contained therein or thereon, including any Building or Buildings, and all other buildings, and structures placed therein, and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Lot Owners and Unit Owners.

Section 25. "Record" means to record in the Office of the Recorder of Deeds of Boone County, Missouri, wherein the Property is located.

Section 26. "Residential Building" shall mean and refer to a Building containing one or two (2) Living Units, each of which shall be occupied by one (1) Family, for use by such Family as a residence and only as a residence, with each such Living Unit to be used only as a residence. Each Building located within the Development is intended to be a "Residential Building", in that each Building will contain one (1) or two (2) Living Units. Each of such Living Units will be used solely as a residence for a single Family as defined in this Declaration, which shall use the Living Unit solely for residential purposes. Therefore each Building will be a Residential Building.

Section 27. "Singular, Plural or Gender." Whenever the context so requires, the use of the plural shall include the singular and the singular the plural, and the use of any gender shall be deemed to include all genders.

Section 28. "Stormwater Facility" shall mean and refer to each of the following, which is located within the Development, at any location whatsoever, and whether located within any Lot, Unit or Common Area:

a. Any stormwater detention basin, wet or dry;

b. Any stormwater impoundment;

c. Any stormwater retention or detention facility;

d. Any ditch, swale, pipe, conduit, wet or dry stream or creek, drain, drainageway, French drain, or other stormwater flowage component, device or facility of any kind or nature whatsoever, other than the individual gutters, downspouts and downspout outlets for the individual Living Units (which shall be a part of the Unit and must be maintained and repaired and replaced by the Unit Owner of the Living Unit).

All such "Stormwater Facilities" which serve more than one Lot or Unit, wherever located, shall be Common Elements, and perpetual, irrevocable Easements for the continued location, maintenance, repair, replacement, use and upkeep of same (where placed by the original Builder of any Building, or where it exists as a part of the natural characteristics of the land itself) shall be and it is hereby established. Such Easement shall run in favor of the Association and each of the Unit Owners/Lot Owners of each Lot/Unit benefitted by or drained by such Facility, or utilizing the Facility. The Association shall maintain, repair and replace all such Stormwater Facilities, as Common Elements, whether same are located within the boundaries of any Common Area or within the boundaries of any

Unit/Lot. No Unit Owner and no Lot Owner shall interfere with the drainage of stormwater or groundwater through any Stormwater Facility.

Section 29. "Structural Components" shall mean those parts of the Buildings which are described in Section 12 of this ARTICLE I as being "Structural Components", and which are to be maintained, repaired and replaced by the Unit Owners of the Units served by such Structural Components, and shall include:

a. The trusses and rafters for the roofs and roof structures for each Living Unit/Building [provided, however, that the roof coverings themselves (meaning the shingles) and the tar paper or felt or other coverings or coatings beneath the roof surfaces (meaning beneath the shingles) and the flashings for each roof and the roof sheeting for each roof and the roof sheeting for each roof and the gutters and down spouts shall be Exterior Components and shall not be Structural Components];

b. The footings, foundations, floor slabs, columns, beams and other load bearing components of the interior and exterior walls, floors, and ceilings of and for each Living Unit/Unit/Building;

c. All parts and components of any private patio, deck or courtyard, other than the cosmetic surfaces thereof (with the cosmetic surfaces thereof to be considered to be Exterior Building Components or Exterior Components, but all other parts and components of the deck, patio or courtyard being deemed to be "Structural Components");

d. Interior and exterior doors (including garage doors), and windows, and the frames therefor and the hardware therefor, and the glass surfaces therefor and all other parts and components thereof, all of which, other than the cosmetic surfaces thereof, shall not be deemed to be "Exterior Building Components" or "Exterior Components";

e. All HVAC, heating and cooling systems, parts, components and appurtenances, wherever located;

f. Sewer lines, water lines and utility lines leading to and which service only one Dwelling Unit,

the intention being and the provisions of this Declaration requiring that the Unit Owners of the Units/Living Units served by the Structural Components shall be required to maintain, repair and replace all Structural Components of and for their Units/Living Units, whereas the Association shall provide maintenance, repairs and replacements for the Exterior Building Components described in Section 12 of this ARTICLE, subject to the provisions of this Declaration and the limitations of this Declaration.

Section 30. "Trails" or "Paths" shall mean and refer to any pedestrian and/or bicycle paths or trails shown by any Plat, or placed at any location within the Development for the common use and enjoyment of the Unit Owners of the various Units located within the Development. All pedestrian and/or bicycle paths or trails and all paths and trails, and all easements therefor, shall be Common

Elements of the Association and shall be held by the Association for the use of all Units Owners, and all Paths, Trails and other improvements located within any Path, Trail or Easement therefor, shall be Common Elements of the Association, for use by all Unit Owners.

Section 31. "Unit" shall mean and refer to a portion of a Lot which contains or is to contain that part of a Building which contains a single Living Unit, and shall also mean and include the following:

a. That part of the Building which contains the single Living Unit located within the Building, and all components, interior and exterior, structural and non-structural of such part of the Building, and all systems within and serving such part of the Building (meaning a single Living Unit) and all equipment of such systems, wherever located, and whether located within the boundaries of the Unit or Common Area. [Therefore, if a Building contains a single Living Unit, the entire Building shall be a part of the Unit. If a Building contains two Living Units, then the two separate parts of that Building, each of which contains a single Living Unit, will be a part of a "Unit", there being one Unit for each Living Unit];

b. Private patios for the Living Unit; and

c. Private courtyards for the Living Unit; and

d. Areas included within any privacy fence attached to a Living Unit [but backyards fenced with approved fences which are approved in accordance with the Architectural Control Requirements hereinafter set forth in this Declaration (it not being anticipated at this time that there will be any fenced in rear yards) shall remain Common Area]; and

e. Similar privacy areas for the Living Unit; and

f. Any private garage or carport for the Living Unit;

g. All of those parts of the Land within the Lot which contains the Living Unit, which contains (meaning those parts of the land which contain) items a through f, and only such parts of the Land within the Lot,

with all other portions of the Land of the Lot, other than the Land within the Lot containing such items a through f above, to be and to be conclusively deemed to be Common Area (whether or not designated on any Plat as Common Area, and whether or not conveyed to or titled in the name of Unit Owner or the Association) and with same conclusively being deemed to be Common Area, as defined in Section 7 of this ARTICLE I, and with same to be subject to a perpetual, irrevocable easement in the Association, running with the Land of the Lot and with the Land of all other Lots and Units, for the benefit of the Association and the Unit Owners of each and all other Units, the terms of which such easement shall be such that even if the Land is owned by the Lot Owner/Unit Owner, same shall nevertheless be and be treated as Common Area and shall be subject to all of the restrictions, covenants, provisions, duties and obligations imposed upon or provided for Common Area by this Declaration, and with all landscaping thereon, driveways thereon, parking areas thereon, walkways thereon, and other improvements located thereon (other than light fixtures controlled by switches or

controls within the Living Unit to be Common Elements, the foregoing provisions of this Section to the contrary notwithstanding, and any other provisions of this Declaration to the contrary notwithstanding, all taxes on all of the Land and improvements within each Lot shall be paid by the Lot Owner/Unit Owner.

Section 32. "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit as a "Unit" is defined in Section 31 above. A "Unit Owner" may also be a "Lot Owner," as the Unit Owner may own both a Unit and a Lot, although all parts of a Unit Owner's Lot located outside the boundaries of the Unit Owner's Unit as defined in Section 31 above shall be "Common Area," even though owned by Unit Owner/Lot Owner and even though titled in the name of the Unit Owner/Lot Owner, and the Unit Owner/Lot Owner shall have no rights thereto (as all rights with respect to same shall be vested within the Association as if same was Common Area), although the Unit Owner shall pay the real estate taxes thereon.

Once a "Unit," as defined in Section 31 above, becomes subject to a Class A Membership and to Assessment as hereinafter described in this Declaration, the Lot Owner of the Lot which contains the Unit shall be, and shall be deemed to be, and from that point forward shall be a "Unit Owner." It is therefore intended to refer to the Owner of each Lot (or of each part of a Lot which contains a single Living Unit) as "Unit Owners" for all purposes under this Declaration. In most cases, a "Lot Owner" will own a Lot that contains a single Living Unit, meaning a single Unit, and such "Lot Owner" will be a "Unit Owner". In all cases the owner of each Living Unit located within the Development shall be a "Unit Owner".

ARTICLE II
MEMBERSHIP IN THE ASSOCIATION

Every Unit Owner of a Unit which has been conveyed or rented by the Developer or its assignees, or successors in ownership, or which is used as a residence, shall automatically be a Class A Member of the Association, shall be subject to the jurisdiction of the Association, shall be subject to assessments levied by the Association under the following provisions of the Declaration, and shall be entitled to all rights and privileges of Class A membership in the Association. Class A membership in the Association shall not be optional. There shall be one (1) Class A membership attributable to each Unit. Class A membership shall automatically attach to ownership of a Unit, and ownership of a Unit shall subject the Unit Owner thereof to all duties and obligations of Class A membership, and to assessments levied by 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 (1) Class A membership in the Association appurtenant to the ownership of any Unit which is subject to assessment by the Association. Class A membership in the Association shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment by the Association. Class A membership in the Association cannot, under any circumstances, be partitioned or separated from ownership of a Unit subject to the jurisdiction of the Association. Any covenant or agreement to the contrary shall be null and void. No Unit Owner shall execute any deed, lease, mortgage or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding membership in the Association, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, 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 be the sole Class B Members of the Association. The Developer, and those to which it assigns all or any portion of its rights as the Developer under the terms of the Declaration shall become Class A Members upon and following the termination of Class B memberships as hereinafter provided in the Declaration, for each Unit in which they hold the interest required for Class A membership by this ARTICLE II. The Developer and its assignees, and successors, shall, before the termination of Class B memberships, also be Class A members for each Unit held for rental or lease purposes and for each Unit owned by them which is occupied as a residence; any Units being held for rental or lease purposes or occupied as residences being automatically deemed to be Class A Units, which are subject to assessment under the following provisions of this Declaration. Except as hereinabove specifically provided to the contrary in Section 11 of ARTICLE I of this Declaration with respect to Deeds of Trust, mortgages and security instruments executed by the Developer, rights of the Developer shall not otherwise be deemed to be assigned by any Warranty Deeds or other conveyances made or given by the Developer, unless such rights are specifically mentioned therein. Rights of the Developer, including Class B voting rights, can otherwise be assigned only by a written assignment, properly recorded, which specifically refers to the rights of the Developer hereunder, and the Class B voting rights, and assigns all or a portion of such rights. The Developer can assign all or a portion of its Class B voting rights, hereinafter set forth, to other Builders or Lot Owners who build within the Development, but such assignment shall be made solely by a specific reference in the Deed or conveyance, or by a separate written assignment which specifically refers to such rights, and is properly recorded. If any Class B voting rights are so assigned by the Developer to other Builders or Lot Owners or developers, the assignee shall be deemed to lose one (1) Class B vote for every Unit conveyed, leased or rented by him or it to another person. If a Unit is sold, leased or rented by the Developer, or any assignee of the Developer's rights hereunder, or the holder of any Class B membership rights hereunder, or if a Unit is occupied as a residence, then the Class B membership, if any, attributable to such Unit shall cease, and such Unit shall automatically have (from the date of the first sale, renting, leasing or occupancy thereof) a Class A membership attributable thereto and attached thereto, and the Unit Owner of such Unit shall become, with respect to such Unit, a Class A Member, subject to all duties, obligations, assessments, rights and privileges of Class A membership attributable to such Unit, regardless of whether such Unit Owner is the Developer or any other Class B Member. If a Unit is rented or leased by the Developer or any other Class B Member, or any assignee of any of the Developer's rights hereunder, or if a Unit is occupied as a residence, then such Unit shall be deemed to have been "conveyed", for purposes of determining the termination of Class B membership rights under the terms of ARTICLE III hereof. Notwithstanding anything to the contrary hereinabove set forth in the Declaration, in the event a Class A membership has not earlier attached to a Unit under the above provisions of this ARTICLE II, such a membership shall attach to such Unit, and the Class B membership attributable to such Unit shall terminate, if not earlier terminated, upon the earliest to occur of the following events:

a. Twelve (12) months have expired following substantial completion of the Building which contains (or is intended to contain) the Living Unit of such Unit; or

b. Twenty-four (24) months have expired following the start of work for the construction of the Building which contains or is to contain the Living Unit of such Unit; or

c. A Class A Membership has been attached to a Unit which contains a Living Unit located within the Building which contains the Living Unit of such Unit, and a period of more than six (6) months has expired following the date when such Class A membership has attached to such other Unit; or

d. The Living Unit of such Unit has been conveyed, rented or leased to someone other than the Developer or the Builder who builds the Building containing the Living Unit located on the Unit or such Living Unit has been occupied as a residence; or

e. Any Living Unit located within the Building which contains the Living Unit of such Unit has been occupied as a residence for a period of more than twelve (12) months.

ARTICLE III
VOTING RIGHTS

The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall have one (1) vote at all meetings of the Association for each Unit in which they hold the interest required for Class A membership by ARTICLE II of the Declaration. When more than one (1) person holds such an interest in any Unit, the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

Class B. The Developer, and those to which it assigns all or any portion of its rights as the Developer, under the terms of this Declaration, shall, at the outset, be entitled to fifteen (15) Class B votes; there being one (1) Class B vote attributable to each of the twelve (12) Living Units which are intended to be included within the Development if the Development is fully completed (meaning each of the twelve Living Units to be located or anticipated to be located on the twelve Lots shown by the Plat).

Class B votes and Class B memberships as to each Unit/Lot shall cease and terminate when a Class A membership attaches to such Unit/Lot, as described in ARTICLE II above. All Class B voting rights and Class B memberships, if not previously terminated, shall terminate:

i. When the Developer and the Developer's assignees of the Developer's rights as the Developer, and all Class B members, cease to own any Lot or Unit within the Parcel as it then exists, and a period of more than forty-eight (48) months has expired since the Developer and the Developer's assignees of the Developer's rights hereunder and all Class B members have last owned a Lot or Unit within the Parcel and a period of more than forty-eight (48) months has expired since the Developer last annexed any portion of the Annexation Parcel to the Development (or more than 48 months have expired since the last part of the Annexation Parcel has been so annexed to the Development); or

ii. On January 1, 2058; or

iii. The Developer so determines at an earlier date by recording, in the real estate Records of Boone County, Missouri, a written instrument evidencing such determination on the Developer's behalf.

A failure of the Developer to cast its Class B votes or to exercise any of its rights as the Developer shall not constitute a waiver of such votes or such rights. If the Developer on any occasion elects not to cast its Class B votes (and it may elect to do so if it, in its sole, absolute, unlimited and unmitigated discretion deems it appropriate to do so), and if it permits all members of the Board of the Association to be elected for any year by the Class A members of the Association (which it shall be permitted to do), it shall not, under any circumstances whatsoever, have waived its right to cast such Class B votes at any time in the future. In other words, the Developer may from time to time relinquish control of the Association by not casting its Class B votes, and then reassert such control at any later time or times of its choosing.

Automatically, on the date of termination of a Class B membership attributable to a Unit, a Class A membership shall attach thereto.

ARTICLE IV
UNITS

Section 1. Descriptions of Units and Boundaries of Units. Each Living Unit located within the Development will be located within a Building that contains one (1) or two (2) Living Units. That part of such Building which contains [the] a single Living Unit will be located within one or two of the Lots of the Development. For all purposes under this Declaration, a "Unit" consists of the following and that part of the Land within the Lot which contains the following:

a. A single Living Unit and all of its parts and components; and

b. That part of the Building which contains such Living Unit, including the entirety of the exterior walls and all exterior wall surfaces and wall coverings, the roof, the entirety of the roof structure, all roof coverings, that part of the party wall (if any) between such Living Unit and any adjacent Living Unit, to the centerline thereof (if the Living Unit is in a Building that contains two Living Units); and

c. All of the footings and foundations for [the] such part of the Building which contains the Living Unit, and any basement or floor slab for such [part of] the Building, all other structural components of [such part of] the Building, and all other parts and components of [such part of] the Building which contains the Living Unit, of every kind, nature and description whatsoever, including but not limited to any fixtures attached to [such part of] the Building, and including fixtures or attachments attached to the exterior walls of [such part of] the Building, and all systems (example: HVAC systems, air conditioning systems, cooling systems, electrical systems, plumbing systems and sewer systems) within such [part of the] Building or serving the Living Unit, wherever located, and all parts, components, equipment and appliances of such systems, whether same shall be located within the boundaries of the Unit or the Common Areas as described herein; and

d. Any private garage or carport for such Living Unit; and

e. Any private, courtyard, private patio, porch or portico for such Living Unit and all parts and components thereof; and

f. Any area located within any privacy fence, which fences a privacy area accessible only from such Living Unit [but not including areas within fenced in rear yards which shall remain Common Area]; and

g. Any other privacy area for such Living Unit,

with all other portions of the Land located within the Lot that contains the Living Unit, and which such Lot is conveyed to the Unit Owner, while being titled in the name of the Unit Owner, to be and to conclusively be considered to be and conclusively treated as Common Area, as described in Section 7 of ARTICLE I of this Declaration.

The above provisions of this Section notwithstanding, however, any Common Area located within a Lot, and any driveway, walkway or similar improvement located within the boundaries of a Lot which lead to and serve only the Living Unit located within such Lot, shall be "Limited Common Areas" and "Limited Common Elements," being restricted to the use of the Unit Owner of the Living Unit, and such Unit Owner's tenants and their respective family members, guests and invitees. Any driveways or walkways which serve two (2) Living Units, located in two adjacent Lots, shall be "Limited Common Elements," limited to use by the Unit Owners of the adjacent Living Units, and their tenants and lessees, and their respective family members, guests and invitees.

Therefore, even though a Unit Owner may be the titled owner, and the grantee of a conveyance of, the entirety of the Land located within a Lot, and even though the Unit Owner shall pay real estate taxes on the entirety of the Lot conveyed to the Unit Owner, all of the Land of the Lot, other than the Land which contains the items of the "Unit" as hereinabove described in this Section, shall be "Common Area," and shall be treated as if owned by the Association and shall be subject to a perpetual, irrevocable easement in favor of the Association, the terms of which shall be that such portion of the Land shall be, for all intents and purposes, treated as Common Area, and shall be subject to all characteristics of, burdens upon, and restrictions upon Common Area as described in this Declaration, although same shall be a Limited Common Area.

Any description of a Lot or Unit shall be deemed to include and to convey, transfer, encumber or otherwise affect the Unit Owner's corresponding membership in the Association, even though same is not expressly mentioned or described therein. Ownership of a Lot or Unit and of the Owner's corresponding membership in the Association shall not be separated, nor shall any Lot or Unit, by deed, plat, court decree or otherwise, be subdivided, or in any other manner separated into tracts or parcels smaller than the whole Lot or Unit. No Lot Owner or Unit Owner (and such terms shall be synonymous, in that the Owner of a Lot which contains a Unit to which a Class A membership has attached shall be both a "Lot Owner" and a "Unit Owner") shall, by deed, plat, lease or otherwise subdivide or in any other manner, cause his Unit or Lot to be separated into any tracts or Parcels smaller then the whole Unit or Lot. Nothing contained herein, however, shall prevent partition of a Lot or Unit as between co-owners thereof, if such right of partition shall otherwise be available, but such partition shall not be in kind.

No Unit Owner shall own any sewers, pipes, wires, conduits, or utility lines, contained on, within, or beneath his Lot or Unit, which serve any Lot or Unit, or Lots or Units, or any Living Unit or Living Units in addition to his Unit, as such items, if not publicly owned, shall be deemed to be a part of the Common Elements.

Any driveways, sewer lines, electrical lines, water lines, or other utility lines or equipment, contained within the Parcel, or which make up a part of the Property (including those within the boundary lines of any Lot or Unit), other than those publicly owned, which service more than one Unit, shall be deemed to be a part of the Common Elements, and shall be owned by the Association for the benefit of the Unit Owners served by such driveways, sewer lines, water lines, electrical lines and utility lines, and the Unit Owners of any Units within the boundary lines of which any such driveway, sewer line, water line, electrical line and utility line or related facilities or equipment shall be located shall be required to afford access, at any reasonable time, to the Association for the purposes of performing necessary maintenance or repairs upon or replacements of such driveways, utility lines, or equipment.

The provisions of this ARTICLE IV are not, however, intended to provide that individual "customer service lines" or "laterals", or sewage lines, water lines or other utility lines which service only one Unit shall be made a part of the Common Elements, as such lines (regardless of whether located within the boundary lines of Units or the Common Areas) shall be deemed to be owned by the individual Unit Owners of the Units serviced thereby, who shall be required to repair, maintain and replace same, at their sole expense, and, in the event, utility lines or sewer lines or facilities serving another Lot, Unit or Living Unit are located within the boundary lines of a Lot or Unit other than the Unit or Lot so served thereby, the Lot or Unit upon which or within which same are located shall be imposed with an easement in favor of the Unit Owners of all Units, Lots and Living Units served thereby, for the continued location, maintenance, servicing and repair thereof, and the Owners of the Lot or Unit occupied by same, shall be required to afford access to the Owners of the Lots, Units or Living Units served thereby, at all reasonable times for the purposes of performing necessary maintenance, repair or replacement of such utility lines, facilities or equipment.

Each Unit or Lot, within the boundary lines of which a driveway or sewer line, water line, electrical line, cable television line, gas line, or other utility line servicing more than one Unit, or servicing another Unit, exists, or within the boundary lines of which a stormwater drain, stormwater flowage, or stormwater passageway or groundwater passageway or Stormwater Facility servicing more than one Unit, Living Unit or Lot, or servicing another Lot, Unit or Living Unit, exists, shall be and is hereby imposed with a perpetual, irrevocable easement, running with the Lot or Unit, and running in favor of the Association, and in favor of each of the Units, Lots or Living Units served by such driveway or such lines, drainageways, Stormwater Facilities, drainways or other facilities, for the continued location, use, maintenance, repair, replacement, servicing, improvement and upkeep of same, and for purposes of affording the Association and the Unit Owners of each of the Lots or Units served thereby access to maintain, repair or replace such line, lines, drains, drainways or other such Stormwater Facilities; provided that the Association or the Unit Owners performing the maintenance, repair or replacements, or causing same to be performed or on whose behalf same are performed, shall be liable for all damage and disruption of the Unit or Lot caused by same, and shall promptly restore same to its previously existing condition.

The provisions of this Section or Canada any other provisions of this Declaration to the contrary notwithstanding, the Association shall provide all snow and ice removal for and maintenance and repairs for all drives, the Private Drive, driveways and all sidewalks and walkways, located in the fronts of the Building.

Any provisions of this Declaration to the contrary notwithstanding, if a fence serving a Living Unit is placed within the Lot that contains the Living Unit after approval pursuant to the Architectural Control provisions of ARTICLE VIII of this Declaration, then such fence shall not be a Common Element, but rather shall be deemed to be and shall constitute a part of the Unit, and the fence must be painted by, repaired and replaced by, and maintained by the Unit Owner of the Living Unit unless the Board elects to have same be a Common Element. Fences may not be installed except in compliance with the Architectural Control provisions of this Declaration.

Section 2. Further Descriptions of Units/Zero Lot Line Units. The boundary lines of the Unit on a Lot are, as described in Section 1 of this ARTICLE, intended to be established on a "Zero Lot Line" concept, even though the Units are not separated from the Common Areas within the Lot by a resubdivision plat which resubdivides the Lot into a Unit and Common Area. Each Unit will include and is intended to include within the boundary lines of such Unit the entirety of that part of the Building which contains a single Living Unit (including the exterior walls of or that part of the Building which house the Living Unit), and all private garages, private carports, private courtyards, private patios, privacy areas which are accessed solely from the Living Unit, and similar privacy areas. Such boundary lines may or may not be established by a replat of the Lot identifying the Unit and Common Area. Even in the absence of such a replat, all areas outside of the Unit as identified in Section 1 above and in this Section 2 shall be Common Area.

Section 3. Resubdivision. Any provisions of this Declaration to the contrary notwithstanding, the Developer reserves the right to subdivide Lots, to amend Lot lines, to change Lot lines, to alter Lot lines, to replat the Lot, to subdivide a Lot into a Unit and Common Area, and to otherwise amend the Plat or any Plat as to land owned by the Developer, but not as to land owned by any other person or party. No party other than the Developer shall have the right to subdivide any Lot, or amend lot lines, or to subdivide a Lot into a Unit or Common Area, unless the resubdivision, subdivision or other changes in any Plat shall be approved in accordance with the Architectural Control Provisions of ARTICLE VIII of this Declaration.

Section 4. All Areas Outside of Boundaries of Building and Privacy Areas Are Common Areas, Whether or Not Owned by the Association. As hereinabove stated in this Declaration, all portions of each of Lots located on the outside of (to the exterior of):

i. The exterior walls of the Building, or that part of a Building located on such Lot, and

ii. Any private garage(s), private carport(s) or other covered, private parking area(s) located on such Lot, intended to serving any Living Unit(s) located within the boundaries of such Lot, and

iii. Any private courtyards, private patios, private decks and similar privacy areas for any Living Unit located within such Lot,

[with all of the items described in subparagraphs i, ii and iii above, and that part of the Land of such Lot which contains such items to be a part of a "Unit" or of the Units located within such Lot]

shall be, and shall be conclusively treated as, Common Area, and shall be deemed to be owned by the Association and shall be treated as if owned by and as if having been conveyed to the Association (whether or not actually owned by the Association or being conveyed to the Association); provided, however, that if a Lot is resubdivided by resubdivision Plat into a Unit or Units and Common Area, it is absolutely required (without exception) that such Common Area be conveyed to the Association, free and clear of all liens, deeds of trust and encumbrances, and such requirement shall be mandatory and not optional. Under no circumstances shall areas within a Lot located outside of the exterior walls of the Building or part of a Building located on such Lot, and outside of the private courtyards, private patios, private decks, porticos and similar privacy areas located within such Lot be treated as if owned by the Unit Owner(s) of the Living Unit(s) located within such Lot even if such Unit Owner(s) acquire(s) and retain(s) legal title to same. The provisions of this Section 4 and any other provisions of this Declaration to the contrary notwithstanding:

a. The Association shall provide snow and ice removal for, and repairs and resurfacings of all driveways, drives and sidewalks located in the front yards or in front of the Living Units, meaning between the Living Units and the Private Drive; and

b. If the rear yard of any Living Unit is fenced in (and same can be fenced in only by a fence approved pursuant to the Architectural Control Provisions of ARTICLE VIII of this Declaration), then the area within such fence shall nevertheless be Common Area, although it shall be Limited Common Area, limited to the use of the occupants of such Living Unit, and the Unit Owner of such Living Unit shall be deemed to be and shall the owner of such fence, which shall be included as a part of the Unit and not the Common Elements (unless the Board elects otherwise), and shall be required to provide all maintenance, repairs, repainting and replacement of such fence; and

c. All heat pumps, air conditioning compressors and any similar equipment or facilities which serve each Living Unit shall be a part of the Unit, whether located within the boundaries of the Unit or the Common Area, and must be maintained, repaired and replaced by the Unit Owner of the Living Unit served thereby and not by the Association, and such items shall be "Common Elements"" and

d. If sewer lines, water lines or other utility lines are located within the boundaries of any Lot or Unit and same serve more than one Lot or Unit, then, while same shall be treated as if a part of the Common Elements, the cost of maintenance, repair and replacement of same must be paid, equally, by the Unit Owners of the Living Units served thereby, and the Association and the Unit Owners of each of such Units, and their designees and contractors, shall have easements over each Lot and Unit for purposes of performing maintenance, repairs, replacements and servicing of such components, as required; and

e. Any sewer line lateral, water line lateral, electrical line lateral or similar utility facility which serves only a single Living Unit shall be a part of the Unit which contains the Living Unit and must be maintained, repaired and replaced by the Unit Owner of such Unit.

Section 5. Sprinkler System and Irrigation System, and Entry Signs, Entryway Signs, Entryway Monuments and Landscaping, Lighting, and Components Therefor. Any provisions of this ARTICLE IV or of this Declaration of the contrary notwithstanding, all pipes, sprinkler heads, controls and other components, appliances and equipment of any irrigation systems installed within the Development by the Developer or the Association shall be a Common Element, whether located within the Common Area or any Unit, and any portion of any Lot or Unit occupied by any such component of such sprinkler system/irrigation system shall be imposed with a perpetual easement in favor of the Association, and the Lot and Unit shall be imposed with an easement in favor of the Association, so that the Association and its contractors and designees may enter upon the Lot and Unit for using, maintaining, repairing and replacing the sprinkler system/irrigation system and each part and component thereof. Any entry signs or monuments for the Development, and all landscaping, lighting and components of same shall be Common Elements, and a perpetual easement for the location, repair, keeping, maintenance and location of same shall be held by the Association.

Section 6. Stormwater Facilities. Easements for Stormwater Facilities, as described in Section 27 of ARTICLE I of this Declaration, are hereby established within each Common Area, Lot and Unit within which any such Stormwater Facility now or hereafter exists or is hereafter placed.

Section 7. Fences. The Developer may install, or may permit Builders to install or may permit Unit Owners to install (or the party holding Architectural Control powers under ARTICLE VIII of this Declaration may permit Unit Owners to install) fences for the rear yards of various Living Units. Any such fence must, however, be installed after full compliance with the Architectural Control provisions of ARTICLE VIII of this Declaration. Once the Developer's Architectural Control Powers have ended fences may be installed only after full compliance with the Architectural Control Provisions of ARTICLE VIII of this Declaration. Under no circumstances shall be provisions of ARTICLE VIII of this Declaration ever be deemed to be waived as to fences, and the Developer so long as the Developer retains the Architectural Control Powers and thereafter the Association's Board or its Architectural Control Committee shall at all times, and under all circumstances, have full and complete power and authority to approve or disapprove fences. Fences shall not be installed in the front yards of any Unit or Lot. It is not anticipated that fences will be permitted to be installed within the rear yards, but the Developer or the Board of Directors or its Architectural Control Committee shall have the latitude, if and only if it in its sole, absolute, unlimited and unmitigated and unfettered discretion finds it appropriate to do so, to permit fences so as to fence in rear yards of Units/Living Units, but all such fences shall be of a type, color, finish and quality which is approved in accordance with the Architectural Control Powers of this Declaration. Even though an area of a rear yard may be fenced in it shall nevertheless remain Common Area for all other purposes under this Declaration, although it shall be Limited Common Area, allocated only to the use of the Occupants of the Living Unit, the rear yard for which is fenced in. If fences are permitted to be installed then the Board of Directors of the Association shall have the power and authority to consider all such fences to be Common Elements, to be owned, maintained, repaired and replaced by the Association as such (any provisions of this Declaration to the contrary notwithstanding), or to require that each fence be owned by, and be maintained, repaired and replaced by, and painted and resurfaced by the Unit Owners of the Living

Units, the rear yards for which are fenced and which event the Unit Owner shall be required to keep the fences in good and sightly repair and condition and in good repair and condition at all times, at their sole expense.

ARTICLE V
THE ASSOCIATION

Section 1. Formation. The Developer, upon the sale of one or more Units, shall cause to be incorporated, a not-for-profit corporation under the laws of the State of Missouri, to be called the "Quail Creek Townhomes Owners' Association", or a name similar thereto (as shall be available through the office of the Secretary of State of the State of Missouri). The responsibility of the Association shall be more fully described by the following terms of the Declaration. Upon the formation of such Association, every Unit Owner then holding or thereafter acquiring an interest in a Unit required for Class A membership under the terms of ARTICLE II of the Declaration shall automatically become a Class A Member therein, and the Developer and its assignees shall hold those Class B membership rights hereinabove provided for by the Declaration. A Unit Owner's Class A membership shall terminate upon the sale or other disposition by such Unit Owner of his Unit Ownership at which time the new Unit Owner shall automatically become a Class A Member of the Association. Membership in the Association is not optional. When a Unit Owner acquires ownership of a Unit, such Unit Owner shall automatically become a Class A member of the Association, and shall automatically be subject to assessment by the Association as hereinafter provided for in this Declaration.

Section 2. Articles of Incorporation and By-Laws. The Association shall have as its Articles of Incorporation and By-Laws such Articles and By-Laws as are attached hereto as **Exhibit A** and **Exhibit B** respectively. Such Exhibits are incorporated herein by reference.

Section 3. Administration. The Development shall be administered by the Association, which, in turn, shall be managed by a Board of Directors elected and constituted as hereinafter provided in this Article. The Board of Directors shall have general responsibility to administer the Development, approve the annual budget of the Association, provide for the collection of annual, special, monthly or other assessments from Members, and arrange and direct or contract for the management of the Development and otherwise administer with respect to any matter generally pertaining to enhancing, maintaining, benefitting and promoting the Development.

Section 4. Board of Directors. The Board of Directors of the Association shall consist of three (3) or five (5) or seven (7) (or some other odd number of) individual, natural persons, as the Board of Directors shall (prior to each Annual Meeting) from time-to-time finds to be appropriate. The members of the first Board of Directors of the Association, as named in the Association's Articles of Incorporation, shall serve until the first annual meeting of the members of the Association, and until their successors are duly elected and qualified. Thereafter, so long as there are Class B voting rights in existence, a majority such Directors shall be natural persons (who need not be Unit Owners) elected by the Class B Members, and the remaining Director or Directors, as the case may be, shall be (a) natural person(s), holding (an) ownership interest(s) in (a) Unit(s) (other than the Developer, and those to which it has assigned all or any portions of its rights as the Developer) elected by the Class A Members of the Association. After all Class B voting rights have ceased to exist, the Board of

Directors shall consist of three (3) or seven (7) (or some other odd number of) natural persons, as determined by the Board of Directors from time to time, who shall be holders of ownership interests in Units, elected by the members of the Association. The Directors shall be elected in that manner, and for those terms, specified by the By-Laws, except as hereinabove provided to the contrary.

Section 5. General Powers and Duties of the Association. The Association, for the benefit of all Unit Owners and their lessees, shall provide for, and shall acquire and shall pay for out of the maintenance fund hereinafter provided for, the following:

a. Providing waste removal, electricity and telephone and other necessary utility service for the Common Elements and Common Area, excluding that for light fixtures or other electrical fixtures, the electrical current for which are provided by the electrical system for a Living Unit, or which are controlled from switches or other controls located within a Living Unit;

b. Obtaining and maintaining a policy or policies insuring the Association, its members, and its Board of Directors against any liability to any persons, including Unit Owners or their invitees or tenants, instant to the ownership and/or use of the Common Area or Common Elements, the liability under which insurance shall be of the limits determined by the Association's Board of Directors, but shall never be less than Two Million Dollars ($2,000,000.00) single limit coverage, for injuries to or death of any one person or for injuries or deaths arising out of any one occurrence. [Such limits shall be reviewed annually by the Association's Board of Directors and may be increased in its discretion. Such insurance shall be payable to the Association in trust for the benefit of the Unit Owners. The Association shall also obtain Worker's Compensation Insurance to the extent necessary to comply with any applicable laws.];

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

d. When the Association's Board of Directors, in its sole and absolute discretion, deems it advisable to do so, retaining the services of a professional manager or management firm or managing agent to fulfill the Association's obligations, and to retain the services of such accountants, attorneys, employees and other persons as the Association's Board of Directors shall, in its sole and absolute discretion, deem necessary in order to discharge the Association's duties. [The designation and removal of personnel necessary to discharge, the Association's obligations for the maintenance, repair and replacement of the Common Elements shall be made by the Association's Board of Directors, or as they direct the manager, or management firm, if one is employed, or the managing agent, if one is employed. The Association's Board of Directors shall have the sole and absolute discretion to retain such a manager, management firm or managing agent. (Notwithstanding anything to the contrary hereinabove set forth in this subpart d of this Section 5, or at any other location in this Declaration, any management contract entered into with any manager, management firm or managing agent prior to the termination of Class B voting rights hereunder shall not, in any event, have a term exceeding five (5) years, or extending beyond the date of termination of Class B voting rights as hereinabove provided for, whichever would provide the shorter term. The Association or its Board of Directors shall not delegate any of its responsibilities for a term exceeding five (5) years, or

extending beyond the termination of Class B voting rights, prior to the conclusion of Class B voting rights, and shall not, prior to the termination of such Class B voting rights, employ any professional manager, managing agent or management firm for a term exceeding five (5) years, or extending beyond the termination date of Class B voting rights, whichever shall provide for the shorter term.) Any delegation by the Board of Directors of any of its duties, powers or functions to a manager or managing agent must be revocable upon no more than six (6) months written notice from the Association.]:

e. Providing for the cutting of all grass within the Property, other than that located within any privacy fences or courtyards, and for the irrigation of all lawns, trees and shrubbery and the like within the Property, other than those located within the boundaries of any privacy fences or courtyards or privacy areas and for the landscaping, gardening, maintenance and replacement of all lawns, trees, shrubbery and landscaping within the Development and the Property (provided that all gardening, landscaping, mowing, fertilization, irrigation and servicing of lawns and landscaping within private courtyards or within privacy fences or similar areas shall be performed by the Unit Owner at the Unit Owner's expense), and maintaining and providing cleaning and snow removal for, and maintenance, repairs and resurfacings of:

i. The Private Street and associated parking areas and entryways to the Private Street from Louisville Drive;

ii. All driveways, drives and sidewalks and walkways located in the fronts of the Living Units, meaning between the Buildings and the Private Drive/Fabian Drive;

f. Providing for all maintenance, repairs and replacements of and for the Exterior Building Components as described in ARTICLE IX of this Declaration;

g. Obtaining and paying for any fire and casualty insurance or other insurance which the Association is required to obtain or elects to obtain (through its Board) in accordance with the provisions of ARTICLE XIII of this Declaration;

h. Establishing reasonable rules and regulations governing parking on all streets (including public streets) within the Parcel, including the Private Drive, and all driveways within the Parcel, and reasonable rules and regulations governing all roads, driveways, parking areas, sidewalks and walkways within the Property and the Parcel, and reasonable rules and regulations governing the Common Areas and Common Elements so as to provide reasonable protection for the rights and privacy of all Unit Owners, in the use and enjoyment of their Units and any parking areas or Common Areas or Common Elements intended for the sole use and enjoyment of owners of any particular Unit;

i. Obtaining, providing and paying for any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of this Declaration, including the Association's Bylaw, or by law or which in the Association's opinion shall be necessary or proper for the maintenance and operation of the Development as a first class development or for the enforcement of any restrictions set forth in the Declaration; in obtaining and providing and paying for the materials, supplies, furniture, services, maintenance, repairs and other items which the Association is to provide

under ARTICLE IX of this Declaration and the insurance which the Association is required to provide or elects to provide under ARTICLE XIII of this Declaration;

j. Paying any amount necessary to discharge any mechanic's lien or other encumbrances levied against the entire Property or any part thereof which may, in the opinion of the Association's Board of Directors, constitute a lien against the Property or against the Common Elements, or more than one (1) Unit, rather than merely against the interests of a particular Unit Owner; provided, however, that there shall not be paid from the Maintenance Fund, by reason of the provisions of this subparagraph j, any sums due from the Developer, or by reason of any improvements contracted for by the Developer. [When one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the costs of discharging the lien and any costs incurred by the Association and its Board of Directors by reason of the lien or liens shall be specially assessed to said Unit Owners and shall constitute a lien against the Units owned by the Unit Owners, and shall be enforceable as described in ARTICLE VI of this Declaration.];

k. Providing for the payment of taxes and assessments, general and special, levied against or by reason of the Common Areas and Common Elements, other than those titled in the names of Unit Owners;

l. Enforcing those provisions hereinafter set forth in this Declaration (including but not limited to ARTICLE IX of this Declaration) which require that the Owners of each Unit located within the Development repair, maintain and replace certain portions of their Units, and the improvements attributable thereto, or located thereon;

m. Providing for the maintenance, repair or replacement of any of the components of the interiors or exteriors of any Living Unit/Unit or Building, or any privacy area, patio, deck or similar privacy area or any equipment for or serving any Unit, which the Unit Owner or Unit Owners of any Living Unit(s) would otherwise be required to maintain, repair or replace under the provisions of ARTICLE IX of this Declaration or otherwise under the provisions of this Declaration; and to have the rights to enter the Living Units for purposes of performing such maintenance, repairs or replacements at reasonable times and upon reasonable notice if the Unit Owner or Owners of the Units responsible therefor have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Association's Board of Directors; provided, however, that no such written notice shall be required in the case of an emergency; and provided further, however, that the Board of Directors shall levy a special individual Unit assessment against the Units responsible therefor, and the Unit Owner or Owners thereof, for the cost of the maintenance or repairs, which shall constitute a lien upon the Units and their improvements, and be enforceable pursuant to ARTICLE VI;

n. Providing for the maintenance, repair and replacement of any roofs, gutters, down spouts, exterior walls or exterior surfaces, or other improvements for any Buildings which the Association is to provide under ARTICLE IX of this Declaration;

o. Entering into agreements, contracts, undertakings or understandings with the Owners of any Units, or with the Owners of certain Units, collectively, to perform or to cause to be performed, on behalf of such Owner or Owners any maintenance, repair, servicing or upkeep for which

such Owner or Owners would otherwise be responsible in accordance with the following provisions of this Declaration; provided, however, that the entire cost of same shall be immediately paid by such Owner or Owners to the Association, and shall be the responsibility of such Owner or Owners;

p. Maintaining, repairing, replacing, operating and keeping in place any Stormwater Facilities;

Section 6. Entry Into Units. The Association, or its agents, or its Directors, shall be specifically authorized to enter into any Unit, or any Living Unit or any Building located on any Unit or any part of any Building located on any Unit or any privacy area or courtyard of any Unit, for purposes of performing any maintenance, repairs, construction or reconstruction which the Association is authorized to provide, or is required to provide under any of the provisions of this Declaration, including but not limited to those of ARTICLE IX of this Declaration. The Association or its agents or directors or employees, contractors or designees shall not, however, enter into any Living Unit unless such entry is reasonably necessary and required in order for the Association, or its agents or its directors, to perform any maintenance, repair, replacement, construction or reconstruction, which the Association or its Board of Directors or its agents are authorized to perform pursuant to the provisions of this Declaration or are required to perform pursuant to the provisions of this Declaration. The Association or its directors or its agents, contractors or employees shall be required to give to the Unit Owner of any Unit reasonable notice of the intention to enter the Living Unit, except in the case of an emergency. The Association and its directors and its agents and contractors shall have an easement over each Unit and Living Unit for purposes of the entries authorized by this Section 6, but the rights of entry must be exercised reasonably and only in the event of reasonable necessity and then only after reasonable notice, except in the case of an emergency.

Section 7. Limitation Upon Power of Association and Board of Directors. The powers of the Association and its Board of Directors 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 any improvements which have been damaged or which reasonably require replacement for any reason) having a total cost in excess of Twenty Thousand Dollars ($20,000.00), nor shall the Association or its Board of Directors authorize any structural alterations, capital additions to, or capital improvements to the Common Elements requiring an expenditure in excess of Twenty Thousand Dollars ($20,000.00), without in each case obtaining the prior approval of a majority of the Class A Members and obtaining the written approval or waiver of any mortgagee holding any deed of trust on at least three (3) Units, provided any such mortgagee notifies the Association's Board of Directors of its ownership and desire to have the right to so approve. The above provisions of this Section 7 to the contrary notwithstanding, the Board of Directors of the Association shall have no power or authority whatsoever to make payment for any improvement located within the Development which the Developer shall cause to be placed within the Development. The responsibility for erecting within the Development all improvements shown by the Plans for the Development, or any portion of the plans for the Development, shall be placed upon the Developer, and not the Association.

Section 8. Rules and Regulations. A majority of the Association's Board of Directors may adopt and amend administrative rules and regulations and such reasonable rules and regulations, which are not inconsistent with this Declaration, as it may deem advisable for the use, operation,

maintenance, conservation and beautification of the Common Elements, and areas of Units located on the outsides of Buildings located on the Units and the exteriors of Buildings located on the Units and for the health, comfort, safety and general welfare of the Unit Owners and occupants of Buildings located on the Units.

Section 9. Active Business. Nothing hereinabove contained shall be construed to give the Association or its Board of Directors authority to conduct an active business for profit on behalf of the Association or the Unit Owners or any of them.

ARTICLE VI
ASSESSMENT - MAINTENANCE FUND

Each of the Units (and the Unit Owners of each of the Units) shall be subject to assessments as follows, and the Units themselves shall be subject to liens for assessments in the enforcement of assessments as follows:

Section 1. Creation of a Lien and Personal Obligation for Assessments. The Developer, for each Lot of the Development, and for each Unit contained therein, and for each Lot and Unit now or hereafter owned by the Developer (including those hereafter annexed to the Development), or the Developer's assignees within the Parcel and the Property, and for each Unit now or hereafter contained within the Development, and for all present and future Unit Owners of such Units, hereby agrees, and each Owner of any Unit by acceptance of a deed therefor, 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) Initial Assessments hereinafter described; (2) annual assessments or charges hereinafter described; (3) special assessments for capital improvements hereinafter described; (4) special assessments for tax bills or public improvements, hereinafter provided for; (5) special assessments for replacement or nonperiodic maintenance hereinafter provided for; (6) special assessments for repair or replacement or maintenance to be done by Unit Owners, as hereinafter provided for; (7) assessments for insurance premiums hereinafter described; (8) any other sums or assessments provided for in this Declaration; and (9) fines and assessments as provided for by Section 20 of ARTICLE XII of this Declaration. Such sums and assessments to be fixed, established and collected from time to time as hereinafter provided. All such Initial Assessments and annual and special assessments, and other sums and assessments, together with such interest thereon and costs of collection thereof as may be hereinafter provided for, shall be a charge on the Units, and shall be a continuing lien upon the Units against which each such assessment or charge is made. Each such assessment or charge shall also be the joint and several personal obligation of the person or persons who were the Owners of such Unit at the time when the assessment fell due. The personal obligation shall not pass to such Owner's successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively by the Association to discharge its duties and obligations as provided for by this Declaration, and for purposes of promoting the health, safety and welfare of the Unit Owners and residents of the Development, and, in particular, for the providing of any insurance which the Association is to provide pursuant to this Declaration and for the performance of the Association's duties and obligations for the improvement and maintenance of the Property as described in this

Declaration, and for the maintenance of the Common Areas and Common Elements and the Exterior Building Components, and the services and facilities related to the use and enjoyment of the Common Area and Common Elements, and of the Buildings situated upon the Lots and Units, as required by the provisions of the Declaration, including but not limited to, the payment of taxes and insurance on the Common Area and Common Elements, repairs to, maintenance of, replacement of and additions to the Buildings located on the Lots and Units and the Units as required or permitted by the terms and conditions of the Declaration, and for the cost of labor, equipment, materials, management and supervision of the Common Area and Common Elements, and for the maintenance, repair and services listed in ARTICLE V and IX hereof, as required by such Articles.

Section 3. Maintenance Fund. The Initial Assessments, annual assessments or charges and special assessments established and collected under the terms of this Article shall constitute a fund to be known as the "Maintenance Fund". The Initial Assessments described in Section 4 below are intended to be used by the Board to establish a reserve for:

a. Maintenance, repairs and replacements of Exterior Building Components;

b. Contingencies and emergencies;

c. Other cash shortages which are not reasonably anticipated;

d. The replacements of items of the Common Elements which may from time to time require replacements.

The intention is, therefore, that the Initial Assessments will be deposited in and maintained in a separate "Reserve Fund", although the Board of Directors, if it in the exercise of its discretion finds it appropriate to do so, shall not be obligated to maintain such Reserve Fund and may commingle the Initial Assessments with the other assessments in the Maintenance Fund. To the extent reasonably practicable any Reserve Funds shall be deposited in money market accounts, certificates of deposit or other conservative investments, which generate a reasonable, if conservative or moderate, rate of return, in order that the Association may reasonably attempt to build up its reserves. If and when any Reserve Fund is depleted, or is reduced to a level below the level which the Board of Directors, in its discretion, reasonably finds to be acceptable, then the Board of Directors may then impose an additional Special Assessment on all Units within the Development, which shall be imposed upon all Units, regardless of the Owner thereof (including Units owned by the Developer, or any other Class B Member, or any Builder or any assignee of any Class B memberships hereunder), which shall be used to build up or replace the Reserve Fund. The intention is that the Board of Directors shall have the power and authority to maintain such reasonable reserves or Reserve Fund as if, in its discretion, shall from time to time find to be appropriate, taking into account the duties and obligations of the Association under this Declaration, and other relevant circumstances, facts and matters, as the Board finds to be appropriate for its consideration.

Section 4. Initial Assessment. When the first of the following events or dates shall occur as to each Unit within the Development, such Unit and the Unit Owner of such Unit shall become subject to an Initial Assessment in the sum of Five Hundred Dollars ($500.00), which shall be immediately remitted by the Unit Owner to the Association:

a. Such Unit is first conveyed by the Developer, or another Class B Member, or an assignee of the Developer's right or the rights of a Class B Member, or a Building, to a Unit Owner other than the Developer, another Class B Member, an assignee of the Developer or another Class B Member, or a Builder (meaning that the Unit is first sold and conveyed to such a Unit Owner other than the Developer or another Class B Member, or a Builder or such an assignee); or

b. The Dwelling Unit for such Unit is completed, and such Unit and such Dwelling Unit are made available for renting or leasing purposes by the Unit Owner thereof, whether the Unit Owner is a Unit Owner other than the Developer or another Class B Member or a Building, or is, in fact, the Developer, another Class B Member or a Building; or

c. The Unit is first used or occupied as a Dwelling Unit or residence.

Each Unit within the Development shall, therefore, become subject to an Initial Assessment in the sum of Five Hundred Dollars ($500.00) upon the occurrence of the earliest to occur of the dates or events set forth above in this Section 4. Each Unit and the Unit Owner of each Unit shall be subject only to one (1) Initial Assessment. Once an Initial Assessment has been paid for a Unit that Unit and its Unit Owner and future Unit Owner shall not be subject to additional Initial Assessments. Initial Assessments may be increased by the Board of the Association, from time to time, for Units as to which Initial Assessments have not been previously paid, and as shall be reasonably required for the purposes of the Initial Assessment as described in Section 3 above of this ARTICLE. While Units are subject only to one (1) Initial Assessment, they may become subject to subsequent special assessments or additions or surcharges on annual assessments or increased amounts of annual assessments, as required to maintain reserves or establish reserves, and as generally described in Section 3 above. Although a Unit shall be subject to an Initial Assessment during a calendar year, it shall nevertheless be subject to annual assessments for such calendar year as described in Section 5 below, although the sum of the annual assessment upon a Unit which becomes subject to an Initial Assessment during a calendar year shall be prorated effective as of the date when the Unit becomes subject to the Initial Assessment. It shall be the duty, obligation and responsibility of the Developer, or another Class B Member or an assignee thereof, or a Building, whoever or whichever:

- Owns a Unit which is made available for rental or lease purposes;

- Owns a Unit which is occupied as a residence or dwelling;

- Conveys a Unit to a Unit Owner other than the Developer, another Class B Member or a Building or such an assignee,

to either collect or pay the Initial Assessment for such Unit as described in this Section 4. While the Initial Assessment for a Unit which is conveyed is intended to be paid by the new Unit Owner thereof, if the party who makes the conveyance to such Unit Owner (i.e., the Developer, another Class B Member, an assignee or a Building) fails to see to it that the Initial Assessment is collected from and paid by the new Unit Owner, then the conveying party (i.e., the Developer, another Class B Member, a Builder or an assignee) shall be personally responsible for the payment of such Initial Assessment.

Section 5. Amount and Setting of Annual Assessments. From and after the conveyance of the first Unit within the Development to an Owner other than the Developer, or another Class B Member, or a Builder, and until January 1 of the year immediately following such conveyance, the annual assessment upon each Unit shall be the sum of **One Thousand Five Hundred Dollars ($1,500.00)** per year. Beginning January 1 of the year immediately following such conveyance, the Annual Assessment for all Units from time to time subject to assessment may be increased or decreased as follows:

a. Each year, on or before January 31st, the Board of Directors of the Association shall estimate the total amount necessary to pay the costs of wages, materials, insurance, services and supplies, which will be required during the calendar year for the rendering of all services, together with a reasonable amount considered by the Board of Directors to be necessary for a reserve for contingencies and replacement or for maintenance of a periodic but not annual nature (such as resurfacing of driveways), and shall on or before the last day of February, notify each Unit Owner in writing as to the amount of such estimate, with reasonable itemization thereof.

b. Beginning, and from and after January 1st of the year immediately following the conveyance of the first Unit to a Unit Owner other than the Developer or another Class B Member, and on January 1 of each following year, the annual assessment may be increased or decreased above or below the assessment for the preceding year by the Association's Board of Directors, effective January 1st of each year, without a vote of the membership, if required to meet such established or estimated cash requirements described in subpart a of this Section 5.

Even though a Unit may become subject to an Initial Assessment during a calendar year it shall nevertheless be subject to the annual assessment for such calendar year, although the annual assessment for the Unit which becomes subject to an Initial Assessment during a calendar year shall be prorated, effective as of the date the Unit becomes subject to the annual assessment. Unless otherwise determined by the Association's Board of Directors annual assessments shall be collected in equal monthly installments.

Each Unit within the Development shall become subject to an annual assessment on that date when the Unit becomes subject to the Initial Assessment as described in Section 4 of this ARTICLE, meaning that the Unit shall be subject to annual assessment when:

- It is first conveyed to a Unit Owner other than the Developer, or another Class B Member, or a Builder, or an assignee of the Developer, another Class B Member or a Builder; or

- It is made available for rental or lease purposes, regardless of the identity of its owner, and whether that owner is the Developer, another Class B Member, a Builder or any other person or party; or

- Is first occupied or used as a residence or dwelling.

No Unit which is occupied or used as a residence or dwelling shall be exempt from annual assessments. As stated above in this Section 5, the annual assessment for each Unit which becomes subject to annual assessments during a calendar year shall be prorated effective as of the date the Unit

becomes subject to annual assessments, the annual assessments shall, unless the Board determines otherwise, be collected in twelve (12), equal monthly installments. Annual assessments may be increased or decreased, above or below the sum of the initial annual assessments as described above in this Section 5, as the Board of Directors shall from time to time find to be necessary, as hereinabove described in this Section 5.

Section 6. Special Assessments for Capital Improvements or Other Purposes. In addition to the annual assessments authorized above, the Association's Board of Directors may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, or unexpected repair or replacement of a capital improvement, or for purposes of making up or offsetting or paying any deficiency, for such year, or establishing or maintaining reserves or Reserve Funds as described in Sections 3 and 4 of this ARTICLE, or for purposes of paying the difference between the sums raised by virtue of the annual assessments, for such year, and the total costs of providing, for such year, the services to be provided by the Association during such year. Such assessments shall be equally apportioned among all Units, including those owned by the Developer, other Class B Members and Builders and regardless of whether or not they are subject to annual assessments.

Section 7. Special Tax Bill or Assessment for Public Improvements. The Association shall pay any special tax bill or benefit assessment of any public body for public improvements which abut or run along any of the Common Area, or which benefit the entire Development as opposed to Unit Owners of only specific Units. The entire cost of any such tax bill or assessment shall, automatically, upon levy thereof by the public body or authority, become a Special Assessment against all Units. The entire sum of such Special Assessments shall be apportioned equally among all of the Units. Such Special Assessments shall be used by the Association to pay the assessment or tax bill levied by the public body or authority. Such Special Assessment shall be due and owing by each Unit Owner in time to permit timely payment of the tax bill or assessment. Special Assessments provided for by this Section 7 shall be enforceable in that manner hereinafter provided for in this ARTICLE VI for enforcement of all assessments. Special assessments provided for by this Section 7 shall attach to all Units, whether owned by Class A or Class B members or other members.

Section 8. Special Assessment for Replacement or Non-Periodic Maintenance. In the event the Association is required to perform any non-periodic maintenance, repair or replacement for any portion of the Properties, including, by way of example only but not by way of limitation, the need of resurfacing or replacing the Private Drive (Fabian Drive), or any drives, driveways, parking areas and walkways, and/or the need to replace lawns and landscaping within the Common Areas, and/or the need to replace any Exterior Building Components for any Building [example, roofs, gutters, down spouts, etc. - and even though such Exterior Building Components may only have to be replaced as to one Building] and in the further event the annual assessment for the Units shall be insufficient to cover the costs of such non-periodic maintenance, 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, maintenance 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, maintenance or replacement of a non-periodic character shall be apportioned equally among all of the Units then located within the Development, and that portion of such cost apportioned to each such Unit shall constitute a special assessment against each such Unit. Such special assessment shall be used by the

Association to pay the cost of such repair, replacement or maintenance of a non-periodic character, and shall be due and owing by each Unit Owner, on demand, in time to permit timely payment of the cost of the maintenance, repair or replacement. Special assessments provided for in this Section 8 shall be enforceable in that manner hereinafter provided for in this ARTICLE VI for enforcement of all assessments. The sum of such special assessment shall be established by the majority vote of the Association's Board of Directors, acting within its sole and absolute discretion, and such determination by such Board of Directors, if made in good faith, shall be binding upon all Unit Owners. **Since the Association is to provide maintenance, repairs and replacements for the Exterior Building Components, if adequate reserves are not established to replace any Exterior Building Component of any Building which needs to be repaired or replaced, each of the Units and the Unit Owners of each and all of the Units shall be subject to the special assessment provided for by this Section 8, which shall be equally apportioned among all Unit Owners and Units (including the Units which are not associated with the Building the Exterior Building Components of which require replacement), and their Units.**

Section 9. Uniform Rate of Assessment. In all cases, the rates of those assessments provided for by Sections 4, 5, 6, 7 and 8 of this ARTICLE VI must be fixed at a uniform rate for all Units which are then, pursuant to such Sections, subject to such assessments.

Section 10. Collection of Assessments. Both annual and special assessments shall be due and payable at such times, and in such installments, as the Association's Board of Directors shall determine, and may be collected on an annual, semi-annual, quarterly or monthly basis, but shall generally be collected monthly.

Section 11. Special Assessments for Maintenance to be Performed by Unit Owners. Unit Owners of all Units served by water lines, sewer lines or utility lines, which are a part of the Common Elements under the above terms and conditions of this Declaration, and which are not publicly owned and which serve more than one Unit, shall be required to be maintain, repair and replace such lines and installations and to share the costs of such maintenance, repair and replacement equally. Each individual Unit Owner shall be required to maintain, repair and replace all customer service lines, and utility lines or laterals which serve only his Unit, whether located within the boundary lines of his Unit or within the Common Areas.

The Association will maintain all lawns, trees, shrubs and landscaping materials within the Development, other than those placed within privacy fences, private courtyards and similar privacy areas, which must be maintained by the Unit Owners. The Association will repair and replace all trees, shrubs or landscaping materials which require repair or replacement other than those within such private courtyards and other similar privacy areas. However, if a Unit Owner plants, with the permission of the Developer so long as Architectural Control Powers are vested in the Developer, or with the permission of the Association's Board of Directors (thereafter) any tree, shrub, or other item of landscaping, then the duty or obligation to replace or repair such tree, shrub or other item of landscaping shall thereafter be vested in the Association, provided that same shall be replaced only with the same size tree or plant as was originally planted and as existed at the time of the original planting.

Each Unit Owner shall further be required, at his expense, to provide for all lawn mowing, lawn fertilization, lawn irrigation and landscaping, maintenance, repair, replacement, servicing and upkeep, for all areas of his Unit located within any privacy fence, courtyard or other privacy area. Each individual Unit Owner shall further be required to maintain, in good repair, all Structural Components of all exterior walls and surfaces and all other Structural Components of his Unit, including walls, floors and Structural Components.

Each Unit Owner shall further be required to maintain, repair and replace the heating and air conditioning equipment for his Unit (whether located within the boundaries of his Unit or the Common Areas). Each individual Unit Owner shall further be required to repair, maintain and replace (so as to maintain same in a clean, neat, and well maintained and sightly condition) all glass surfaces for, and other parts of, interior and exterior doors and windows (other than exterior cosmetic surfaces of exterior windows and doors), and interior and exterior door and window hardware, and all glass therefor and glass surfaces therefor, and all hardware therefor and frames therefor, and the interior and all parts and components of the interior of his Living Unit; provided that the Association shall repair, maintain and replace all privacy fences as Common Elements of the Development. In addition, each Unit Owner shall be required to maintain the interior of the Living Unit constituting a part of his Unit, and all portions thereof.

If any Unit Owner or Owners should fail to perform or provide for any item of repair, replacement, maintenance or servicing imposed upon such Unit Owner or Owners by this Section 11, or elsewhere in any other provisions of this Declaration, then the Association's Board of Directors, in its discretion, may (but shall not be required to do so) cause the item of repair, maintenance, replacement or servicing to be performed, at the expense of the Unit Owner or Owners required to perform or to provide for same. The costs of such performance of such item of repair, maintenance, replacement or servicing shall, automatically, become a special assessment against the Unit Owners required to perform same and their respective Units, and shall constitute a lien upon such Units. Such Special Assessment shall bear interest at that rate hereinafter provided for in this ARTICLE VI and shall be enforceable against the Unit Owners and Units obligated for same, in that manner hereinafter provided for in this ARTICLE VI, and shall constitute a lien upon the applicable Units, enforceable in that manner hereinafter provided for in this ARTICLE VI. The provisions of this Section 11 notwithstanding, all privacy fences shall be Common Elements shall be maintained, repaired and replaced by the Association as such. If the Association has the right, duty or obligation to perform any maintenance, repair or replacement which would otherwise be required to be performed by a Unit Owner, as described in this Section 11 or at any other location within this Declaration, then the Association, and its Board of Directors, employees, contractors and designees shall have a license, right and option to enter upon the Unit and within the Unit and the Dwelling Unit, after reasonable notice to the Unit Owner (provided that no such notice shall be required in the event of emergency), as shall reasonably be required to perform the necessary maintenance, repair, replacement, servicing or upkeep and the Unit Owner shall not interfere with the ability of the Association, its employees, its contractors or designees to enter the Unit, the Building and the Living Unit. If any rear yard of any Unit/Living Unit is fenced in after approval pursuant to the Architectural Control Provisions of ARTICLE VIII of this Declaration, then such fence shall not be a "privacy fence", and such fence shall not be a Common Element unless the Board of Directors of the Association, in its sole, absolute, unlimited and unmitigated discretion elects to consider such fence as being a Common Element, which shall be maintained by the Association as such.

The Association's Board of Directors shall be the arbiter which, in its reasonable discretion, shall make all determinations concerning the need for any maintenance, repair, replacement, servicing or upkeep that would otherwise be required to be performed by a Unit Owner or Unit Owners pursuant to this Section 11 or as elsewhere described in this Declaration and its determination shall be binding upon the Unit Owners and shall be conclusively, provided only that it exercises reasonable good faith and its own best judgment. The sole requirement shall be that the Board use reasonable good faith and its best judgment.

Section 12. Assessment for a Portion of Insurance Premiums. ARTICLE XIII of this Declaration provides that the Association, by and through its Board of Directors, may (but shall not be required to) obtain and maintain insurance on all of the Units and Buildings, and all improvements located on the Lots; although, until the Association's Board of Directors determines to the contrary, the duties and obligations to provide such insurance for each Unit shall be vested in the individual Unit Owners. If the Association's Board of Directors elects, as it may in its discretion do, to maintain insurance on the Units, then (and only then) in addition to the assessments provided for by this ARTICLE, each Owner of each Unit covenants to pay to the Association his pro rata share of the total insurance premium, as provided for by ARTICLE XIII of this Declaration. In the event an Owner fails or refuses to pay the aforesaid prorated portion of the premium for that insurance described by ARTICLE XIII of this Declaration, then such prorated amount of such premium shall be added to and become a part of the annual assessment to which such Unit is subject under this Declaration, and as a part of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable, and be collectible, in all respects as provided for the annual assessment by this Declaration. As indicated by Section 2 of ARTICLE XIII of this Declaration, the Unit Owner's prorated portion of the premium for that insurance described in ARTICLE XIII of this Declaration, shall, at the option of the Association's Board of Directors (or the insurers selected by it), be paid to the Association, or the insurance carrier for the insurance to be obtained and maintained under ARTICLE XIII of the Declaration. However, in any event, if an Owner fails or refuses to pay his aforesaid prorated portion of the premium for the insurance described in ARTICLE XIII of this Declaration, then such prorated amount of such premium shall be added to and become a part of the annual assessment hereinabove provided for in Section 5 of this ARTICLE VI, and, as a part of such annual assessment, shall be a lien and obligation of the Unit Owner, and a lien against the Unit owned by such Unit Owner, and shall become due and payable, and be collectible, in all respects as provided for the annual assessment hereinabove described in Section 5 of this ARTICLE VI. If the Association's Board of Directors does not elect to maintain insurance on any Units, then the individual Unit Owners of such Units shall be obligated to maintain insurance on their individual Units which satisfy the requirements for insurance provided for by ARTICLE XIII of this Declaration. If a Unit Owner fails to properly insure his Unit, then the Association's Board of Directors may, at its option, obtain and maintain insurance on such Unit and all costs of such insurance shall constitute a special Unit assessment against the Unit of the Unit Owner who fails to maintain the insurance, which shall be a lien and obligation of the Unit Owner and a lien against the Unit owned by such Unit Owner, which shall be collectible and enforceable in the manner provided for by this ARTICLE VI.

Section 13. Special Unit Assessment. If any Unit Owner or Unit Owners shall fail to satisfy their maintenance obligations imposed upon them by ARTICLE IX of this Declaration, or any other provisions of this Declaration, or shall fail to provide for any maintenance, repairs, replacements, servicing or upkeep to be provided by them pursuant to ARTICLE IX of this Declaration, or any other

provisions of this Declaration, and if the Association's Board of Directors, in its sole and absolute discretion, deems the performance of such maintenance, repair, servicing or replacement to be necessary to protect the Association, or the Common Elements, or any Unit, or any portion of a Building, or any of the values of all or any part of the Property, and if the Unit Owner or Owners responsible for the performance of the maintenance, repair, replacement, servicing or upkeep have failed or refused to perform said maintenance, repair, replacement, servicing or upkeep within a reasonable time after written notice of the necessity for same has been delivered by the Association's Board of Directors (provided, however, that no such written notice shall be required in the case of an emergency), then the Association's Board of Directors shall be permitted (but shall not be required) to cause the maintenance, repair, servicing, replacement or upkeep to be performed (including, but not limited to, providing insurance, and any repairs or replacement or repairs or replacements of Structural Components of any Unit which the Unit Owner would otherwise be obligated to provide); provided, however, that the cost of same shall be apportioned among the Owners of the Units obligated for the performance of such maintenance, repair, replacement, servicing or upkeep in accordance with the provisions of this ARTICLE VI of this Declaration, or in accordance with the provisions of ARTICLE IX of this Declaration, or any other provisions of this Declaration, and that portion of such costs as so properly apportioned to each such Unit shall become a special assessment against each such Unit which shall be due and owing by each Unit Owner in time to permit timely payment of the costs of the work. Special assessments provided for by this Section 13 shall attach to all Units, whether owned by Class A or Class B Members, or other members. Special assessments provided for by this Section 13 shall, like all other assessments, constitute the joint and several obligations of the Owners of the Units who are responsible for payment of the assessments, and shall constitute liens against the Units owned by such Unit Owners, and the property and improvements making up such Units, and shall bear interest in that manner hereinafter provided for in this ARTICLE VI, and shall be enforceable in that manner hereinafter provided in this ARTICLE VI.

Section 14. Date of Commencement of Annual Assessments: Due Dates. All of the initial and annual and special assessments and other assessments hereinabove provided for in this ARTICLE VI shall apply to each Unit from and after (and beginning with) the date when the first Unit within the Development is first conveyed or otherwise disposed of by the Developer or the Builder erecting the Building containing the Unit, or another Class B Member or a Developer's assignee of its Developer's Rights, and shall thereafter become applicable to each Unit when such Unit is first conveyed by the Developer or such a Builder, assignee or other Class B Member to someone other than the Developer, a Builder, such an assignee or a Class B Member of from the date when it is first rented or leased or is first made available for such rental or lease, or it is first occupied as a residence. In any event such assessments shall thereafter apply, beginning with the dates that a Unit is first occupied as residence (whether under a lease or rental basis, or any other basis). No Assessment shall attach to any Unit, until the first Unit within the Development is either first conveyed by the Developer or the Builder thereof, or another Class B Member, or an assignee of the Developer rights hereunder, to someone other than the Developer, another Class B Member, a Builder or such as assignee. The initial and annual assessments on each Unit provided for herein shall thereafter commence on that day, when, following the completion of the structure located upon the Unit, the Unit is first rented or leased or is made available for rental or leasing, or it is sold or occupied as a residence, and annual assessments shall continue thereafter unabated, but shall not apply prior to such completion, and such first renting, leasing, making same available for renting or leasing or such selling or occupancy. The first annual assessment for each Unit shall be adjusted according to the number of months remaining in the

calendar year. The Association's Board of Directors shall fix the amount of the annual assessment against each Unit as soon as practicable before or after January 1. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Association's Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 15. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be "late". If a sum of an assessment is not paid within fifteen (15) days of the date when due, then from such fifteenth (15th) day following the date when it is due, until the fortieth (40th) day after the date when it is due, it shall bear a late charge of Twenty Dollars ($20.00) per day, and the sum of such late charge shall be added to the sum of the assessment and shall be a part of the assessment and must be paid with the assessment. If the sum of any assessment is not paid within forty (40) days of the date when due, then the sum of such assessment, together with such late charges (which shall be added to and shall become a part of the assessment) shall bear interest from the fortieth (40th) day after the sum of the assessment became due, and until paid, at a rate of interest equal to the greater of:

- 1.5% per month or eighteen percent (18%) per annum; or

- A rate of interest which is three percent (3%) per annum above the "Prime Interest Rate".

All references herein to the "Prime Interest Rate", shall mean the interest rate published as "Prime" or as the "Prime Rate" or as the "Prime Interest Rate" in the Money Rates column of the Wall Street Journal; meaning that rate of interest being charged by the Nation's largest money center banks to their most favored corporate borrowers. The interest rate shall be adjusted, up or down, with each adjustment in the Prime Interest Rate (as published in such Money Rates column) so as to always be equal to a rate of interest three percent (3%) per annum above the said Prime Interest Rate. The Association may bring an action at law or in equity against the owner, personally obligated to pay same, for the sum of the assessment, plus late charges and interest, or may foreclose the lien against the property of the Unit Owner's Unit. All late charges, interests, costs of collection and reasonable attorney's fees of collecting the assessment or seeking to enforce the lien for the assessment shall be added to and shall be a part of the assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Unit Owner's Unit or abandonment of his or her Unit or non-use of the Common Area or any Common Facilities.

Section 16. Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon any property subject to assessment; provided, however, that in the event of default in the payment of any obligation secured by such mortgage or deed of trust such subordination shall apply only to the assessments or installments thereof which shall become due and payable prior to the sale of such property pursuant to power of sale under such deed of trust, or prior to a conveyance to the mortgagee or holder of the deed of trust in lieu of foreclosure. Such foreclosure or such sale or conveyance in lieu

of foreclosure shall not relieve such property from liability for any assessments or installments thereof thereafter becoming due or from the lien of any such subsequent assessments or installments thereof thereafter becoming due.

Section 17. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area and Elements; and (c) other than as specifically stated in this Declaration to the contrary, all Units, until the first Unit in the Development is conveyed by the Developer, a Builder or another Class B Member or an assignee of Developer's Rights hereunder to a person other than the Developer, a Builder, a Class B Member or such an assignee; and (d) unless otherwise specifically provided for by assessment, all Units owned by the Developer or a Builder, or a Class B Member or an assignee of Developer's rights, until the Unit has been rented, leased, sold or occupied, or conveyed to a party other than the Developer, a Class B Member or a Builder, unless otherwise subject to assessment under the foregoing provisions of this ARTICLE VI.

Section 18. Collection of Assessments. Both annual and special assessments shall be due and payable at such times, and in such installments, as the Association's Board of Directors shall determine, and may be collected on an annual, semi-annual, quarterly or monthly basis.

Section 19. Retroactive Effect of Assessments. If an annual assessment for a calendar year is not established until after January 1 of such year, then such new assessment shall be retroactive from the date of setting or approval to the first day of the calendar year and shall apply for the entire calendar year. If installments upon the Assessment have been previously paid, prior to such setting or approval, then the sum of any deficiency in such installments shall be due on the due date of that installment which next follows setting or approval of the Assessment, or if there is no such installment, shall be immediately due following such setting or approval.

Section 20. Failure to Establish Assessment. If the annual assessment described in Section 5 should not be set for any year the annual assessment for each Unit shall be the greater of the sum of the initial annual assessment stated in Section 5 above or the sum of the annual assessment of each Unit for the preceding year shall be in effect for such year.

Section 21. Shortages. In the event the annual assessments to be paid to the Association shall, in any year, be insufficient to enable the Association and the Board of Directors to perform the Association's duties and obligations under this Declaration, 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 against all Units subject to assessment at the end of such calendar year. Such special assessment shall be equally apportioned among all Units then subject to assessment, and all Units owned by the Developer, any other Class B Member or Builder which would not otherwise be subject to annual assessments. Such special assessment shall constitute an assessment against each of the Units, which such assessment shall be payable at such time or times as the Association's Board of Directors, in its discretion, shall specify. Such assessment shall bear interest, and shall be enforceable, in the manner provided for by this ARTICLE VI, and shall constitute a lien against the Units in the manner provided for other assessments by this ARTICLE VI. Such special assessment shall bear interest in the manner

provided for in this ARTICLE VI and shall constitute liens against the Units in the manner provided for in this ARTICLE VI, and shall be enforceable in the manner provided for by this ARTICLE VI.

Section 22. Enforcement of Assessments. All assessments provided for by this ARTICLE VI shall be late and delinquent if not paid within fifteen (15) days of the due date thereof. Each such assessment (or any installment thereon) not paid within fifteen (15) days of the due date thereof, shall bear late charges and interest as described in Section 15 of this ARTICLE. Interest shall accrue until the Assessment is paid. Such Assessment and late charges and accrued interest thereon, and all costs of collection incurred by the Association in seeking to enforce payment of an Assessment or in enforcing the lien for the Assessment and interest (including but not limited to attorneys fees), shall be due and payable by the Lot Owner or Unit Owner to the Association, and the Association may collect such Assessments (and all subsequent Assessments). All costs of collection of Assessments; and interest, including reasonable attorneys fees, shall be added to and shall constitute a part of such Assessments and shall be chargeable and collectable as a part of the Assessments. Same shall be a part of the lien for the Assessment. The Board of Directors of the Association may enforce Assessments as follows:

1. All Assessments provided for by this Declaration shall constitute the personal obligations of the Lot Owners and Unit Owners who own the Units which are charged with said Assessment, and shall constitute liens on such Lots and Units. If more than one person owns a Lot or Unit, then such obligation shall be the joint and several obligation of all such persons who own said Lot or Unit. In addition, such Assessment shall constitute a lien against a Lot Owners' Lot or Unit Owners' Unit, and all improvements located thereon, including any Residence or Building or Living Unit located thereon, if not paid in a timely manner.

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

3. The Association, acting through its Board of Directors, may collect said Assessment by a lawsuit against the Lot Owner(s) or Unit Owner(s). Alternatively, or in addition, the Association may foreclose its lien against the Lot or Unit which is charged with the Assessment lien, and recover as a part of such action the assessment and all late charges, interest, costs, and attorneys fees of such foreclosure action or such lawsuit, or both.

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

5. The lien to secure the payment of an Assessment shall be in favor of the Association and the Board of Directors of the Association shall have the discretion as to whether or not to enforce said lien, and as to the manner of such enforcement.

6. Any lien against a Lot or Unit may be foreclosed upon in the same manner as a mortgage against real property, and pursuant to the procedures and requirements of Section 443.190 through 443.235 of the Revised Statutes of Missouri (including any substitute or successor statute). Any lien against a Lot or Unit may be foreclosed in like manner as a mortgage or deed of trust of real property (with full power of sale) as provided in Sections 443.190 through 443.235 of the Revised Statutes of Missouri and any amendatory or successor statutes thereto. If any such foreclosure does not result in full payment of the Assessment, then the Lot Owner or Unit Owner shall remain obligated for the deficiency, together with interest thereon as described above and costs of collection thereof, including attorneys fees.

7. The Association may elect to refrain from foreclosing upon any Assessment lien, and instead may bring suit against the Lot Owner(s) or Unit Owner(s) for the collection of same without waiving or affecting the Association's right to assert said lien against the Lot or Unit and without affecting the priority, status, or enforceability of said lien.

8. The Association shall not be deemed to have waived any right to collect an Assessment by proceeding in a particular manner, i.e., the election by the Association to collect an unpaid Assessment by foreclosing on the Assessment lien which attaches to a Lot or Unit shall not preclude the Association from thereafter filing suit against the Lot Owner(s) or Unit Owner(s) to enforce said lien, or vice versa.

Section 23. For Purposes of this Article, and Any Other Articles of this Declaration Establishing a Lien, the Lien Shall Be on the Entirety of Land and Improvements Owned by the Unit Owner. Any provisions of the Declaration to the contrary notwithstanding (including those provisions which define a "Unit" as not including certain portions of the Land conveyed to a Unit Owner, such portions of the Land being defined by Section 9 of ARTICLE I and other provisions as being a Common Area), the Assessments and the liens for Assessments provided for by this ARTICLE VI and other lien upon Units established by this Declaration, shall accrue to and attach to the entirety of the land/real estate conveyed to and acquired by each Unit Owner, and shall attach to:

a. The land/real estate acquired by the Unit Owner, however described; and

b. The Living Units owned by the Unit Owner, and all parts and components of same; and

c. All other improvements located on such land.

Section 24. No Requirements to Resort to Arbitration. Any provisions of this Declaration to provide for resolution of disputes by mediation or arbitration notwithstanding, the Assessments and liens for Assessments provided for by this ARTICLE may be enforced by direct recourse to the judicial system, at the option of the Association. The Association may seek to enforce Assessments and liens

by way of arbitration and mediation, or by way of direction, rather than resort to the judicial system/the legal system, as it, in its sole and absolute discretion, finds to be appropriate.

Section 25. Notice and Priority of Lien in Favor of Association. The lien which secures payment of an unpaid Assessment or Assessments described in this Declaration shall have such priority as is accorded to said lien based on the date when the Association records notice of said lien in the office of the Recorder of Deeds of Boone County, Missouri. The lien in favor of the Association shall be inferior to any mortgage or deed of trust placed of record against a Lot or Unit prior to the date of recordation of such lien notice in the office of the Recorder of Deeds of Boone County. The lien in favor of the Association shall arise and constitute a lien against a Lot or Unit from and after the date of such recordation. The Association may record such lien notice in the office of the of Deeds of Boone County, Missouri, at any time subsequent to the date when an Assessment becomes delinquent. No prior written notice to a Lot Owner or Unit Owner shall be required to be given by the Association before the recordation of such notice in the office of the Recorder of Deeds of Boone County, Missouri. A notice of lien recorded by the Association in substantially the following form shall be all that is required in order to give notice to the public and to any other person interested in the Lot or Unit as to the existence of the Association's lien against the Lot or Unit in question, to wit:

"Notice of Lien in Favor of Quail Creek Townhomes Owners' Association"

Take notice that Quail Creek Townhomes Owners' Association (the "Association"), is entitled to a lien to secure the payment of one or more unpaid and delinquent Assessments against the following real property located in Quail Creek Townhomes Subdivision (that portion thereof sometimes referred to as "Quail Creek Townhomes"), a subdivision in Boone County, Missouri, to-wit:

[HERE INSERT LEGAL DESCRIPTION OF LOT TO WHICH LIEN ATTACHES.]

The lien to which the Association is entitled exists to secure payment of one or more Assessments under the "Declaration of Covenants, Easements, and Restrictions of Quail Creek Townhomes", a subdivision of Columbia, Boone County, Missouri, dated the 28th day of February, 2008, and filed for record in Book ____ at Page _____ of the Boone County Records, as amended ("the Declaration"). The approximate amount of the Assessment which remains unpaid (and therefore the amount of the lien in favor of the Association) is $_____. However, the amount of this lien will increase by the amount of accrued interest in any costs incurred by the Association in enforcing this lien against the above-referenced property or in collecting said Assessment, including the Association's attorneys fees, all as set forth in the Declaration.

If further information is required concerning this lien or this notice, please contact [HERE INSERT NAME, ADDRESS, AND TELEPHONE NUMBER OF PRESIDENT OF ASSOCIATION].

IN WITNESS WHEREOF, Quail Creek Townhomes Owners' Association has caused this notice to be executed by its President as its duly authorized officer on this _____ day of _____, 20___.

Quail Creek Townhomes Owners' Association

By: _____
President

State of Missouri)
)ss.
County of _____)

On this _____ day of _____, 20___, personally appeared before me _____, who, upon his/her oath and being duly sworn did state and affirm that he/she is the President of Quail Creek Townhomes Owners' Association, that the facts set forth above are true to the best of his/her knowledge and belief, and that this notice has been executed on behalf of Quail Creek Townhomes Owners' Association, pursuant to the authority vested in the above-named officer of said Association by the Board of Directors thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at my office in _____, the day and year first above written.

_____
_____, Notary Public
_____ County, State of Missouri
My commission expires:_____.

Section 26. Release of Assessment Liens. Any Assessment lien in favor of the Association, upon the payment thereof may be released by the Association. In this regard, any document executed by the President of the Association (or by the Vice President of the Association, in the absence of the President) and acting pursuant to the authority vested in them by the Board of Directors of the Association, shall be valid and binding upon the Association. Any lien recorded by the Association may be released by the President (or Vice President, in the President's absence) of the Association by executing and recording a release of lien form in substantially as follows:

"Release of Lien in Favor of
Quail Creek Townhomes Owners' Association"

Take notice that the Assessment lien in favor of Quail Creek Townhomes Owners' Association (the "Association") which was the subject of a notice recorded in the office of the Recorder of Deeds of Boone County, Missouri on _____ (date) in Book _____ at Page _____ of the records of Boone County, Missouri, has been paid in full, satisfied, and is hereby released. This release applies to said notice of lien dated and recorded as set forth above only, and to no other lien in favor of the Association.

IN WITNESS WHEREOF, the Association, acting by and through its duly authorized officer, has executed this release of lien on this _____ day of _____, 20___.

Quail Creek Townhomes Owners' Association

By: _____
President

State of Missouri)
)ss.
County of _____)

On this _____ day of _____, 20___, personally appeared before me _____, who, upon his/her oath and being duly sworn did state and affirm that he/she is the President of Quail Creek Townhomes Owners' Association, that the facts set forth above are true to the best of his/her knowledge and belief, and that this notice has been executed on behalf of Quail Creek Townhomes Owners' Association, pursuant to the authority vested in the above-named officer of said Association by the Board of Directors thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at my office in _____, the day and year first above written.

_____
_____, Notary Public
_____ County, State of Missouri
My commission expires:_____.

ARTICLE VII
PARTY WALLS

Section 1. General Rules and Law to Apply. Each wall or fence which is built as a part of the original construction of a Building or Living Unit upon the Properties and placed on the dividing line between Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this ARTICLE, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence and the foundations and footing therefor shall be shared by the Owners who make use of same in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by a fire or other casualty, any Owner who has used the wall may restore it, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use

without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successor in title.

Section 6. Arbitration. In the event of any dispute concerning a party wall, or under the provisions of this ARTICLE, such dispute shall be submitted to and determined by Mediation and Arbitration in the manner provided for by ARTICLE XVIII of this Declaration.

Section 7. Privacy Fences. All privacy fences, whether located within the boundary lines of the Common Area or the boundary lines of a Unit, are and shall be a Common Element of the Development, to be maintained, repaired and replaced by the Association; provided, however, that if any such privacy fence is damaged by the actions or failures to act, or the negligence of or neglect of, or intentional act of a Unit Owner or the occupants of a Unit, or the guests or invitees of such Unit Owner or occupants, or the member(s) of their family, then the Unit Owner of such Unit shall reimburse the Association for all costs and expenses of the replacement or repair of the privacy fence, and all such costs shall constitute a Special Unit Assessment against such Unit Owner and the Unit Owner's Unit. "Privacy fences", shall not include fences used to fence in any rear yard, which such fences must be approved, in advance, pursuant to ARTICLE VIII of this Declaration. As to fences which fence in rear yards same shall be considered to be "Common Elements", if and only if the Association's Board of Directors, in its sole, absolute, unlimited, unmitigated and unfettered discretion elects to cause same to be considered to be Common Elements. Otherwise, any such fences shall be a part of the Unit and shall be maintained, repaired, replaced, painted and repainted and at all times kept in good repair and condition by the Unit Owner of the Unit, and such Unit Owner shall be required to keep the fence in good repair and condition and in sightly repair and condition.

ARTICLE VIII
ARCHITECTURAL CONTROL

So long as Class B voting rights are in existence, and for so long thereafter as the Developer owns any Lot or Unit located within the Parcel, no Building, fence, wall or other structure or improvement shall be commenced, erected or maintained within the Lots or Units or within the Common Areas, or at any location within the Parcel, other than those placed thereon by the Developer or its assignees, and those, the plans, drawings and specifications for which have been previously approved by the Developer. So long as Class B voting rights exist, and for so long thereafter as the Developer or the Developer's assignees of the Developer's rights as Developer hereunder own any Lot or Unit then located within the Parcel, no exterior addition to, or alteration, or exterior change in color, or exterior change in materials, shall be made on any completed structure, Building, fence, wall or improvement located within a Lot, or within the Common Areas, or at any location within the Parcel, other than those previously approved by the Developer or the Developer's assignees, and no Building,

fence, wall or other structure shall be commenced, erected or maintained within a Lot or Unit, and no tree, shrub or plant shall be planted by any Unit Owner of any Unit (other than within private patios, decks, courtyards, or similar areas) until the plans and specifications showing the nature, kind, shape, color, height, materials and location of same have submitted to and approved by the Developer or the Developer's assignees. After Class B voting rights have ceased to exist, and after the Developer and the Developer's assignees of the Developer's rights as a Developer hereunder have ceased to own any Lot or Unit within the Parcel, no exterior addition to, or change to, or alteration of any structure, Building or improvement located within a Lot or Unit or within the Common Areas shall be made, and no alteration or exterior change in color or exterior Building materials shall be made on any Building, fence, wall or improvement located within any Lot, Units or with the Common Areas, and no change in the exterior appearance of any such Building, fence, wall or improvement shall be made, and no Building, fence, wall or other structure (temporary or permanent) or improvement shall be commenced, erected or maintained within a Lot, or Unit or within the Common Areas, and no tree, shrub, plant or other growing item shall be planted by any Unit Owner within any Lot, Unit, or Common Area (other than within private patios, decks, courtyards or similar areas) until the plans and specifications for such addition, alteration, change, change in color, change in materials, or such Building, fence, wall or other structure, or such planting, showing, in detail, the nature, kind, shape, color, height, materials and location of the same have been submitted to and approved in writing as to harmony of external design, external color, external Building materials, appearance, size, intended use and location in relation to surrounding structures and topography and landscaping, by the Board of Directors of the Association, or by an Architectural Control Committee composed of two or more persons appointed by said Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. In no event shall the Board of Directors of the Association, or its Architectural Control Committee be required to approve any exterior addition to, or change to or alteration of, or change of exterior color or Building material, or erection or Building of any structure or Building or improvement or any planting located within a Lot or Unit, or within the Common Areas, if same is not deemed by the Board or the Architectural Control Committee to be in the very best interest of the Development and the Association, and if the Board or the Architectural Control Committee for any reason in its sole, absolute and unlimited discretion, deems same not to be in total and complete harmony as to external design and location, size, appearance, quality and intended use in relation to surrounding structures and topography, or to not be of the same quality as the then existing structures located within the Lots. In no event shall there be any such planting or change in the exterior appearance or color of any Building, fence, wall, roof, gutter, down spout, door, window or other structures or portions of structures or improvements within the Development or Property until same has been approved by the Developer or the Developer's assignees, if Class B voting rights are in existence, or if the Developer and such assignees own any Lot or Unit then located within the Development, or thereafter by the Board of Directors of the Association, or its Architectural Control Committee, and there shall be no such planting or change in the type or nature of exterior roofing materials or other exterior materials for any structure or improvement within the Development or Property until same has been approved by the Developer, if Class B voting rights are in existence or if the Developer and its assignees own any Lot or Unit within the Parcel, or thereafter by the Board of Directors of the Association, or its Architectural Control Committee. It is the intention of the parties to this instrument that the Board of Directors of the Association, or its Architectural Control Committee shall have full and complete architectural and landscaping control over the entire

Development, following the termination of Class B voting rights, and the subsequent occurrence of events which cause the Developer and its assignees to own no Lot or Unit within the Parcel, and that the discretion of such Board or committee shall be unlimited, so long as it exercises good faith, and does not act arbitrarily, capriciously or unreasonably. In any event, whether before or after the termination of the Developer's architectural control powers provided for by the above provisions of this ARTICLE VIII, any Builder or Lot Owner or Unit Owner who proposes to build a new Building upon a Lot shall be required to submit a landscaping plan. Such landscaping plan must, prior to termination of the Developer's architectural control powers provided for by the above provisions of this ARTICLE VIII be approved by the Developer and must, thereafter, be approved by the Association's Board of Directors or its Architectural Control Committee. Any such landscaping plan must provide for landscaping of the nature, type and quality equivalent to the landscaping of any existing Buildings and structures located within the Development and must provide for the landscaping, not just of the Units but of the Common Areas located within each Lot. Any Builder or Lot Owner or Unit Owner who proposes to build a new Building upon a Lot shall be required to landscape the entire Lot in accordance with an approved landscaping plan, including the Units and the Common Areas. Once plans and specifications for a Building or structure, or landscaping plans for landscaping, have been approved by the Developer or the Association's Board of Directors or its Architectural Control Committee under the provisions of this ARTICLE VIII, the Association's Board of Directors shall have the power and authority to compel that the Buildings, structures, improvements and landscaping provided for thereby be completed in compliance therewith within a reasonable time following the start of the work therefor, and until such completion, the Owners of Units contained within such structures shall not be entitled to any Class A voting rights at any membership meetings of the Association. In the event Buildings, structures or improvements or landscaping provided for by plans, specifications or a landscaping plan approved by the Developer and/or the Association's Board of Directors or its Architectural Control Committee are not completed within a reasonable time following the start thereon, then the Developer or the Association's Board of Directors shall have the following rights and authorities:

i. Either to compel completion pursuant to the plans, specifications or landscaping plan by mandatory injunctive relief or other suitable court order, and, until such completion is accomplished, to bar occupancy or continuing occupancy of any applicable Units, by injunction or otherwise; or

ii. To enter upon the applicable Lot or Units and to complete the improvements or the landscaping, in accordance with the approved plans and specifications, and to charge all costs of such completion against the Lot Owner or Unit Owner(s) of the applicable Lot or Unit(s), which such cause shall constitute special Unit assessments, which are charged in accordance with ARTICLE VI of this Declaration and shall be enforceable as special Unit assessment (and shall constitute liens of special Unit assessments) in accordance with ARTICLE VI of this Declaration.

No landscaping shall (without the written consent of the Developer so long as the Developer holds the architectural control powers hereunder, and thereafter, without the written consent of the Association's Board of Directors or its Architectural Control Committee) be performed upon any Unit or Lot, except within the boundary lines of privacy fences, private courtyards, or similar privacy areas, and except the original landscaping installed within the Lot or Unit in accordance with an approved landscaping plan, as described above. If any Unit Owner receives permission to install trees, shrubs or other

landscaping materials within a portion of, or other than original landscaping installed within the Lot by the Builder, the Developer, or the Association, then, while the Association shall thereafter maintain, repair and replace (with a planting of reasonable, but not necessarily mature size) same (unless same is located within a privacy fence, courtyard or similar privacy area) duties and obligations for such repair or replacement of such landscaping shall be permanently vested in the Association.

No landscaping upon any Lot, Unit or any real estate within the Parcel shall be changed, altered, modified or added to, and no trees, shrubs, plants, flowers or similar items shall be planted within the boundary lines of such Lots, Units, Common Areas or the Parcel (other than in such private patios or within such privacy fences or courtyards) until plans for same have been approved by the Developer, so long as Class B voting rights are in existence, or thereafter by the Association's Board of Directors or its Architectural Control Committee.

No fence shall under any circumstances whatsoever, be installed within any part of the Development or any Lot without prior approval by the Developer, or the Board of Directors of the Association or its Architectural Control Committee, whichever then holds the Architectural Control Powers pursuant to the provisions of this ARTICLE.

Any provisions of law to the contrary notwithstanding, the Architectural Control Provisions and Powers provided for by this ARTICLE shall not, under any circumstances whatsoever, for any cause or reason whatsoever, be deemed to be waived or extinguished as to any Buildings, structures, fences, walls, posts, poles or other improvements which require approval under the Architectural Control Provisions of this ARTICLE.

If a Builder or Lot Owner other than the Developer seeks approval of the Developer or the Board or the Architectural Control Committee for the construction of a Building, structure or other improvement within the Parcel, then such Builder or Lot Owner must submit to the Developer or the Board or Architectural Control Committee, as the case may be, two (2) copies of the plans and specifications for the Building or structure, including and showing the following:

- Floor plans, and interior and exterior dimensions;
- Site plans;
- Site locations;
- Elevations of all structures and Buildings;
- Exterior finish materials (including a specific description as to whether same are stain/clear wood finish on all wood exteriors, paints and paint color types, types of brick [including type, nature and manufacturer of brick and brick colors], roofing material types and colors, and a specific description of stone and types of stone finishes, and a very specific description of all exterior finish materials;

– A complete landscaping plan, including specific descriptions of all landscaping, including trees, shrubs, materials, lawn, etc. (which specifies the types of plants, the sizes of plants, the locations of plants and the manner in which all plants shall be planted);

– Dimensions;

– All other data reasonably deemed necessary by the Developer or the Board or Architectural Control Committee so that the Developer or Board or Architectural Control Committee can reasonably make a reasonable decision as to whether or not the Building or improvement is compatible with surrounding structures and topography, and with other Buildings and improvements located within the Parcel, and with the existing and planned character of the neighborhood, and with the existing character of the neighborhood, and with the planned development to occur within the Parcel, and with the type of development anticipated for the Parcel.

Two (2) copies of said plans and specifications must be presented, so that compliance therewith can be monitored. A submission of any documents which do not satisfy the requirements hereinabove set forth shall be deemed to be an incomplete submission, and shall not require any action for approval or disapproval by the Developer or Board or Architectural Control Committee. In order to require action by the Developer or the Board or Architectural Control Committee, a complete submission of two (2) copies of the documents, which satisfy all requirements hereinabove set forth, must be made.

THE DEVELOPER'S RIGHT TO APPROVE PLANS AND SPECIFICATIONS SHALL BE ABSOLUTE. NO REQUIREMENT THAT THE DEVELOPER BE REASONABLE IN APPROVING, OR IN REFUSING TO APPROVE, PLANS OR SPECIFICATIONS SHALL BE DEEMED TO BE EXPRESSED OR IMPLIED. THE DEVELOPER, IN APPROVING SUCH PLANS AND SPECIFICATIONS, SHALL APPROVE SAME ONLY IF IT, IN ITS SOLE, ABSOLUTE AND UNMITIGATED DISCRETION DEEMS SAME TO BE IN THE BEST INTEREST OF THE DEVELOPMENT, AND ONLY IF IT, IN ITS SOLE, ABSOLUTE AND UNMITIGATED AND UNLIMITED DISCRETION FINDS THAT THE PLANS AND SPECIFICATIONS SHOW A STRUCTURE (AND EXTERIOR FINISHING AND COLOR THEREFOR, AND A LOCATION THEREFOR), WHICH WOULD BE IN HARMONY WITH RESPECT TO SURROUNDING STRUCTURES AND TOPOGRAPHY, AND WHICH WOULD BE IN KEEPING WITH THE DEVELOPER'S PLANS AND THEME (IF ANY) FOR THE DEVELOPMENT. THE DEVELOPER SHALL HAVE THE RIGHT TO REFUSE TO APPROVE PLANS, DRAWINGS OR SPECIFICATIONS FOR ANY PROPOSED DWELLING, BUILDING, STRUCTURE OR IMPROVEMENT, OR ALTERATION OR CHANGE, WHICH THE DEVELOPER, IN ITS SOLE, ABSOLUTE AND UNMITIGATED DISCRETION FINDS NOT TO BE ATTRACTIVE, OR NOT TO BE OF HIGH QUALITY, OR NOT TO BE IN KEEPING WITH SURROUNDING STRUCTURES AND TOPOGRAPHY, OR NOT TO BE COMPATIBLE WITH THE EXISTING AND PLANNED STRUCTURES AND DEVELOPMENT WITHIN THE DEVELOPMENT, OR NOT TO BE IN KEEPING WITH THE DEVELOPER'S THEME FOR THE DEVELOPMENT, OR WHICH THE DEVELOPER, IN ITS SOLE, ABSOLUTE, UNLIMITED AND UNMITIGATED DISCRETION FINDS WOULD NOT BE IN KEEPING WITH, OR WOULD DETRACT FROM, THE GENERAL CHARACTER OF THE DEVELOPMENT FOR ANY REASON.

ARTICLE IX
MAINTENANCE

Section 1. General Maintenance by Association Other Than of Exterior Building Components. The Association shall provide for all of the following maintenance, repairs, replacements, servicing and upkeep within the Development:

a All maintenance, repair, replacement, servicing and upkeep, of any kind or nature whatsoever, for the Common Areas and Common Elements;

b. All mowing, fertilization, irrigation, maintenance, repair and replacement of all lawns, trees and landscaping located throughout the Property, within the Common Areas and the Units, other than lawns, trees, shrubs, landscaping and similar materials located within private courtyards, private patios and similar privacy areas which shall be maintained solely by the Unit Owners;

c. All mowing, fertilization and irrigation of all lawns located within the boundary lines of the Units, with the exception of those located within the boundary lines of privacy fences, courtyards or other privacy areas (which shall be mowed, fertilized, irrigated and maintained solely by the Unit Owners);

d. The irrigation, fertilization and general maintenance of all trees, shrubbery, plantings and the like within the Units and the Common Area and the Property (provided, however, that each Unit Owner should be required to replace all lawns, trees, shrubbery and other plants located within the private courtyards, private fences, and other privacy areas located within such Unit Owner's Unit and shall be required to irrigate, fertilize, mow, keep and maintain all trees, shrubs, lawns and landscaping materials and plantings located within the said private courtyards, private patios and similar privacy areas);

e. The furnishing of reasonable snow and ice removal for the Private Drive, Fabian Drive, and the entryways thereto, which lead to and from the adjacent City public street, Louisville Drive, and all associated parking lots and parking areas;

f. The providing of reasonable snow and ice removal for the driveways, sidewalks and walkways located within the Lots/the Units in the front of the Buildings;

g. The providing of reasonable resurfacing and maintenance and repairs for the Private Drive/Fabian Drive, and the entrances thereto, and associated parking areas, and for the driveways, walkways and sidewalks located within the Units/the Lots in the fronts and of the Building;

h. The maintaining, repairing and replacing all sewer lines, water lines and other utility lines which are not publicly owned, and which service all Units located within the Development;

i. The maintaining, repairing and replacing all sewer lines, water lines, electrical lines and other utility lines located within the Development, and all Stormwater Facilities located within the Development, which serve more than one (1) Unit (provided, however, that the Owners of such Units shall be required to equally share the cost of maintaining, repairing and replacing such sewer lines, water lines, electrical lines, other utility lines and Stormwater Facilities);

j. The payment of all taxes upon the Common Areas and Common Elements other than those titled in the name(s) of any Unit Owner(s);

k. The providing of liability insurance for the Common Areas and Common Elements, other than those within individual Lots (the taxes on which shall be paid by the Unit Owner);

l. The painting, cleaning, tuckpointing, maintaining, decorating, operating, repairing (lighting where appropriate) servicing and replacing of all Common Elements;

m. The replacing of all dead and dying trees, shrubs, plants and other plantings located within the Common Areas, including those planted by any Unit Owner with the Association's permission, provided that same shall be replaced only with a tree or plant of the same size as existed at the original planting;

n. The planting of any new trees, shrubs, plantings and the like within the Common Areas; and, subject to subparagraph m above, the replacement of same;

o. The maintaining, repairing, replacing and resurfacing of all drives, driveways, parking areas and walkways located throughout the Property, excluding those located in the rear of the Building (meaning the rear yards) and within any private patios, courtyards or similar privacy areas; provided, however, that "privacy fences" shall not be deemed to include fences used to fence in rear yards, if any such fence shall be approved by the Developer, the Association's Board of Directors or its Architectural Control Committee in accordance with the provisions of ARTICLE IX of this Declaration, with such fences which fence in any rear yards to be Common Elements only if the Association's Board of Directors in its sole, absolute, unlimited and unmitigated and unfettered discretion elects to consider such fences as Common Elements and if such fences are not Common Elements they shall be maintained, repaired and replaced and kept at all times in good repair and condition by the Unit Owners of the applicable Living Units;

p. The operating of, and the maintenance, repair and replacement of, and the keeping and use of all irrigation systems located throughout the Development, other than any irrigation system which is designed solely to serve a privacy area, such as a courtyard or patio;

q. The providing of the maintenance, repairs and replacements of the Exterior Building Components to the extent the Association is imposed with the obligation for same under Section 2 of this ARTICLE, which such Section 2 appears below.

THE ASSOCIATION, HOWEVER, SHALL NOT BE REQUIRED TO DO ANY OF THE FOLLOWING:

a. To provide for snow removal or any lawn upkeep, mowing, landscaping, irrigation, fertilization or other maintenance, repairs, replacements or servicing of any type for areas within privacy fences, privacy areas or courtyards;

b. To provide for the maintenance, repair or replacement of any interior surfaces or components of a Building or Living Unit;

c. To provide for the repair or replacement of any Structural Component as described in Section 2 below;

d. To provide for maintenance, repair or replacement of any glass surfaces for, or frames for or any components other than exterior cosmetic surfaces for, doors, windows or gates or the hardware for (interior or exterior) same, or any private patios or decks;

e. To provide for the maintenance, repair or replacement of the Structural Components of a Unit or for the structural repair of interior or exterior walls for a Unit, or for sewer lines or utility lines or water lines which service only a single Unit (all of which shall be maintained, repaired and replaced by the individual Unit Owner);

f. To provide for maintenance, repair, replacement or upkeep of any Structural Component of any Unit as defined in Section 2 below, or for the garage or carport for any Unit/Living Unit, all of which shall be maintained, repaired and replaced by the Unit Owner;

g. To perform any maintenance, repair, replacement, servicing or upkeep, the duty for which is not specifically imposed upon the Association by this Declaration.

Section 2. Maintenance, Repairs and Replacements of Exterior Building Components and Structural Components. The Association shall provide all maintenance, repairs, replacements and upkeep for the Exterior Building Components as described in Section 12 of ARTICLE I of this Declaration, but shall not provide for any repairs or replacements of any Structural Components of any part of a Building containing a Dwelling Unit, which such Structural Components shall be maintained, repaired and replaced solely by the Unit Owner. "Exterior Building Components" shall include those "Exterior Building Components", which are defined in Section 12 of ARTICLE I of this Declaration, and for purposes of this section, shall also include exterior sidewalks, walkways, drives, driveways and parking spaces located in the fronts of the Buildings throughout the Development, other than those in the rear yards of any Units. All maintenance, repairs, replacements, servicing and upkeep of Exterior Building Components shall be provided by the Association including:

a. Replacements or repairs of shingles or other roof coverings;

b. Replacements or repairs of roof flashings;

c. Replacements or repairs of felt or similar coverings located beneath roof shingles;

d. Repairs of roof sheeting for roofs;

e. Tuckpointing of exterior brick surfaces for the exterior walls of the Buildings;

f. Repairs or replacements of any vinyl siding or other siding or materials or coverings for any exterior walls;

g. Exterior painting of exterior walls, eaves, gutters and downspouts and other exterior surfaces and trim;

h. Replacements or resurfacings for, and snow and ice removal for all drives and driveways or sidewalks located in the fronts of the Buildings, meaning between the front of the Building and the Private Drive, but excluding any such items located in the rear or rear yards of any Living Units;

i. Maintenance, repairs or replacements for similar "Exterior Building Components" for any garage, covered parking space or carport.

Therefore, even though the Exterior Building Components shall be owned by the Unit Owners the Association shall be obligated to provide the maintenance, repairs or replacements for same as hereinabove described in this section. The Association's duties and obligations to provide maintenance, repairs or replacements for Exterior Building Components shall not extend to:

a. "Structural Components" of any Unit or Dwelling Unit or the garage therefor, as Structural Components are defined in Section 12 or Section 29 of ARTICLE I of this Declaration;

b. Providing any maintenance, repairs, replacements, servicing or upkeep for private courtyards, private patios or the components of same, all of which shall be maintained by the Unit Owners.

"Structural Components" shall include structural elements/structural components of the Living Unit and of that part of the Building which contains the Living Unit, as described in Sections 12 and 29 of ARTICLE I, and shall also include:

i. Any floor slab;

ii. Any beam, column, truss, or other load bearing component, including the load bearing components or Structural Components of any exterior Building wall (although the Association shall provide the maintenance, repairs and replacements for the exterior surfaces and coverings of such exterior Building walls), and including the roof structure (other than the roof sheeting, flashings, felt or tar paper and shingles and roof sheeting, which shall be maintained by the Association);

iii. Any chimney or any part or component of a chimney or flue, which shall be owned by and shall be maintained, repaired and replaced by the Unit Owner;

iv. Exterior doors or windows, or the hardware therefor or the frames therefor, and the glass surfaces or other surfaces thereof, which shall be maintained, repaired and replaced by the individual Unit Owners, but the Association shall provide painting for the exterior cosmetic surfaces thereof;

v. Any of the liner or parts or components of a Unit, which, even though not a Structural Component shall be maintained, repaired and replaced solely by the individual Unit Owner;

vi. Any utility system, HVAC system, electrical system, plumbing system or sewer system or similar system, or a part, component or equipment of any such system, or any line therefor, located within or which serves only a single Living Unit (wherever located), which shall be maintained, repaired and replaced solely by the Unit Owner of such Living Unit.

Section 3. Maintenance of Structural Components. Each individual Unit Owner shall be required to maintain, repair and replace all Structural Components of such Unit Owner's Unit, and all of the interior surfaces and components of such Unit Owner's Unit, and all of the heating, cooling, electrical, plumbing, sewer, and other systems within or serving such Unit or only serving such Unit, as described in Section 2 above, and as required to keep same in good repair and condition and, where applicable, in good operating condition. Should any Owner of any Unit fail to perform any duty for maintenance, repair or replacement which is to be performed by such Unit Owner pursuant to the provisions of this section, then the Association, acting through its Board of Directors, may elect to provide for the maintenance, repair, replacement, servicing or upkeep to be provided by the individual Unit Owner, and shall be entitled to immediate reimbursement by the Unit Owner for the costs and expenses advanced or incurred or paid by the Association on behalf of the Unit Owner, which such sum shall constitute special assessments against the individual Unit Owner and the Unit Owner's Unit which shall be enforceable and collectable in the manner described in ARTICLE VI of this Declaration. The Association, acting through its Board of Directors, may also elect, in its discretion, to provide or to cause to be performed any maintenance, repairs or replacements which are to be provided by any Unit Owner or Unit Owners and which the Unit Owner or Unit Owners decline or fail to perform after reasonable written notice of the necessity for same is given by the Association's Board of Directors, and all costs of the work performed by or caused to be performed by the Association shall be apportioned among the Unit Owners required to perform the work in accordance with any of Sections 1, 2, and 3 of this ARTICLE or any of the other provisions of this ARTICLE, with each Unit Owner's share of such costs to constitute an individual, special assessment against the Unit Owner and the Unit Owner's Unit, which shall be enforceable and collectable as a special assessment under ARTICLE VI of this Declaration.

Section 4. Porches and Decks and Other Improvements Common to More Than One Unit. While the Association shall provide cosmetic maintenance (examples: painting and staining) of exterior decks and porches and similar components, in the event a porch, deck or utility line, or a sewer, serving two or more Units but less than all Units, requires repair or replacement, the Owners of such Units shall be required to contribute equally to the costs of such repair or replacement and shall be obligated to cause such repair or replacement to be performed at their expense. If any of such Unit Owners pays the entire said cost then he or they shall be entitled to immediate reimbursement of the prorata share of such cost from the other Unit Owners. If the necessity for such repair or replacement is caused by the fault or negligence of an Owner, occupants or invitees of any Unit, the Owner of such Unit shall pay the entire cost of same. In the event a sewer line, water line or utility line, serving more than one Unit, requires maintenance, repair or replacement, then the Association may provide such maintenance, repair or replacement, but the cost of such maintenance, repair or replacement shall be paid equally by the Unit Owners of the Units serviced by same. The costs of such maintenance, repair

or replacement shall be added to and shall become a part of the Annual Assessment to be paid to the Association to which each such Unit is subject. This type of assessment shall be added to the Annual Assessments to be paid to the Association, as provided for by the above terms and conditions of this Declaration, and shall be enforceable as a part of such annual Assessments pursuant to the above terms and conditions of this Declaration dealing with enforcement. Should any Owner of any Unit perform any maintenance, repair or replacement or servicing or upkeep to which other Unit Owners are required to contribute under this Section 4, then such Unit Owner shall be entitled to immediate reimbursement, upon demand, by such other Unit Owners, and the sum of such reimbursement to which such Unit Owner shall be entitled shall bear interest at the rate provided for delinquent assessments by ARTICLE VI of this Declaration from the date of demand. Should such Unit Owner seek to enforce his right to reimbursement by legal proceedings, then, in addition to the sum of the reimbursement to which he is entitled, together with interest thereon, he shall be entitled to recover his reasonable costs, expenses and attorneys fees incurred in connection with such legal proceedings. The sum of such reimbursement shall constitute a lien against the Units of the Owners responsible therefor, and shall constitute a charge upon the land and the improvements, and the Unit Owner entitled to reimbursement shall be entitled to proceed to enforce such lien, by suit or otherwise, and, shall be entitled to recover the sum of the reimbursement to which he is entitled, together with interest thereon and his costs and attorney's fees.

Section 5. Any Maintenance of Exterior Building Component Made Necessary by Reason of Failure of Unit Owner to Provide Required Fire and Casualty Insurance or by Fault, Negligence or Neglect of a Unit Owner or the Occupants of Any Unit. The provisions of Section 2 of this ARTICLE notwithstanding, if:

a. Any Unit Owner shall fail to maintain in full force and effect fire and casualty insurance on the Unit Owner's Unit and Dwelling Unit, as required by ARTICLE XIII of this Declaration, and, as a result, any additional costs or expenses would be imposed upon the Association for maintenance, repair or replacement of damage to any Exterior Building Component, the costs for which would otherwise be paid by available insurance coverages had the Unit Owner maintained such insurance, or

b. Any Exterior Building Component, or Common Element, which the Association is required to maintain, repair or replace pursuant to the provisions of this ARTICLE or any of the provisions of this Declaration is damaged by the fault of, the negligence of, the intentional act, the reckless act, or any failure to act of a Unit Owner of any Unit or the occupant of any Unit or any guests or invitees of any Unit Owner or occupants of any Unit, or the renters or lessees or tenants of any Unit Owner of any Unit, or any failure by the Unit Owner to perform any duties or obligations which the Unit Owner is required to perform pursuant to the provisions of this Declaration,

then, in such event, all of the Association's costs and expenses incurred in maintaining, repairing or replacing the Exterior Building Component or any other item shall be absorbed and paid by the Unit Owner, and such Unit Owner shall immediately reimburse the Association for all of its costs and expenses incurred in performing the maintenance, repair or replacement (which the Association would not otherwise have incurred), and such sum shall become special assessments against the Unit Owner and the Unit Owner's Unit, which shall bear late charges, interest and other costs as described in ARTICLE VI of this Declaration and shall be enforceable in the manner described in ARTICLE VI

of this Declaration. In addition, in the event of any failure by the Unit Owner to maintain insurance as described in this ARTICLE, the Unit Owner shall indemnify, defend, save and hold harmless the Association and its Board of Directors and officers of and from all suits, actions, causes of action, demands, losses, costs, liabilities and expenses which shall be incurred by reason of the failure of the Unit Owner to maintain such insurance, and all of such costs and expenses and other sums as to which the Unit Owner is required to so indemnify shall become a special assessment against the Unit Owner and the Unit Owner's Unit, which shall bear late charges, interest and other costs and shall be enforceable in the manner described in ARTICLE VI of this Declaration.

Section 6. Repairs of Utility Lines. All sewer lines, water lines, electrical lines and other utility lines, other than those which are publically owned, which service only a single Unit (whether located within the boundary lines of such Unit or the Common Areas, including, but not limited to, so called "laterals" or "customer service lines"), shall be maintained, repaired and replaced by the Owner of the Unit served thereby. All sewer lines, water lines electrical lines and other utility lines, located within the boundary lines of a Lot, which service fewer than all of the Units located within the boundary lines of such Lot, shall be maintained, repaired and replaced by the Owners of those Units serviced thereby, and all of such Owners shall be required to contribute, equally, to the costs of such repair, maintenance and replacement. Should any Owner of any Unit perform any maintenance, repair or replacement or servicing or upkeep to which other Unit Owners are required to contribute under this Section 6, then such Unit Owner shall be entitled to immediate reimbursement, upon demand, by such other Unit Owners, and the sum of such reimbursement to which such Unit Owner shall be entitled shall bear interest at the rate provided for delinquent assessments by ARTICLE VI of this Declaration from the date of demand. Should such Unit Owner seek to enforce his right to reimbursement by legal proceeding, then, in addition to the sum of the reimbursement to which he is entitled, together with interest thereon, he shall be entitled to recover his reasonable costs, expenses and attorney's fees incurred in connection with such legal proceedings. The sum of such reimbursement shall constitute a lien against the Units of the Owners responsible therefor, and shall constitute a charge upon the land and the improvements, and the Unit Owner entitled to reimbursement shall be entitled to proceed to enforce such lien, by suit or otherwise, and, shall be entitled to recover the sum of the reimbursement to which he is entitled, together with interest thereon and his costs and attorney's fees.

Section 7. Other Maintenance or Replacement of Improvements on Units or Constituting Units. Each individual Unit Owner shall be required, at his sole expense, to do the following, to-wit:

a. To maintain all structural parts and Structural Components, interior and exterior, and systems of and for his Unit and for all parts of the Building which are included within his Unit, and all interior surfaces of and for his Dwelling Unit;

b. To maintain, in good repair, all Structural Components of his Unit and Dwelling Unit, and of all parts of the Building which include his individual Dwelling Unit;

c. To maintain, repair and replace all water lines, sewer lines and other utility lines which serve only his Unit (whether located within the boundary lines of his Unit or the Common Areas);

d. To provide all necessary irrigation for mowing of, cutting of, trimming of, fertilization of and other maintenance, repairs, replacements and servicing of all lawns, trees, shrubs and landscaping located within any private courtyard, private patio, privacy fence or similar private area of his Unit or serving his Unit or intended for exclusive use of his Unit;

e. To provide for the maintenance, repair and replacement of heating and air conditioning equipment for his Unit and Living Unit (whether located within the boundary lines of his Unit or the Common Areas);

f. To repair, maintain and replace, so as to maintain same in a neat, attractive and sightly condition, all glass surfaces for all windows and doors and gates, and the hardware therefor;

g. With the exception of painting and staining and similar purely cosmetic maintenance, which shall be performed by the Association, to perform all maintenance, repairs, replacements, servicing and upkeep for any windows or doors and private deck which serves his individual Dwelling Unit;

h. To perform all maintenance, repairs, replacements, servicing and upkeep for all courtyards, and courtyard area and privacy areas for or serving his Unit or Living Unit, whether located within the boundary lines of the Unit or the Common Area; provided that the Association shall maintain, repair and replace all privacy fences, wherever located, as a Common Element of the Development; but provided further, however, that areas within fenced in rear yards if any yards are permitted to be fenced in after prior compliance with the Architectural Control Powers of this Declaration, it being understood that all areas within any fenced in rear yards shall nevertheless be and continue to be Common Areas as defined in this Declaration, although same shall be "Limited Common Areas", and that unless the Association's Board of Directors, in its sole, absolute, unlimited and unmitigated discretion determines that the fence itself shall be a Common Element to be maintained by the Association, the Unit Owner shall be obligated to provide all maintenance, repairs and replacements for such fence as required to keep such fence in good repair and condition.

In the event an Owner or Owners of any Unit or Units fail to perform any repair, replacement or maintenance specifically imposed upon them by this Declaration, including this Section 7, and in the further event the Association's Board of Directors, in its sole, absolute and unmitigated discretion, determines that the conditions require maintenance, repair, replacement or servicing for the purposes of protecting the interests of other Unit Owners or the public safety of residents in or visitors to the Properties, or to prevent or avoid damage to or destruction of any part, portion, or aspect of the value of the Properties or of any Unit or Units, the Association shall have the right, but not the obligation, through its Directors, agents and employees, and after approval of a majority of the Board of Directors (no approval by the Members of the Association shall be required), to enter without permission, upon or within said Unit or Units and into the Building or Buildings thereon and to maintain, repair, replace and service the same. The costs of such maintenance, repair, replacement or service shall be added to and shall become a part of the Assessments to which such Unit or Units are subject. This type of Assessment shall be added to the Annual Assessments and charges provided for by the above terms and conditions of this Declaration, and shall be enforceable in that manner provided for by ARTICLE VI of this Declaration. In the event a porch or walkway, or other improvement common to two Units requires repair or replacement, the Owners of such two Units shall be required to contribute equally

to the costs of such repair or replacement. If one of such Unit Owners pays the entire said cost then he shall be entitled to immediate reimbursement of one-half (1/2) of such cost from the other Unit Owner. If the necessity for such repair or replacement is caused by the fault or negligence of the Owner, occupants or invitees of any Unit, the Owner of such Unit shall pay the entire cost of same. In the event a sewer line, water line or utility line, serving more than one Unit, requires maintenance, repair or replacement, then the cost of such maintenance, repair or replacement shall be paid equally by the Unit Owners of the Units serviced by same. The costs of such maintenance, repair or replacement shall be added to, and shall become a part of the assessment to which each such Unit is subject. This type of Assessment shall be added to the annual Assessments and shall be enforceable in that manner provided for by ARTICLE VI of this Declaration. All of the maintenance, repair and replacement obligations imposed upon the individual Unit Owners by this Section 7 must be performed by such Owners so as to cause the Units to be maintained in a clean, neat, safe and attractive condition according to maximum reasonable standards of cleanliness, safety, neatness, attractiveness, aesthetics and beauty, so as to maintain the Development in as clean, safe, neat, attractive and aesthetically pleasing condition as is reasonably possible. In the event of any dispute over such standards of maintenance, including the standards of cleanliness, safety, neatness, attractiveness, aesthetics and beauty, such dispute shall be resolved either by the Association's Board of Directors, or by a maintenance committee appointed by it. It is the intention that these maintenance standards be strongly and vigorously enforced, so that the Development and all improvements located therein, be maintained as a Development of the highest order, and that maximum standards of cleanliness, safety, neatness, beauty, attractiveness and aesthetics be maintained, and that the Development be free of any conditions of unsightliness, including, but not limited to, those conditions specifically described in Section 8 below.

Section 8. Standards of Maintenance, Repair and Replacement. The Owners of each of the Units located within the Development shall be obligated to each other, and to the Association, and the Association shall be obligated to each and all of the Unit Owners, and the Unit Owners and the Association shall be jointly and severally obligated to each other, to cause the grass cutting, irrigating, snow removal, painting, cleaning, tuckpointing, maintenance, repair, replacement, servicing and upkeep described in this ARTICLE IX or elsewhere in this Declaration, to be performed, at all times, so as to cause each of the Living Units, each of the Units, and all Common Areas and Common Elements, and all Buildings, contained within the Development, and all improvements contained within the Development, to be maintained in a clean, safe, neat and attractive condition, according to maximum reasonable standards of cleanliness, safety, neatness, attractiveness, aesthetics and beauty, so as to maintain the Development in as clean, safe, neat, attractive and aesthetically pleasing condition as is reasonably practicable. In the event of any dispute over the standards of maintenance, including the standards of cleanliness, safety, neatness, attractiveness, aesthetics and beauty, such dispute shall be resolved either by the Association's Board of Directors, or by a Maintenance Committee ("Maintenance Committee") appointed by it, which may consist of three (3) persons holding ownership interests in three (3) separate Units and one (1) representative of the Association's Board of Directors. If any such dispute is to be resolved by the Association's Board of Directors, then such dispute must be resolved by the majority vote of all Directors who are present and voting. If such dispute is to be resolved by the Maintenance Committee, then a decision of a majority of the members of such committee present and voting shall resolve the dispute. Any decision made by the majority vote of the Board of Directors, or by a majority of such committee, shall be binding upon all parties. It is the intention that the Development, and all improvements located therein, be maintained as a development

of the highest order, and that maximum standards of cleanliness, safety, neatness, beauty, attractiveness and aesthetics be maintained, and that the Development be free of any conditions of unsightliness, including (by way of example only but not by way of limitation), the following: chipped, flaking or discolored paint; dead or dying lawns, trees, shrubs, vegetation or the like; discolored roofs or roofs requiring patching or maintenance; loose, rusted or discolored gutters or down spouts; walkways, driveways, sidewalks or parking areas requiring patching or resurfacing; brick surfaces in need of cleaning or tuckpointing; or other conditions of any kind or nature whatsoever, without limitation, which would reasonably be construed as not in keeping the maximum standards of cleanliness, safety, neatness, beauty, attractiveness or aesthetics, and that the standards be very strongly and vigorously enforced and very strongly applied.

Section 9. Mixed Refuse Removal. The applicable Mixed Refuse Service may not provide front or back door Mixed Refuse Service for certain of the Units, as the Units will be located on a Private Drive which is not publicly owned nor publicly dedicated or publicly maintained. Therefore, the owners or occupants of each such Unit shall be required to place their refuse in such dumpster or dumpsters, or at such areas, as shall be designated by the Association's Board of Directors for mixed refuse pickup service, and shall not be permitted to place refuse at any other location. The Association's Board of Directors shall have the power to designate specific areas within which mixed refuse shall be placed. Any mixed refuse placed by a Unit Owner, or by the occupants of a Unit, which is not picked up by the Service, must be removed by such Owner or occupant, immediately following the pick-up by the Service of other refuse in the area. The Association's Board of Directors shall also have the power to make reasonable rules and regulations governing the picking up of trash, and the placement of trash and mixed refuse at such locations as shall reasonably be required for the protection of all Unit Owners and the value of the Development and each of the Units.

Section 10. Special Assessment. In the event an Owner or Owners of any Unit or Units fail to perform any repair, replacement or maintenance specifically imposed upon them by this Declaration, including this ARTICLE IX, and in the further event the Association's Board of Directors, in its sole, absolute and unmitigated discretion, determines that the conditions require maintenance, repair, replacement or service for the purposes of protecting the interests of any Unit Owners, or of other Unit Owners, or the public safety, or the safety of residents in or visitors to the properties, or to prevent or avoid damage to or destruction of any part, portion or aspect of the value of the Property or of any Unit or Units, the Association shall have the right, but not the obligation, through its Directors, agents and employees, and after approval of a majority of the Board of Directors (no approval by the members of the Association shall be required), to enter without permission, upon or within said Unit or Units, and any portion of the Lot or Lots within which same are located, and into the Building or Buildings thereon, and to maintain, repair, replace or service the same. The cost of such maintenance, repair, replacement or service shall constitute a special Unit assessment against each of such Units, responsible therefor, and shall become a part of the assessment to which each such Unit or Units are subject, and shall constitute a lien, and be collectible and enforceable in that manner hereinabove described in ARTICLE VI of this Declaration.

Section 11. All Repairs to be Collectively Performed are to be Deemed to be Performed by the Association. All repairs which are to be performed by other than the Owner of a single Unit (i.e. either by the Association, or by the Owners of Units located within or containing a Building, or by the Owners of certain Units), shall, for purposes of construing the easements in the Association hereinafter

provided for by ARTICLE X of this Declaration, be deemed to be repairs and maintenance and replacements to be performed by the Association. If any repairs are to be collectively performed by the Owners of more than one Unit, then all and each of such Owners, and their designees, shall be deemed to have any easements over (and rights to enter upon) each of such Units, which are conferred upon the Association by ARTICLE X of this Declaration or by any of the provisions of this Declaration. If any Owner of any Unit shall fail or refuse to perform (or to contribute to the performance of, or to permit the performance of) any maintenance, repair, replacement, servicing or upkeep, which is to be performed by such Unit Owner (or to which such Unit Owner is to contribute), then the Owners of all other Units (and of each of such Units), who are also obligated for the performance of such maintenance, repair, replacement or servicing and their designees and contractors, shall have a right of access, and an easement to, over and through all of the property and the Unit of the Unit Owner who has failed to perform (or to permit or to cause to be performed) such maintenance, repair, replacement, servicing or upkeep; provided that the exercise of this easement shall be at reasonable times with reasonable notice to the individual Unit Owners, except in any case where emergency exists which would place any Unit, or any portion thereof, or any other portion of the Properties, or any part or portion of the value of the properties, in immediate peril or danger if repairs, maintenance and/or restoration were not immediately effected.

Section 12. Maintenance of Garages and Carports. The Unit Owners of the respective Units shall be required to provide all maintenance, repairs, replacements, servicing and upkeep for the respective garages and carports for their individual Units/Living Units, other than Exterior Building Components, and shall be solely obligated to provide all maintenance, repairs, replacements, servicing and upkeep for all parts and components, other than Exterior Building Components, of such garages and carports.

Section 13. Insurance. Although:

a. The Association is to provide maintenance, repairs and replacements for Exterior Building Components; and

b. The Unit Owners are to provide maintenance, repairs and replacements of Structural Components, and for all interior components of their Living Units and of that part of the Building containing their Living Units, and the interior and exterior doors and windows for their Living Units and the garages for their Living Units (including frames therefor, all surfaces therefor, hardware therefor, and glass surfaces therefor), and are required to provide for all maintenance and repairs of their private patios and decks (other than cosmetic maintenance, such as painting or staining),

the Association's Boards of Directors shall have the power and authority to (nevertheless) obtain the insurance upon the Buildings and Units and Living Units under ARTICLE XIII of this Declaration, or to allow the Unit Owners to provide such insurance, but all fire and casualty insurance on the Buildings, and all Exterior Building Components and Structural Components of the Buildings, must be issued so as to cause the Unit Owners of the respective Units and the Association to be loss payees on all fire and casualty insurance coverages, in order that the Unit Owners, the Association and each and every Unit Owner within the Development will be assured that proceeds payable under any policy of fire and casualty insurance on any Building or any Exterior Component or Structural Component

of the Building will be used to repair and restore the Building and such components in the event of loss due to fire or other casualty.

ARTICLE X
GRANTS AND RESERVATIONS OF EASEMENTS

Section 1. Easements for Repair, Maintenance and Restoration. The Association shall have the right of access and an easement to, over and through all of the Properties, including each Unit and the Buildings and structures located thereon, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with regard to maintenance, repair, restoration and/or servicing of any items, Units, things or areas of or on the Properties, provided that exercise of this easement as it affects the individual Units shall be at reasonable times with reasonable notice to the individual Unit Owners, except in any case where emergency conditions exist which would place any Unit, or any portion thereof, or any other portion of the Properties, or any part or portion of the value of the Properties in immediate peril or danger if repairs, maintenance and/or restoration were not immediately effected.

Section 2. Easements for Road or Driveway or Walkway or Sidewalk Purposes. Easements for road or driveway or walkway or sidewalk purposes shall exist, as established by the Plat, and shall exist, whether or not shown on the Plat or formally dedicated by any Plat or other instrument over the Private Drive and other private roads, streets, driveways, sidewalks and parking areas which serve more than one Unit, as actually constructed (whether contained within the Common Areas or within the boundaries of a Unit). Such easements, which shall exist over all nonpublic roads, streets, driveways, drives, parking areas, walkways and sidewalks constructed within the Parcel and within the Property (whether located within the Common Areas or the boundaries of one or more of the Units), shall be owned by the Association, which shall hold the same for the benefit of all Units and all Unit Owners and the residents of all Units. It is anticipated that certain portions of the driveways, parking areas, drives, walkways and sidewalks constructed within the Parcel, and constituting a part of the Property, will be located within the boundaries of certain of the Units. Such portions of such driveways, drives, parking areas, walkways and sidewalks shall be subject to the easements for road, or driveway, or walkway, or sidewalk purposes provided by this Section 2, and the individual Unit Owner, owning the Unit within which such portion of the driveway, drive, parking area, walkway or sidewalk is located, shall have no right whatsoever to erect any structure or improvement upon such portion of such drive, driveway, parking area, walkway or sidewalk or to use such portion of such drive, driveway, parking area, walkway or sidewalk in such a manner as to interfere with, or block the usage of such portion of such drive, driveway, parking area, walkway or sidewalk by other Unit Owners who must necessarily use such portion of such drive, driveway, parking area, walkway or sidewalk in order to obtain access to, or ingress to or egress from their particular Units. The easements provided by this Section 2 shall constitute a part of the Common Elements, and the driveways, drives, parking areas, sidewalks and walkways, shall constitute a part of the Common Elements. All Unit Owners and residents shall have an easement across the real estate subject to such easements and all roads, driveways, drives, parking areas, sidewalks and walkways within the Property when required for access to and ingress and egress to and from their Unit, which shall run with their Unit. Such easement for access, ingress and egress shall be appurtenant to, and run with each Unit. The easements in the Association described by this Section shall be appurtenant to, and run with the Common Areas and Elements. The Developer hereby reserves an easement, concurrent with the easements for road,

driveway, walkway or sidewalk purposes and other easements described by this Section, over and upon the real estate subject to such easements, and over all roads, streets, driveways, drives, parking areas, walkways and sidewalks not publicly dedicated for purposes of access to, ingress to and egress from all and every part of the real estate first described in the Declaration for construction purposes; provided, however, that such easements for construction purposes shall not be used in such a manner as to unreasonably interfere with the use and enjoyment of any particular Unit by the Owner thereof. Notwithstanding anything to the contrary hereinabove set forth, the streets, roads, driveways, walks, walkways and other elements subject to the easement by this Section 2, shall be maintained in that manner hereinabove provided for in ARTICLE IX of this Declaration.

Section 3. Easement for Encroachments. Each Owner of a Unit covenants that if any portion of any improvement, whether same be an improvement of an Owner or of the Association, encroaches upon a Unit, a valid easement for the encroachment and for the maintenance of same, so long as it stands, and for repair and reconstruction thereof, in the event of damage or destruction, shall and does exist. In the event an improvement is partially or totally destroyed and then re-constructed, each Owner of any Unit further covenants that encroachment of any portion of any improvement, whether of an Owner or of the Association, upon a Unit due to construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist. Each Building, and all utility lines and other improvements as originally constructed on each Unit shall have an easement to encroach on any other Unit, and upon the Common Areas and dedicated areas as originally constructed and laid out; and the Common Areas, dedicated areas and each Building and all utility lines and other improvements as originally constructed thereon, shall have a reciprocal easement for encroachment upon each Unit and any portions of the Property. Such encroachments may occur (and it is anticipated that such encroachments will occur because of overhanging eaves, balconies, decks and footings and foundations) as the result of overhangs in the design, or deviations in construction from the Development Plans or location of Buildings, utility lines and other improvements across boundary lines and between and among Units, Common Areas and dedicated areas.

Section 4. Easement for Support. Every portion of a Building, or utility easements and lines, and of any portion of the Properties contributing to the support of another Building, utility appliance, utility equipment, utility line, improvement, or any other portion of the Properties, shall be burdened with an easement of support for the benefit of all other such Buildings, utility easements and lines, improvements and other portions of the Properties.

Section 5. Construction and Development Easement. The Developer shall have an easement of ingress and egress for the purpose of construction and development of any part of the Parcel, and for the purpose of construction and development of any part of the Properties, for so long as the exercise of such easement does not unreasonably interfere with the use of the recreational facilities and Common Areas and provided that such easement does not apply to the individual Units which have been completed and conveyed to Owners.

Section 6. Access, Ingress and Egress. Every Unit Owner shall have an easement for access to, ingress to and egress from his Unit over, across and upon all streets, drives, driveways, parking areas, walkways and sidewalks, as shown by the Plat or as constructed within the Property (whether or not shown by the Plat), and all real estate and portions of the Common Areas and Common Elements, and all real estate contained within any of the Units upon which a street, drive, driveway,

parking area, walkway or sidewalk is constructed, as necessary to insure adequate means of access to, ingress to and egress from the Unit Owner's Unit and to the Common Areas, and the full enjoyment of the Owners' Unit and the improvements located thereon. Every Unit Owner shall have an exclusive easement over and upon any patio, balcony, deck, or private garden attached to or adjacent to, and abutting upon his Unit, and intended for his exclusive use. Such easements as are described in this Section shall be appurtenant to and run with each Unit.

Section 7. Easements Described in ARTICLE IV. Those Easements described in and provided for by any of the Sections of ARTICLE IV, or other provisions of this Declaration shall be and they are hereby established and each of the Units is hereby imposed with such Easements. The Easements described in Section 9 of ARTICLE I of this Declaration, which are such as provide that certain areas of land shall be Common Areas, shall be and they also are hereby established.

ARTICLE XI
PROPERTY RIGHTS IN COMMON AREAS

Section 1. Members' Easements of Enjoyment. Every Unit Owner (i.e. "Member") and their guests, renters and invitees and lessees and the lessees of Developer shall have a right of ingress and egress and easement of enjoyment in and to the Common Area and Common Elements and the facilities, improvements and recreational facilities located thereon and such easement shall be appurtenant to and shall pass with the title to every assessed Unit; provided, however, that those areas designated by the Plat or this Declaration as "Limited Common Areas" or "Limited Common Elements" shall be reserved for the use of the applicable Unit or Units, and the owners or occupants thereof, to the exclusion of all other Units and the owners or occupants thereof. Said right of ingress and egress and easement of enjoyment shall exist whether or not the Developer has conveyed title to the Common Area to the Association and shall be subject to the following provisions:

a. The right of the Association to limit the number of guests of members, using facilities on the Common Areas, and to provide that all or certain portions of the Lots shall be for the exclusive use of the Unit Owners of certain of the Units located on the Lots; provided that such action shall appear to be reasonably necessary to protect the privacy of the Unit Owners in the use and enjoyment of their Units, and that it shall not affect those easements provided by ARTICLE X.

b. The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property;

c. The right of the Association to dedicate or transfer all or any part of the Common Area which is titled in the name of the Association (as opposed to any Unit Owner or Lot Owner) to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors, provided, however, should the property sought to be transferred be subject to the lien of any mortgage or deed of trust, no such transfer shall be made without first obtaining the written consent of the mortgagee or the beneficial owner of said deed of trust thereto. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast fifty-five percent (55%) of the votes of the Class A membership and fifty-five percent (55%) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication

or transfer, and unless written notice of the proposed action is sent to every member not less than ten (10) days nor more than forty (40) days in advance; and unless (in the event the portion of the Common Area to be dedicated or transferred is, for any reason, immediately adjacent to and abutting upon the boundary lines of a Unit or contained within a Unit) the Unit Owners of such Unit have agreed to such transfer. The Association shall have no right to transfer any Common Area located within any Lot which is titled in the name of a Unit Owner;

d. The right of the individual Unit Owners to the exclusive use of any parking spaces designated to the exclusive use of their respective Units and any parking spaces located in front of the garages for their Living Unit;

e. The right of the Developer and of the Association through its Board of Directors to create, grant and convey easements upon, across and over any part of the Common Areas (including those located within any Lots which are titled in the name of Unit Owners) to public utilities or public bodies or public governments for ingress, egress. installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones, electric lines and a community master television antenna system or cable television system;

f. The right of the Association to publish rules and conditions to regulate and control the Members' use and enjoyment of the Common Area.

Section 2. Delegation of Use. Any member may delegate his right of enjoyment to the Common Area and facilities to the members of his immediate family or his tenants, or contract purchasers, who reside on the property.

Section 3. Title to Common Areas/Easements Establishing Areas as "Common Areas" Even Though Not Owned by Association.

A. Title to Common Areas, Common Units and Common Elements Designated as Such. If a Common Area, Common Unit or Common Element is, by a Plat, designated as such, then, in such event, title to the Common Areas, Common Units and Common Elements, which are so designated by any such Plat, shall be vested in the Association, whether or not conveyed to the Association.

B. Common Areas Which Are Not Designated as Such by Any Plat. Section 7 of ARTICLE I and ARTICLE IV and other provisions of this Declaration, and ARTICLE IV of this Declaration, and other provisions of this Declaration, provide that certain areas of the Land within each Lot shall be treated as, and shall for all intents and purposes be, and shall be conclusively deemed to be, Common Area, even though title to such portions of the Land may be held in the name(s) of the Unit Owner(s) of the Unit(s) located on such Lot, with such areas of the Land which is to be treated as Common Area to include all Land of each Lot which, after construction of the Building and Improvements located thereon by the original Builder of the Building and improvements on such Lot, is located outside of (that is, excludes) the exterior walls or exteriors of:

a. The exterior walls of the Building(s) containing the Living Unit(s) located on such Lot (such portions of the Land being included within the Unit(s)); and

b. The garages or carports located on each Lot, which is designated for the use of the Unit Owner(s) or occupants of the Unit(s) located on such Lot (the garage or carport for each Living Unit or designated for the use of each Living Unit being included within and being a part of the Unit, and the Land containing same being a part of the Unit); and

c. Any private courtyard (within a privacy fence), patio, porch, portico or other privacy area for each Living Unit located on such Lot (including all areas within any privacy fence which are accessed from the Living Unit), all of which shall be a part of the Unit (and the Land of which shall be a part of the Unit).

All areas of the Land of the Lot, excluding those areas hereinabove described in subparagraphs a through c, both inclusive (all such areas of the Land so described in such subparagraphs a through c being a part of the Unit and being included in the Unit) shall be, and shall be treated as if same is Common Area, and, even though titled in the name of the Unit Owner(s), shall be treated as if owned by and held by the Association as Common Area, and all such Land (following the construction of the Building and improvements thereon by the initial Builder) shall be and it is hereby imposed with a perpetual, irrevocable Easement, running with the Land of the Lot and each Unit located on the Lot (which is binding upon each Unit Owner), and which runs in favor of the Association, the terms of such Easement being that although the Land may be titled in the name of the Unit Owner(s), it shall nevertheless, for all intents and purposes, perpetually and irrevocably, be treated as if same is Common Area, which is burdened by all of the provisions of this Declaration dealing with Common Area, and which is subject to all of the rights, easements, rights and privileges in the Association which accrues to Common Area, as described in this Declaration. However, any liens in the Association or other parties for enforcement of Assessments (under ARTICLE VI) or other sums due, shall attach and continue to attach to all Land and improvements owned by each Unit Owner; subject, however, to the provisions of this paragraph B, and the Easements established by this paragraph B and other provisions of this Declaration.

Section 4. Parking Rights. Ownership of each Unit shall entitle the Owner or Owners thereof to the exclusive use (to the complete exclusion of the Owners or occupants of other Units, or the guests or invitees thereof) of any garage or carport for such Unit and/or parking spaces assigned to such Unit by the Board of Directors of the Association or the Developer or the Plat. The Board of Directors of the Association or the Developer (so long as Class B voting rights exist) may permanently assign vehicular parking spaces for each Unit. The Association's Board of Directors shall have the right and the duty to establish reasonable rules and regulations concerning use of, and parking upon the Private Drive and all streets, roads and driveways not dedicated to the public, and to enforce same by fines or towing at the Owner's expense, or such other methods as it shall determine. Such right and duty shall include the promulgating of reasonable traffic regulations. The Unit Owners of each Unit may and their guests, invitees, lessees, tenants and designees of each such Unit Owner, shall have the exclusive right to use all parking spaces located within driveways leading to any garage or parking area serving the Living Unit located within such Unit, even though the driveways or parking areas may be located within the boundary lines of Common Areas. In other words, driveways leading to a garage or parking space serving a Living Unit shall be limited in use to the owners of such Living Unit and their guests, invitees and designees.

Section 5. Units/Common Areas. As hereinabove indicated in Section 3 of this ARTICLE and elsewhere in this Declaration, all of those portions of the Land of each of the Units and each of the Lots, on the exteriors of the exterior walls of that part of the Building which is located on the Lot, and on the exterior of any private patios, private courtyards, porches, private decks, garages, carports and similar privacy areas, shall be Common Area, whether or not conveyed to the Association, and shall be deemed to be and shall be conclusively be treated as Common Area, and shall for all intents and purposes be treated as if owned by the Association as Common Area, whether or not specifically defined by any Plat and whether or not conveyed to the Association. In the event any of those portions of a Lot hereinabove described in this Section 5, which are deemed to be Common Areas, shall not be conveyed to the Association, then same shall be imposed with a perpetual, irrevocable Easement in favor of the Association. The terms of each such easement shall be such that although title to the land subjected thereto may be retained by the Unit Owner or Lot Owner, all such lands shall for all intents and purposes be Common Area and shall be treated as such for all purposes. All Common Areas as described in this Section 5 shall be subject to all restrictions on use of Common Area imposed by this Declaration.

Section 6. Fire Lanes. The Association shall, with the advice and help of the Columbia, Missouri, Fire and Police Departments established sufficient fire lanes to insure adequate access to all Buildings and Units by fire, police and emergency vehicles, and shall, with the help of such departments, establish adequate rules and regulations for maintaining such fire lanes at all times. The Association may enforce such regulations by fines or other enforcement procedures.

Section 7. Limited Common Elements and Exclusive Use. Notwithstanding anything to the contrary contained at any place in this Declaration, all portions of each Lot (including all parking areas and drives located within the boundary lines of each Lot and Unit), which are not required for, or are not intended to provide access to, or egress from other Units, shall be deemed to be "Limited Common Elements" and "Limited Common Areas", and shall be reserved for the sole and exclusive use of Owners, occupants, guests and invitees of the Dwelling Unit located within the Lot, to the complete and total exclusion of all other Units, and the Unit Owners, guests and occupants and invitees of all other Unit Owners. If any areas located within any garage, carport, courtyards, private lawns or privacy fences serve only a single Unit, and even if same are located within Common Areas, then such area shall be deemed to be and shall be treated as if and shall be deemed to be included within the boundaries of the Unit, and even if same may be arguably be considered to Common Area, same shall be deemed to be and shall be "Limited Common Areas" and "Limited Common Elements", and shall be reserved for the sole and exclusive use of Owners, occupants, guests and invitees of the Unit served thereby, or accessed therefrom, or from which same are accessed. All walkways, driveways and parking areas and similar improvements located within the boundary lines of a Unit or leading to or serving only a single Living Unit shall be Limited Common Elements and exclusive use thereof shall be limited to the Unit Owners of such Unit and their tenants, renters, guests, occupants, guests and invitees.

Section 8. Parking. In no event shall any Unit Owner, or the occupant of any Unit, or the guests, occupants or invitees of any Unit, park vehicles the Private Drive or on any of the private drives (those serving more than one Unit) making up a part of the Common Areas or Common Elements, other than within designated parking places, and, in no event, shall any vehicles be parked so as to block or obstruct any of such Private Drive or drives. Parking spaces designated by the Plat, or by the

Association, or by the Developer, for the exclusive use of the Owners, occupants, guests or invitees of a particular Unit, shall be deemed to be Limited Common Elements or Limited Common Areas, and shall be reserved for the sole and exclusive use of the Owners, occupants, guests and invitees of such Unit, to the complete and total exclusion of all other Units and the Unit Owners, guests, occupants and invitees thereof.

Section 9. Trespass. Usage by, or entrance upon "Limited Common Elements" or "Limited Common Areas", by the Owners, occupants, guests or invitees of Units, other than those to which the usage of such elements or areas are reserved, shall be wholly improper. The "Limited Common Elements" or "Limited Common Areas", shall be reserved to the exclusive use of the Owners, or occupants of the applicable Units, and the guests or invitees of such Owners or the occupants of such Units. the same as though such "Limited Common Elements" or "Limited Common Areas" were owned, exclusively, by the Owners of such applicable Units. Entry upon, or usage of such Limited Common Areas or Limited Common Elements by the Owners, occupants, guests or invitees of Units, other than those to which the usage of such elements or areas are reserved, shall be a trespass. The Owners and occupants of all Units within the Properties shall be, and they are hereby given notice (including any notice required by the Revised Ordinances of the City of Columbia, Missouri, or the statutes of the State of Missouri), that entry upon, or usage of any "Limited Common Areas" or "Limited Common Elements" designated for the exclusive use or enjoyment of the Owners or occupants of other Units shall be a trespass, including a trespass in the first degree as provided by the applicable laws of the State of Missouri, and the applicable ordinances of the City of Columbia, Missouri. The Owners of all Units, by accepting a deed for any Unit located within the Development or the Properties, agrees that any entry upon Limited Common Areas or Limited Common Elements designated for the exclusive use of other Units shall be unlawful, wrongful and improper, and that same shall be a trespass, and that he, she or they have received actual notice or communication against such trespass, including that actual notice or communication required under any of the ordinances of the City of Columbia, Missouri, and any successor ordinances, and the state statutes of the State of Missouri. Notwithstanding anything to the contrary hereinabove set forth in this Section, however, the Association shall have an easement, over, across and upon Limited Common Areas and Limited Common Elements for the purposes of performing the maintenance and repair duties and obligations of the Association, as imposed upon the Association by this Declaration. Further notwithstanding anything to the contrary hereinabove set forth in this Section, the provisions of this Section shall not in any respects reduce nor affect the easements granted by ARTICLE X of this Declaration. The Association shall be authorized to promulgate such reasonable rules and regulations, as its Board of Directors, in its sole and absolute discretion, shall, from time to time deem necessary or appropriate for purposes of preventing or discouraging trespasses of the type hereinabove described in this Section 10. In addition to the remedies provided for by the above provisions of this Section 10, the Association shall have the right and the power to protect the rights of Unit Owners to the exclusive use of parking spaces designated for their exclusive use by the towing of vehicles improperly parked within parking spaces designated for the exclusive use of certain Units, at the expense of the Owners of such vehicle, or by such other methods as the Association shall determine appropriate.

Section 10. Diminishment of Easement. No easement granted by this ARTICLE XI, and none of the terms and conditions of this ARTICLE XI, shall be deemed to in any way affect, diminish or reduce the easements granted under ARTICLE X hereof, or any easement granted by the Plat or by any replat of any of the Lots located within the Parcel.

ARTICLE XII
USE RESTRICTIONS

The Units and the Living Units/Dwelling Units (such terms being synonymous) making up a part of each Unit (each Lot and each Dwelling Unit and each portion of a Unit as defined in Sections 13 and 31 of ARTICLE I of this Declaration, and in ARTICLE IV of this Declaration, being referred to as a "Unit" in this ARTICLE) and each Lot and the Common Areas shall be subject to the following provisions and restrictions:

Section 1. Single Family Residence. No Unit shall be used for any purposes other than as a residence site for, and as a residence for, a single Family as defined in Section 13 of ARTICLE I of this Declaration. Short term guests are permitted. There shall be no prohibition upon renting or leasing of Units. No such prohibition shall be either expressed or implied. No Unit shall be used other than for residential purposes and then only by one single Family.

Section 2. No Roomers or Boarders. Except to the extent provided in Section 1, it is hereby provided that no boarders or roomers shall be permitted in addition to the Family occupying each such Unit. The provisions of Section 1 and this Section 2 (and any provisions of this Declaration), shall not be deemed to prohibit the renting or leasing of a Unit; provided, however, that such Unit must be used as a single Family residence, for one Family, which shall use the Unit only for residential purposes. Renting or leasing of Units is permitted.

Section 3. Home Occupation. The restriction above to use of any Unit as a single Family residence shall not prohibit the conduct of a "home occupation" upon said Unit as defined herein. Home occupation means any occupation or profession carried on by members of the immediate "Family" residing on the premises, in connection with which there is not used any sign or display that will indicate from the exterior that the Building is being utilized in whole or in part for any purpose other than that of a single Family residence dwelling; in connection with which there is no commodity sold upon the premises, and no person is employed other than a member of the immediate Family residing on the premises, and no mechanical or electrical equipment is used except such as is permissible for and is customarily found in purely domestic or household premises for the Family residing therein; and in connection with which no noise (of any kind or nature whatsoever), and no disturbance (of any kind or nature whatsoever), and no odor or fumes or vapors or dust or air borne particles (of any kind or nature whatsoever) are generated; and in connection with which there are no persons employed other than members of the immediate Family residing on the premises; and in connection with which no tools or equipment are used except such as are permissible for and are customarily found in purely domestic or household premises for the Family residing therein; and in connection with which no traffic is generated; and in connection with which no item of goods, material or equipment is stored in the premises. A professional person may use his residence for infrequent consultation, or emergency treatment, or performance of his profession. Permitted home occupations shall not include barber shops, beauty shops, shoe or hat repair shops, tailoring shops or any type of pick up station or similar commercial activities but the recitation of these particular exclusions shall not be deemed to constitute authorization for the conducting of other businesses or enterprises which are precluded by the previous language of this ARTICLE or by other sections of the Declaration, Articles or Bylaws. Nothing herein shall be construed to permit home occupations not permitted by applicable zoning laws. No daycare homes, daycare houses, daycare establishments, group houses,

half-way houses, residential care facilities, daycare centers, preschool centers, nursery schools, child placement centers, child education centers, child experiment stations or child development institutions, or child care or babysitting services or similar facilities, shall be permitted, and daycare of children for hire shall not be permitted.

Section 4. Additional Structures or Improvements. No additional and/or accessory structures or improvements of any kind or nature whatsoever, walls, fences or Buildings of any nature whatsoever, or sheds, posts, poles, storage sheds, dog houses, storage boxes, basketball goals, tennis courts, pools, swimming pools, wading pools, children's play equipment, driveways, walkways, parking areas, basketball goals, children's play equipment, racket sports courts, or other improvements of any kind, or any similar items of any nature whatsoever shall be erected upon any Lot or Unit, in addition to the basic Building, patio, walk, deck, porch and any other improvements originally provided by the Developer or Builder, or any reasonably similar replacement thereof, or addition thereto, without the approval of the Association's Board of Directors or its Architectural Control Committee, pursuant to ARTICLE VIII of this Declaration.

Section 5. Parking. Except as may be otherwise provided by specific regulations of the Association, no uncovered parking spaces on the Property, or on the Private Drive or any street (public or private), parking lot, parking area or driveway serving the Property or making up a part of the Property, or adjacent to the Property, shall be used for the parking of any trailer, truck, boat, camper, mobile home, motor home or anything other than operative automobiles, which are in good condition and repair, and are currently licensed, and which are used with very substantial, regular frequency, (i.e., at least once a day) (it being the intention of the parties that inoperative automobiles not be placed within the Development, and not be stored within the Development, and that automobiles not used with very substantial regular frequency not be placed within the Development). The word "trailer" shall include trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage, or the conveyance of machinery, tools or equipment, whether resting on wheels, jacks, tires or other foundation and used or so constructed that it is or may be mounted on wheels or other similar transporting device and used as a conveyance on streets and highways. The word "truck" shall include and mean every type of motor vehicle other than passenger automobiles, vans and pick-up trucks and other similar utility vehicles which are used primarily as passenger vehicles by persons occupying the Units. No covering or walling in of uncovered parking spaces shall be permitted except as specifically approved by the Association or it Architectural Control Committee. Provided, however, that this Section shall not apply so as to interfere with normal construction methods in the construction and development of any part of the Properties, or of additional Units thereon. Notwithstanding anything to the contrary hereinabove set forth, the Association may, if the Association's Board of Directors elects to do so, place upon the Common Area appropriate parking for recreational vehicles, campers, boats, mobile homes and other recreational vehicles; provided, however, that same shall be so constructed and placed as to not in any respects interfere with the use or enjoyment of any of the Units, or with the appearance of the Units, and such parking shall be constructed in such a manner as to be harmonious with the surroundings. The above provisions of this Section 5 to the contrary notwithstanding, Unit Owners shall be permitted to park within the boundary lines of the Lot containing their Unit, and within the parking spaces provided for their Unit (but not within parking spaces reserved for other Units), for reasonable periods of time (not to exceed 24 hours, and not to exceed 4 such periods of 24 hours within any calendar

month), a trailer, truck, camper, mobile home or motor home so as to permit the reasonable loading and unloading of such trailer, truck, camper, mobile home or motor home. Such vehicle shall be parked within the Development solely for reasonable loading and unloading, and for no other purposes. All present and future Unit Owners and occupants shall be deemed to have agreed that the provisions of this Section 5 shall apply not only to the Lots and the Units, but also to any public streets which abut upon any of the Lots. All Unit Owners agree, on behalf of themselves and their successors, and all present and future Unit Owners and occupants of Units, to be bound by the restrictions set forth in this Section 5 as to their respective Lots and Units and as to the Common Areas, and as to all public and private streets within all Common Areas and public or private streets to be subject to all of the restrictions set forth in this Section 5, together with the Units themselves. Motor vehicles which are not used, regularly, and generally at least once during each twenty-four (24) hour period, must be parked in a garage. Inoperative vehicles must be stored or kept within a garage at all times. Boats, campers, recreational vehicles, motor homes and trailers may not be parked outside of a garage or such a screened in structure, and may not be parked on a public or private street or in a public or private parking area in front of or behind any Residential Building or Unit/Dwelling Unit. No motor vehicles, boats, motor homes, mobile homes or trailers of any kind may be parked in any parking area, parking lot or public or private street in front of or behind a Building, for any continuous period of more than twenty-four (24) hours. Inoperative vehicles, vehicles which are being repaired, vehicles which are under repair, and any vehicles which are not used with very substantial frequency, shall not be kept, stored or parked in any driveway or on any street within the Development.

Section 6. Nuisances. No illegal, noxious, noisy or offensive activities shall be carried on upon the Unit or upon the Common Areas nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 7. Signs. No signs of any kind shall be displayed to the public view of the Properties except those:

a. On the Common Areas and approved in advance by the Directors;

b Regarding and regulating the use of the Common Areas and approved in advance by the Directors;

c. Used by the Developer to advertise the Units for sale or to identify the financing and/or the construction agents during the construction and sales period;

d. One professional sign used to advertise a Unit for sale or rent; provided that same shall be no more than five (5) square feet (i.e. five feet by five feet) in area, and no more than five (5) feet tall, and that same shall only state that the Unit is for sale or rent, together with the name and telephone number of the Unit Owner or his agent;

e. Traffic signs or directional signs, or signs imposing traffic rules or regulations located on the Common Areas, and approved in advance by the Directors.

Nothing contained in this Section 7 shall, however, be construed to permit signs within the Properties or the Development, or within the boundary lines of the Units, not otherwise permitted by applicable sign ordinances of the City of Columbia, Missouri.

Section 8. Exterior Wiring, Antennas or Installations of Satellite Receiving Dishes or Similar Improvements, Air Conditioners, Etc. No exterior wiring, aerials or antennas, or satellite receiver dishes, or TV receiving dishes, or dishes or receivers receiving television, radio or electronic signals, or any similar improvements or equipment of any kind or nature whatsoever (nor anything having an appearance similar thereto) shall be permitted on the exterior portion of any Building situation upon any Lot nor be placed upon any Lot, Unit or Building except as may be erected by the Developer or as shall be approved in advance (by the Developer or the Association's Board of Directors or Architectural Control Committee (whoever holds the architectural control powers) in accordance with the architectural control provisions of this Declaration. No air conditioning, heat pumps or other types of installations shall be installed or permitted which appear on the exterior of any Building or which protrude through walls, roofs or window areas of any Building, or which are located on any Lot, except as may be installed by the Developer or the Builder in the original construction or as may be subsequently approved, in advance, in accordance with the architectural control provisions of this Declaration. PREEMPTION BY FEDERAL REGULATIONS AND FEDERAL LAW: IT IS UNDERSTOOD THAT FEDERAL REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION AND OTHER FEDERAL LAW, TO SOME EXTENT, HAVE PREEMPTED AND MAY HEREAFTER PREEMPT THE RIGHTS OF ASSOCIATIONS TO APPROVE OR DISAPPROVE OF CERTAIN SATELLITE RECEIVING DISHES OR BROADCAST RECEIVER DISHES OR TELEVISION RECEIVING DISHES. THE INTENTION IS THAT THE DEVELOPER AND THE ASSOCIATION'S BOARD OF DIRECTORS OR IT ARCHITECTURAL CONTROL COMMITTEE (WHOEVER HOLDS THE ARCHITECTURAL CONTROL POWERS UNDER ARTICLE VIII OF THIS DECLARATION) SHALL, TO THE MAXIMUM EXTENT LAWFULLY PERMITTED, HAVE AND RETAIN ALL POWERS AND AUTHORITIES PROVIDED FOR BY THIS SECTION 13, BUT THAT THIS SECTION 13 SHALL BE AUTOMATICALLY MODIFIED TO CONFORM WITH APPLICABLE FEDERAL LAW OR REGULATION OR ANY OTHER APPLICABLE LAW OR REGULATION. TO THE EXTENT THAT ANY PARTY HOLDING THE ARCHITECTURAL CONTROL POWERS AND AUTHORITIES MAY LAWFULLY CONTROL THE TYPE, LOCATION, APPEARANCE, SIZE OR PLACEMENT OF SATELLITE RECEIVER DISHES, TELEVISION RECEIVER DISHES OR ANTENNAS OR ANTENNAS DESIGNED TO RECEIVE A DIRECT BROADCAST SIGNAL, THE PARTY HOLDING THE ARCHITECTURAL CONTROL POWERS (THE DEVELOPER OR THE ASSOCIATION'S BOARD OF DIRECTORS, AS THE CASE MAY BE) SHALL HAVE THE RIGHT AND AUTHORITY REASONABLY, ACTING IN GOOD FAITH, TO SPECIFY THE LOCATIONS FOR, THE SIZES OF, THE TYPES OF, THE COLOR OF, AND SCREENING FOR SUCH SATELLITE RECEIVER DISHES OR ANTENNAS. ALL SATELLITE DISHES OR ANTENNAS, WHETHER BROADCAST OR RECEIVING, OTHER THAN THOSE GOVERNED BY THE RULES OF THE FEDERAL COMMUNICATIONS COMMISSION OR ANY SIMILAR GOVERNMENT AUTHORITY SHALL BE SUBJECT TO ALL OF THE ARCHITECTURAL CONTROL PROVISIONS OF ARTICLE VIII OF THIS DECLARATION AND MAY NOT BE ERECTED UNTIL SAME ARE APPROVED, IN ADVANCE, IN ACCORDANCE WITH THE ARCHITECTURAL CONTROL PROVISIONS OF ARTICLE VIII OF THIS DECLARATION. ALL DBS DISHES AND ANTENNAS AND OTHER SATELLITE DISHES WHICH ARE GOVERNED BY THE RULES AND REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION OR ANY OTHER GOVERNMENTAL AUTHORITY SHALL BE SUBJECT TO SUCH REASONABLE RESTRICTIONS AS THE PARTY HOLDING THE ARCHITECTURAL CONTROL POWERS UNDER ARTICLE VIII OF THIS DECLARATION MAY LAWFULLY IMPOSE, IN ACCORDANCE WITH THE APPLICABLE FEDERAL COMMUNICATIONS

REGULATIONS OR OTHER APPLICABLE LAW. NO SUCH DISH OR ANTENNA SHALL BE PLACED ON THE FRONT OF, OR THE FRONT PART OF, OR FRONT ROOF SURFACE OF, OR WITHIN THE FRONT YARD FOR ANY BUILDING.

Section 9. Livestock, Poultry and Pets. No animals, livestock, poultry or pets of any kind shall be raised, bred or kept upon or in any portion of the Properties, except that up to three (3) dogs and/or cats [there being a total of no more than three (3) such animals, meaning, for example, two (2) dogs and one (1) cat, or two (2) cats and one (1) dog or three (3) dogs or three (3) cats - the total being three (3) animals] per household may be kept in and upon Units subject to the following provisions:

a. Such pets may not be kept in or upon any Unit, temporarily or permanently, for any commercial purpose;

b. Such pets shall not be allowed to disturb others by barking, noise or other activities, and shall not run loose on portions of the properties other than the Unit in which kept, and shall not be either chained or housed, or allowed to run loose upon the exterior portion of any Unit, or upon the exterior portion of any Building located on any Unit; provided, however, that such pets may be chained or allowed to run within any private patio or deck portion of a Unit if such pets do not thereby create a nuisance, or in any respects cause inconvenience to owners of occupants of other adjacent Units, and that the portion of the Unit so occupied by the pet is sufficiently fenced to enclose such pet; provided further, however, that no pet shall, in any event, be housed outside of the Building located on a Unit;

c. It is understood that the enjoyment of the Properties by all Owners and residents thereof, and the success of this Development, might be jeopardized by violations of these conditions; accordingly, the Directors may by majority vote and after three (3) complaints require that any certain pet(s) be removed permanently from the Properties and the Owner of the Unit shall have a period of thirty (30) days to comply with such decision of the Directors;

d. The Owner of a Unit which has such pet(s) kept in or upon it - and not residents or the Owners of any other part of the Properties - shall bear all risks which result from the presence of pets. Accordingly, such Owner shall be absolutely responsible for adherence by the pets to these conditions and be absolutely liable for any and all injury and damage done by such pets to persons or property, and due care or absence of negligence, or absence of demonstration by the pet of propensities or tendencies to perform certain acts, shall not constitute a defense.

e. No dog pens, dog houses, or other similar enclosures are allowed in the Development. "Dog pens" shall include pens with improved or non-improved floors, with fences on top and/or around which are used to encage animals. Dog pens shall further include electronic fences or so-called invisible fences.

f. No dog houses, dog enclosures, pet enclosures, pet houses or any similar improvement, structure or components hall be allowed within the Development;

g. All waste from pets must be promptly cleaned up and removed by the owner of the pet from such Unit Owner's Unit or Lot and/or any other Lot, Unit or Common Area;

h. No vicious animals are permitted. No exotic or dangerous animals shall be kept. Any animal which exhibits any vicious propensity whatsoever shall be excluded or removed from the Development. No Pit Bulls, American Staffordshire Terriers, Rottweilers, Dobermans, mastiffs, German Shepards, Chinese Chows, or other recognized vicious breeds, or breeds generally believed to be vicious or dangerous, of any kind (or mixed breeds thereof), are permitted; provided that this exclusion shall not apply to dogs which are certified by a recognized certifying agency or organization as being an "assistance animal," such as, by way of example only, a seeing eye dog. No exotic or dangerous animal shall be kept. No animals other than dogs, cats and other normal household pets shall be kept;

i. Dogs must be normal, smaller, "house dogs", it being intended that large dogs/large animals shall not be kept;

j. While a limited number of fish aquariums shall be permitted, a substantial number of fish aquariums shall not be placed in any Living Unit, and the Unit Owner of any Living Unit shall be absolutely liable and responsible for any damage caused by leaking of any fish aquarium;

k. Two (2) birds may be kept in any Unit but a Unit shall not be used to raise birds;

l. It is intended that only a reasonable number of any animals, or pets shall be kept in any Living Unit, and same must be such as will not disturb, materially, other Unit Owners.

Section 10. Trash, Storage, Disposal/Outdoor Storage. All trash, rubbish, garbage and other materials being thrown away or disposed of by Unit Owners or residents on the premises must be placed in bags or containers approved by the Mixed Refuse Service of the City of Columbia, and must be placed at those locations (or placed in those dumpsters or similar trash pickup facilities) specified by the Association's Board of Directors. The outdoor placement of or storage of materials, equipment, canoes, boats, or other items of any kind, nature or description whatsoever, on any outside portion of a Unit shall be prohibited, with the provision that the placement of such functional items as patio and outdoor living equipment within private patios, courtyards, private lawn areas or porches or decks shall be permitted, and that the use of children's bicycles and play equipment and other items approved by the Directors of the Association (but not the storage of same) in such a manner as not to unreasonably interfere with the enjoyment of the Units and Common Areas by other Owners and residents, shall be exempt from this provision. Because of the hazards of fire, storage of highly flammable or explosive matter is prohibited on any portion of the Properties. Provided, however, this section shall not apply so as to interfere with normal construction methods in the Construction and development of any portion of the Properties. As indicated in ARTICLE IX of the Declaration trash and mixed refuse, in certain areas, must be placed by the Owners or occupants of Units at the location specified by the Mixed Refuse Service or provided by the Developer or specified by the Association's Board of Directors. The Association shall have the right to designate specific areas where trash or mixed refuse shall be placed, and to promulgate reasonable rules and regulations for the location or placement of trash or mixed refuse.

Section 11. Temporary Structures. No structure of a temporary character, shack, shed, tent, dog house, locker or other out Building shall be used on any Lot or Unit on a temporary or permanent basis unless included in the plans and specifications of the Building as constructed by the Developer

or Builder or unless approved under the provisions of the Declaration relating to Architectural Control, or unless used by the Developer in normal construction methods. Provided, however, that this section shall not apply so as to interfere with normal construction methods in the construction and development of any part of the Properties.

Section 12. Open Fires. No open fires shall be permitted on the individual Unit premises, with the exception of outdoor grill-type fires used for the preparation of food to be consumed on the premises.

Section 13. Interference with Maintenance by Association. No Owner or resident of a Unit or any portion of the Property shall have, claim or exercise any right to maintain, alter the appearance of, or change or improve any areas or surfaces of the Properties or the color thereof (including the exterior surfaces of the exterior walls of Units).

Section 14. Garages. All garage doors shall be kept closed at all times other than when driving vehicles into or out of garages, or when placing other articles in or removing other articles from garages. Garages and carports are intended for and shall be used for vehicular parking. No garages or carports shall be used for storage of goods, merchandise, wares, tools, equipment, produce, products or other items of any kind or nature whatsoever used in connection with a business or commercial activity. Garages may not be converted to habitable space or living space or recreational space for pets or humans or animals, or for storage which would prevent their use for vehicular parking.

Section 15. Planting and Gardening Prohibited. Except in the individual patio areas, or private deck areas, or private garden areas, or private porch areas, or private courtyards, or other areas inside privacy fences, or other areas designated or allowed or approved by the Board of Directors, no planting or gardening shall be done, unless approved in advance by the Developer or the Association's Board of Directors (whoever holds the Architectural control powers), pursuant to the Architectural control provision of ARTICLE VIII of this Declaration, and no fences, hedges or walls shall be erected or maintained upon any Unit except as are planted or installed in accordance with the initial construction of the improvements on any Unit, or as approved, in advance, in accordance with the Architectural control provisions of ARTICLE VIII of this Declaration.

Section 16. Storage Tanks. No tank for the storage of propane or other fuel may be maintained on any Unit or within any Lot.

Section 17. Automotive Repair Prohibited. No automotive repair or rebuilding or any other form of automotive manufacture, whether for hire or otherwise, shall occur on any Lot or Unit or Common Area hereby restricted; provided, however, that Unit Owners shall be permitted to perform ordinary periodic maintenance upon their motor vehicles within enclosed garages upon their respective Units.

Section 18. Awnings and Storm Doors Prohibited. No awnings or storm doors, not installed by the Developer or the Builder as a part of the original construction, may be constructed, installed or erected nor may any external changes of any kind be made to any Building or improvement within the Development, unless approved, in writing, in advance, pursuant to the Architectural Control Provisions of ARTICLE VIII of this Declaration.

Section 19. Two, Three, Four Wheeled Recreation Vehicles or Similar Vehicles. Motorcycles, mopeds, powered scooters, or powered tricycles, or motor bikes, or motorized recreational vehicles may not be run within the Development, either on the Private Drive or Common Areas or Common Elements or any Lot or Unit; provided, however, that they may be used solely to go to and from the Unit Owner's Unit for purposes of going to and from work, or one's job, or to school. No such vehicles shall be used within the Development for purposes of recreation. All such vehicles must have a suitable muffler, so as to provide for quiet operation. In the event of three (3) complaints, the Association's Board of Directors may require that any such vehicle be removed from the Development. This restriction shall apply to Lots, Units, Common Areas, and all public streets abutting upon the Lots, and it is hereby agreed, on behalf of all Unit Owners, that it shall so apply.

Section 20. Enforcement. In addition to any rights and remedies provided to the Association or the Unit Owners by this Declaration or by law for the enforcement of the use restrictions established by this ARTICLE XII or ARTICLE VIII, or the maintenance requirements of ARTICLE IX of this Declaration, and in addition to any other rights and remedies provided for in this ARTICLE XII, and ARTICLE VIII or IX and elsewhere in this Declaration, the Board of Directors of the Association shall, in the event of a violation of any of the use restrictions or requirements established by this ARTICLE XII, or by ARTICLE VIII or ARTICLE IX or other requirements of this Declaration, in its sole, absolute and unmitigated discretion, have the following additional rights, powers and authorities, to-wit:

a. To deny to any Units or any Owners which are in violation of the use restrictions or which are being used in violation of such use restrictions, any maintenance or other services which the Association might otherwise be required to provide;

b. To impose upon the Unit (and the Owners thereof), being used in violation of any of the use restrictions, a special assessment (by way of a fine), in such amount as the Association's Board of Directors, in its sole, absolute and unmitigated discretion shall deem appropriate, not to exceed Five Hundred Dollars ($500.00) per month during the continuance of the violation. Such fine shall constitute a special Unit assessment upon the Unit (and the Owners thereof) subjected to the assessment. Such special Unit assessment shall be payable to the Association, upon demand, and shall be added to (and become a part of), the other assessments to which the Unit (and the Owner thereof) is subject, and shall be enforceable in the same manner as is provided for the enforcement of other assessments under ARTICLE VI of this Declaration;

c. To deny to the applicable Unit, and the Owners, occupants, guests and invitees thereof, access to the Unit, and to any parking spaces designated for the exclusive use of the Unit, until the breach of the use restrictions has been remedied.

With the exception of those situations involving a legitimate emergency, posing a danger to the safety of the properties or any portion thereof, or any of the residents thereof, or any guests or invitees therein, the Association's Board of Directors shall not, in the event of a violation or apparent violation of the use restrictions set forth in this ARTICLE XII or the requirements of ARTICLE VIII or ARTICLE IX, seek to utilize any of those powers or remedies conferred upon it by subsections a through c of this Section 20 without first giving written notice of intention to do so to the Owners or occupants (in the event the occupants are different than the Owners) of the applicable Unit. Such

written notice shall specify the violation or apparent violation of the use restrictions hereinabove set forth in this ARTICLE XII, or the requirements of ARTICLE VIII or ARTICLE IX, and shall notify the said Owners or occupants of the intention of the Association's Board of Directors to resort to one or more of the powers, authorities and remedies conferred upon it by such subsections a through c. Such notice shall further give such Owners or occupants notice of the time and place at which such Owners or occupants may appear before a meeting of the Association's Board of Directors. At such meeting such Owners or occupants, and any other interested persons, shall be permitted to present such evidence and/or arguments, both for and against the violation or apparent violation of the use restrictions hereinabove set forth in this ARTICLE XII, or the requirements of ARTICLE VIII or ARTICLE IX, as shall appear to be reasonably relevant to the issue as to whether the apparent violation exists or has occurred. Evidence presented to the Board may be taken under oath, or not under oath, as the Board, in its discretion, sees fit. Parties (including the Owners) appearing before the Board, shall be entitled to have an attorney represent them, should they desire to do so; provided that all costs and expenses incurred in connection with such attorney's representation shall be paid by the party utilizing the attorney's services. Formal rules of evidence shall not apply, but the board shall utilize its best efforts to hear only such evidence, as would appear to be reasonably competent, and as would appear to be reasonably relevant to the issue as to whether the violation or apparent violation of the use restrictions hereinabove set forth has occurred, or is occurring. At the conclusion of the presentation of evidence to the Board, the Owners or occupants of the applicable Unit, and all other interested parties shall be permitted to present such arguments or statements to the Board as they shall deem proper and appropriate. Following the presentation of the evidence, and such statements or arguments, the Board shall adjourn, and shall, in closed session, make a determination as to whether the violation or apparent violation exists, or has occurred, and shall determine the fines to be imposed, or the other remedies to be utilized by the Board in attempting to terminate or remedy the violation or apparent violation. All decisions of the Board, in this regard, shall be by majority vote of those members of the Board who are present and voting. Presence of a majority of the Board of Directors shall constitute a quorum for all purposes under this Section 20. As soon as practicable following the decision by the Board, the Board shall notify the Owners or occupants of the applicable Unit of its decision, in writing and (in the event, the decision is that the breach or violation of the use restrictions has occurred, or is occurring), such writing shall further state the sum of the fine or fines to be imposed, and/or a description of the other remedies or powers to be exercised by the Board in an attempt to eliminate the breach or violation. The occupants or owners of the applicable Unit shall have five (5) days, from the date of delivery of such written notice to the Unit, to remedy or eliminate the breach or violation. In the event the breach or violation is not remedied during such five (5) day period, then the action of the Board of Directors, commencing on the sixth (6th) day following the delivery of such notice, shall be in full force and effect, and the fines or other remedies described in the written notice from the Board of its decision (or other remedies described in such decision) shall be in full force and affect, and shall be applied or imposed, beginning with the said sixth (6th) day. Where a Unit is occupied by a person or persons other than the Unit Owners, the Board of Directors, where it is reasonably practicable to do so, shall notify both the occupants of the Unit and the Owners thereof of a hearing before the Board of Directors, of the type hereinabove described, and of the Board's decision and intentions, as hereinabove described.

The Developer for each Lot and Unit located within the property, hereby covenants, on behalf of the Developer and the Developer's successors, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any deed or other conveyance, is deemed to

covenant and agree to the provisions of this Section 20, and to the rights, powers, remedies and authorities imposed within the Association's Board of Directors by this Section 20, and to waive any right to recourse against, or damages from, or claims or complaints against, the Association's Board of Directors, or the Association, or any members of such Board of Directors or such Association, which may arise out of any exercise by the Association or its Board of Directors of the rights, remedies, powers and authorities provided by this Section 20. In addition, should the Association, or its Board of Directors, by reason of a violation of the restrictions set forth in this ARTICLE XII or the requirements of ARTICLE VIII or ARTICLE IX, seek from any Court any temporary restraining order, restraining order, injunction, temporary injunction, preliminary injunction or similar relief, all requirements, of any kind or nature whatsoever, that the Association, or its Board of Directors post an injunction bond, or a bond, or a surety bond, or any type of bond of any kind or nature whatsoever, shall be and the same are hereby waived by each Unit Owner, and by the Developer (on behalf of themselves and on behalf of their successors, and each and all successors in ownership to any Unit or any Lot). The Developer for each Lot and Unit located within the property hereby covenants, on behalf of the Developer and the Developer's successors, and each Owner of any Unit by acceptance of a Deed therefor shall be deemed to covenant and agree, that the Association shall, upon presentation to a Court having appropriate jurisdiction of a petition seeking a temporary restraining order against a violation or threatened violation of the use restrictions hereinabove set forth, be fully entitled to receive such temporary restraining order, ex parte, without the necessity for the posting of any bond, injunction bond, surety bond or other type of bond of any kind or nature whatsoever. The Developer, on behalf of the Developer and the Developer's successors in ownership of any portion of the properties, and each Owner of any Unit by acceptance of a Deed therefor, recognize that strict compliance with the use restrictions hereinabove set forth in this ARTICLE XII, and the requirements of ARTICLE VIII and ARTICLE IX is of the utmost importance to the protection of the Properties, and the value thereof, and that a breach or threatened breach of said use restrictions would cause substantial damage to the Properties, and the Unit Owners, and the occupants of the properties, and would constitute a substantial threat to proper enjoyment of the Units by the Owners and/or occupants thereof. Strict performance of, and observation of, and compliance with, the use restrictions hereinabove set forth in this ARTICLE XII and the requirements of ARTICLE VIII and ARTICLE IX is, therefore, of the essence.

Any action taken by the Association's Board of Directors in accordance with this ARTICLE XII, or this Section 20, shall be conclusive and binding upon the Unit Owner and the occupants of a Unit, unless the Unit Owner of the Unit seeks a judicial review of the actions of the Board of Directors under the provisions of Chapter 536 of the Revised Statutes of Missouri, the Administrative Procedure Act, as it is in effect in the State of Missouri. The Association's Board of Directors, the Association, and each Unit Owner shall be deemed to have conclusively contracted and agreed that procedures conducted by the Association's Board of Directors under this Section 20 are contested cases, which are subject to the Administrative Procedure Act of the State of Missouri, as same appears in Chapter 536 RSMo., and that appeals or reviews of the actions of the Board of Directors under the provisions of this Section 20 shall be taken only in accordance with the provisions of Sections 536.130, *et seq.*, of the Administrative Procedure and Review Act as same is in effect in Chapter 536 RSMo. In the event review of a decision of the Board of Directors is not sought by a Unit Owner, in accordance with the requirements of this Section 20, then the Unit Owners shall be conclusively bound by the decisions of the Board of Directors. If a Unit Owner does seek review of the actions of the Board of Directors, and if the Board has caused a reasonable record to be made of

the proceedings before it, and at the request of the Unit Owner, provides such record to the court or the Unit Owner, then the inquiry of the court which seeks to review the actions of the Board of Directors shall extend to the following and only to the following:

(1) Is the action of the Board of Directors in violation of constitutional proceedings;

(2) Is the action of the Board of Directors in excess of the authority granted to the Board of Directors by this Declaration, or in excess of any limitation imposed by the statutes of the State of Missouri or other applicable laws of the State of Missouri;

(3) Is the action of the Board of Directors unsupported by competent and substantial evidence upon the whole record;

(4) Is the action of the Board of Directors, for any other reason, unauthorized by law;

(5) Was the action of the Board of Directors made upon an unlawful procedure or without a fair trial;

(6) Was the action of the Board of Directors arbitrary, capricious or unreasonable;

(7) Did the action of the Board of Directors involve an abuse of discretion?

The action of the Board of Directors shall be reviewed by a court of competent jurisdiction solely for the purposes of making the determinations set forth in subparts (1) through (7). The court shall review the action of the Board of Directors based solely upon the record adduced at the proceedings before the Board of Directors. The court shall hear the case without a jury and shall not take additional evidence. The court may render a judgment affirming, reversing or modifying the Board's determination and order, and may order the Board to reconsider the case in light of the court's opinion and judgment, and may order the Board to take such further action as the court may find proper and appropriate. However, the court shall not substitute its discretion for the discretion legally vested in the Board of Directors. Appeals may be taken from the judgment of any reviewing court, which reviews the action of the Board of Directors, as in other civil cases.

Section 21. No Waiver Other Than by Express, Written Waiver/Selective Enforcement Permitted and Agreed To. Any provisions or purported provisions of law to the contrary notwithstanding, the Developer, the Association, its Board of Directors and/or its Architectural Control Committee, whoever or whichever then holds the Architectural Control Powers under ARTICLE VIII of this Declaration, and/or any Unit Owner or Owners, shall not be held to have waived, and shall not have waived, the rights to enforce or to seek enforcement of any of the provisions of this Declaration, including, but not limited to, the provisions of ARTICLE VIII above or this ARTICLE XII, by reason of the fact that he, she, they or it have, from time to time, not enforced or chosen not to enforce any of the provisions of ARTICLE VIII above or this ARTICLE XII, or any of the other provisions of this Declaration. No provision and no requirement and no restriction of this Declaration, including, but

not limited to, those of ARTICLE VIII above and this ARTICLE XII shall be subject to being impliedly waived or to implied waiver, or to any contention of waiver, unless a written document providing for such waiver is executed by the party against whom the waiver is sought to be charged. Each Lot Owner and Unit Owner, by acquiring such Lot Owner's Lot or such Unit Owner's Unit, shall be deemed to have agreed and shall have expressly agreed to all of the provisions of this Section 21, and shall be deemed to have agreed that the provisions of this Declaration, and the provisions of the restrictions of this Declaration, including, but not limited to, the provisions of ARTICLE VIII above and this ARTICLE XII, may be selectively enforced by the Developer, the Board of Directors of the Association, its Architectural Control Committee or any Lot or Unit Owner or Owners. For example, the Board of Directors of the Association may choose to enforce the restrictions of this ARTICLE XII so as to prohibit certain types of improvements or structures or uses which would otherwise be prohibited pursuant to this ARTICLE XII, while not seeking to prohibit or to enforce the provisions of this ARTICLE XII or this Declaration as to other uses, structures or improvements which would be similarly prohibited by this Declaration. Reasonable selective enforcement of the provisions of this Declaration is specifically contemplated, and the Developer, the Board of Directors of the Association, and its Architectural Control Committee and each Lot Owner seeking to enforce any of the provisions of this Declaration shall be and they are hereby vested with reasonable discretion to determine when, and under what circumstances, and for whatever reasons, the provisions of this Declaration shall be sought to be enforced, or the provisions of this ARTICLE XII or the provisions of ARTICLE VIII above shall be sought to be enforced, and the fact that they seek to enforce provisions on certain occasions and not on others shall not constitute a defense to any actions brought to enforce any of the provisions of this Declaration. The Board of Directors of the Association, the Developer, the Architectural Control Committee of the Board of Directors of the Association, or any Lot or Unit Owner or Owners may, therefore, for good and valid reasons, which are reasonably applied, engage in selective enforcement of these covenants and the provisions of these covenants and the restrictions of ARTICLE VIII above and this ARTICLE XII.

For example, the Developer, the Board of Directors of the Association, or its Architectural Control Committee may elect to allow, without the need to seek Architectural Control approval, certain types of basketball goals, while prohibiting yet other types of basketball goals, if the Board of Directors, the Developer or the Architectural Control Committee reasonably determines that certain types of basketball goals are not damaging to the quality or value of the Development or of any Lot or Unit or any part of the Property, while other types of basketball goals are so damaging. The Developer, the Architectural Control Committee of the Board of Directors of the Association, or the Board of Directors of the Association, whoever or whichever then holds the Architectural Control Powers hereunder, may allow certain types of play structures to appear on Lots and Units, and yet prohibit other types of play structures from being located on Lots or Units.

Under no circumstances shall a Lot Owner or Unit Owner be heard to claim that any of the provisions of this Declaration have become void or unenforceable by reason of:

a. Estoppel;

b. Waiver, expressed or implied;

c. Non-enforcement of same; or

d. Selective enforcement of same.

Even though certain structures or improvements may be installed which violate provisions of this Declaration, and same remain for some period of time, the Board of Directors of the Association, the Developer or the Architectural Control Committee may thereafter seek to require the removal of such structure or improvements.

Section 22. Waiver of Statute of Limitations. The provisions of any statute of limitations, which would purportedly restrict any claim for relief under this Declaration, or any claim for enforcement of any of the provisions of this Declaration, to a period of less than five (5) years from the date of the event causing the effort to obtain relief or the initiation of a proceedings to enforce any of the provisions of these covenants, is hereby waived, including, but not limited to, any provision of Section 516.095 RSMo., which would restrict enforcement of covenants relating to buildings or other visible improvements to a period of two (2) years. The five (5) year general statutes of limitations, as it is in effect in the State of Missouri, shall apply to all of these covenants and all provisions and restrictions of these covenants, and to any actions to enforce or to seek to enforce these covenants, and any lesser period of limitations or the benefit of any lesser period of limitations shall be waived by the Lot Owner and Unit Owner of each Lot and Unit and shall be deemed to have been waived by the Lot Owner and Unit Owner of each Lot and Unit upon the acquisition of such Lot Owner's Lot or such Unit Owner's Unit.

ARTICLE XIII
INSURANCE

Section 1. Insurance to be Maintained In Effect by Unit Owners of Each Unit. Unless the Association's Board of Directors, in its complete discretion (and it shall have total, complete and unlimited discretion to make such determination), determines that the Association will obtain and maintain fire and casualty insurance, as hereinafter described in this section, on the Buildings and the Units (including all parts and components of the Units, which shall include the Living Units, and all parts and components of the Living Units) [such insurance being referred to herein as "Fire and Casualty Insurance"], the Unit Owners of each Unit shall be required to obtain and maintain Fire and Casualty Insurance on their respective Units, and all parts and components of their Units and the insurable improvements which make up their Units, insuring the same against loss or damage by fire, lightening, windstorm, hail, explosion, vandalism, malicious mischief and all other hazards which are generally insured against in the Columbia, Missouri area under standard All Risk Coverage provisions (or extended coverage insurance) for at least the full insurable replacement cost of the improvements which are insured, meaning all improvements of the Unit. Such Fire and Casualty Insurance coverage which shall be obtained by each Unit Owner, shall, if it is legally practicable to do so, name the Unit Owner and the Association as loss payees or, if it is not so legally practicable, shall name the Association as an additional insured and loss payee, and if that is not legally practicable, to cause the Association to be named as an additional insured and loss payee, shall name the Association either as an individual loss payee to name the Association as a party in interest or interested party with respect to the insurance coverage provided by the Fire and Casualty Insurance in order that the Association shall receive notice of any cancellation of insurance, and of the effectiveness of the insurance. The Fire and Casualty Insurance coverage to be provided by the Unit Owners pursuant to this Section 1 shall include coverage for:

a. The Exterior Building Components and Structural Components;

b. The exterior walls and exterior wall surfaces of and for that part of the Building which includes the Dwelling Unit of the Unit, even though the Association is obligated to maintain, repair and replace the exterior wall coverings and exterior wall finishes;

c. The gutters and downspouts, even though the Association is obligated to maintain, repair and replace same;

d. All of the components described in subparagraph a through c above for any garage, or carport for the Unit, meaning for the Dwelling Unit of the Unit;

e. All of those parts and components of the Dwelling Unit of the Unit, and of the Unit, and of that part of the Building which contains such Dwelling Unit which are included within the "Unit" of the Unit Owner, and which are to be owned by the Unit Owner, and which are described in Section 31 of ARTICLE I of this Declaration, even though, under ARTICLE IX of this Declaration the Association has the obligation to provide maintenance, repairs and replacements for certain items of same.

Since:

a. The Association has the obligation under ARTICLE IX of this Declaration to provide maintenance, repairs, replacements and upkeep for the Exterior Building Components of the Unit as described in such ARTICLE IX, and would, therefore, be the party required to expend funds to provide for maintenance, repairs or replacements of such items in the event same are damaged or destroyed by fire or other casualty; and

b. The Dwelling Units of the Units are in Buildings wherein the Dwelling Units are attached to each other and are located immediately adjacent to each other, and the interests of each of the Unit Owners requires that in the event an adjacent Dwelling Unit or any Dwelling Unit within the Development is damaged by fire or other casualty, such Dwelling Unit be fully insured by Fire and Casualty Insurance as described in this Section 1, and that the proceeds of such Fire and Casualty Insurance be used to repair and restore the adjacent Dwelling, as opposed to being used for other purposes, and the Association and its Board of Directors are the only parties who can provide assurance that adequate Fire and Casualty Insurance coverages are kept in full force and effect and that the proceeds of any payments made thereunder are used for the purposes of effecting repairs or replacements of damaged or destroyed Dwelling Units,

all of the Unit Owners agree that the Association has a proper insurable interest in the Units and the Dwelling Units, and has a legal interest in seeing to it that adequate Fire and Casualty Insurance is maintained in effect by the Unit Owners on their Units, to protect the Association against uninsured expenditures for repairing or replacing Exterior Building Components of a Dwelling Unit which it is obligated to repair or replace and to protect all of the other Unit Owners, and elsewhere throughout the Development, from the loss of value of their Units which would be incurred if Fire and Casualty Insurance is not adequately maintained or the proceeds are not properly used.

The Fire and Casualty Insurance to be maintained in effect pursuant to this Section 1, in the discretion of the Association's Board of Directors or the insurance companies, may, for each Dwelling Unit, include Fire and Casualty Insurance on all parts and components of the Dwelling Unit, including attached, built-in or installed fixtures and equipment, floor coverings, wall coverings, ceiling coverings, cabinetry and fixtures, and other finishes for each Dwelling Unit, and all parts and components of the structure of and for, and the walls, ceilings and floors for, and the roof for, and all finishes for the interior and exterior of the Dwelling Unit. To the contrary, the Association's Board of Directors and the insurer(s) may elect to provide separate Fire and Casualty Insurance coverages as follows:

a. On the "Building" containing the Dwelling Unit, with the "Building" to include all parts and components of such Building; and

b. On certain parts and components of the interior finishes of the Dwelling Unit.

Regardless of whether all insurance coverage is provided under a single policy of Fire and Casualty Insurance or under separate policies, one of which covers the Building itself and the other of which covers the other parts and components of the Dwelling Unit, the insurance coverages required by this Section 1 shall insure all parts of the Dwelling Unit and all components of the Dwelling Unit, including:

- All Exterior Building Components of the Building, including exterior walls, gutters, downspouts, roofs, roof structures;

- All Structural Components of the Building which are insurable, including columns, beams, trusses and similar items;

- All items which would normally be considered to be a part of a "Building" under Fire and Casualty Insurance coverages, including fixtures attached thereto;

- All systems within and serving the Building, including the HVAC system and all equipment thereof and all parts and components thereof, and all insurable components of all plumbing, electrical, sewer and other utility systems and installations;

- Studs and similar items;

- Flooring;

- Built-in items, such as cabinetry and similar items;

- Exterior and interior doors and all parts and components thereof and all hardware therefor and all frames therefor;

- Exterior and interior windows and all hardware therefor and all parts and components thereof and all frames therefor;

- Sheetrock.

- Ceiling components and all parts and components of the ceiling.

The insurer(s) or the Association's Board of Directors may elect to have the Fire and Casualty Insurance coverages provided for by this section include only the "Basic Unit", meaning the basic Dwelling Unit and the parts and components thereof as originally constructed, with "Upgrades" of that Dwelling Unit being separately insured by the Unit Owner, with upgrades to include, for example, upgraded or enhanced appliances, upgraded or enhanced flooring, upgraded or enhanced light fixtures, upgraded or enhanced carpeting, upgraded or enhanced plumbing fixtures, upgraded or enhanced sound systems, upgraded or enhanced wallpaper or wall coverings, upgraded or enhanced woodwork or trim, and similar upgraded or enhanced items.

Regardless of how the Fire and Casualty Insurance coverages on a Unit/Dwelling Unit described in this Section 1 are provided, same must insure, at least in the aggregate (if there are more than two policies), for the full insurable replacement costs thereof, as hereinabove described in this Section 1, all (without exception) parts and components of the Dwelling Unit and of that part of the Building which houses/includes the Dwelling Unit, including any garage or carport for the Dwelling Unit, and, to the extent legally practicable, the Association shall be named as a loss payee (whatever shall be legally practicable) in order that its interests and the interests of other Unit Owners as hereinabove described in this Section shall be adequately protected. It is of the essence of the duties and obligations of each Unit Owner that the insurance coverages described in this Section 1 be maintained in full force and effect at all times. The maximum deductible amount on the insurance coverages on each Dwelling Unit, shall, in the aggregate, not exceed Five Hundred Dollars ($500.00). To the extent legally practicable, all proceeds payable under each insurance policy for the Fire and Casualty Insurance coverage described in this Section shall be payable to the Unit Owner and the Association in order that the Association and all Unit Owners shall be assured that the proceeds shall be used under the following terms and provisions of this Declaration. Upon demand by the Association's Board of Directors, and in any event at least annually within the first sixty (60) days of each calendar year, each Unit Owner shall provide to the Association's Board of Directors, or its officers or its manager or managing agent as the Board of Directors shall elect, certificates of insurance evidencing that the Fire and Casualty Insurance required by this Section 1 is in effect. **Insurance on all Dwelling Units of all Units contained within a single Building (or all insurance on all Units, the Dwelling Units of which, make up a single Building) shall, if required by the insurer insuring the first Dwelling Unit contained within such Building or by the Association's Board of Directors, in its sole, complete and unlimited discretion, be provided with the same insurance company and be obtained from the same insurance company, but otherwise differing insurance companies may insure with respect to Dwelling Units contained within a Building or other Buildings. In any event, if the Association's Board of Directors elects to have a list of approved insurance carriers, every Unit Owner must procure such Unit Owner's Fire and Casualty Insurance coverage from one of such approved insurance carriers. It is of the essence of a Unit Owner's duties and obligations under this Declaration that the Fire and Casualty Insurance to be provided pursuant to this section be obtained and kept in full force and effect by the Unit Owner at all times and that the Fire and Casualty Insurance coverage satisfy all requirements of this section.**

As stated in Section 2 below, the Association's Board of Directors may elect to provide or obtain all or part of the Fire and Casualty Insurance coverages required of the Unit Owners by this Section 1.

If the Fire and Casualty Insurance coverages maintained by the Association or a Unit Owner pursuant to this Section 1 do not provide Fire and Casualty Insurance on Upgrades of the Unit Owner's (or the Unit occupant's) furniture, furnishings, household effects, personal possessions and other tangible personal property placed within the Dwelling Unit of the Unit then the Unit Owner shall be required to separately insure such items under a policy of lessee's/renter's/tenant's insurance or a comparable policy, but the Unit Owner or occupant shall have the sole obligations to keep same in full force and effect and under no circumstances shall the Association or its Board of Directors have any liability or responsibility to any loss to or damage to any of such items of tangible personal property.

At the outset the Association and its Board of Directors intend to require that the Association provide the Fire and Casualty Insurance coverage on the Units, the Dwelling Units and the Buildings, as hereinabove described, and such shall be the case until the Association's Board of Directors, in its total, complete, unlimited, unmitigated and unfettered discretion shall determine otherwise, and when a determination is so made by the Board then, from that point forward, until the Board again elects to acquire and maintain the Fire and Casualty Insurance coverage, the Fire and Casualty Insurance coverages shall be provided by the individual Unit Owners.

It is of the essence of the duties and obligations of the Parties that the Fire and Casualty Insurance coverages described herein be maintained in full force and effect.

At the outset, until the Board determines otherwise the maximum deductible permitted on any Fire and Casualty Insurance coverage for any Unit shall be Five Hundred Dollars ($500.00), and if an event covered by Fire and Casualty Insurance coverage occurs then the individual Unit Owner(s) shall be required to contribute the sum of the deductible to the making of the repairs.

All insurance coverage proceeds, meaning all sums payable under Fire and Casualty Insurance coverage, shall be paid to the payees or loss payees, whether that be the Association, the Unit Owner(s) or anyone else, in trust, to be used solely to repair and restore the Buildings and the Units, to a condition as closely approximating that which existed before the event causing the damage as is reasonably practicable. Insurance proceeds shall not be used for any other purposes. Each Unit Owner hereby grants to the Association a lien upon, and security interest in and encumbrance upon all Fire and Casualty Insurance coverages on the Unit Owner's Unit/Living Unit and that part of the Building containing the Unit Owner's Living Unit, in order that the insurance proceeds payable thereunder shall not be used for any purpose whatsoever other than to repair the damage or destruction of any Unit which is caused by an insurable fire or casualty.

Each Unit Owner shall be obligated to pay the Unit Owner's prorata share of the premiums for the Fire and Casualty Insurance coverages which are attributable to the Unit Owner's Unit or the Fire and Casualty Insurance coverage on the Unit Owner's Unit, or shall

be obligated to pay the separate premiums for the Fire and Casualty Insurance coverage on the Unit Owner's Living Unit/Dwelling Unit, and if a Unit Owner fails to do so then the Association may (but shall not be required) to do so, in which event the sum of the Unit Owner's premium or share of the premiums shall be a special assessment upon the Unit Owner and the Unit Owner's Unit, which shall constitute a lien on the Unit Owner's Unit and shall be enforceable in the manner provided for the enforcement of assessments under ARTICLE VI of this Declaration.

Section 2.. Insurance to be Maintained by Association. The Association's Board of Directors, in its complete and unlimited discretion, shall have the power and authority to, at any time, and from time to time, determine that the Association, as opposed to the Unit Owners, shall obtain, and keep in effect the Fire and Casualty Insurance on the Buildings and the Units, or any parts of such insurance, which the Unit Owners would otherwise be obligated to keep in effect pursuant to Section 1 of this ARTICLE. If the Association's Board of Directors makes such determination, then the Association shall, upon demand by each Unit Owner furnish the Unit Owner with a certificate of insurance covering the Unit Owner's Unit and improvements, evidencing that the Fire and Casualty Insurance which the Association's Board of Directors elects to have the Association maintain in effect is in effect, and that the Unit Owner is named as an insured party, or loss payee with respect to such insurance coverages. If the Association, through its Board of Directors, elects to obtain and maintain in effect the Fire and Casualty Insurance coverages described in Section 1 of this ARTICLE, or any parts of same, then, at the option of the Association's Board of Directors or the insurer(s) selected by it:

a The premiums for such insurance may be equally apportioned to each of the Units, if that appears to be fair and equitable to the insurer or such Board; or

b. The premiums may be apportioned among the various Units based upon the reasonable estimation of the cost of insuring the insurable improvements of the Dwelling Units of each of the Units; or

c. Separate policies may be obtained on the individual Units/Dwelling Units.

Each Unit Owner's allocated share of the insurance coverage/premium shall be a part of the annual assessments and other assessments to which the Unit Owner and the Unit Owner's Unit shall be subject under ARTICLE VI of this Declaration. The costs for the insurance premiums may be either added to and included in the annual assessments or may be in addition to the annual assessments, but regardless of how apportioned or charged each Unit Owner's share of the insurance premiums shall be a part of the Unit Owner's assessments and obligation for assessments under ARTICLE VI of this Declaration. If the Association, through its Board of Directors, elects to obtain only a portion of the insurance coverages described in Section 1 of this ARTICLE (meaning, for example, that the Board elects to insure the basic components of the Building, with the Unit Owners to insure the other components of their Dwelling Units) then the Unit Owners shall be obligated to the Association and its Board of Directors and the other Unit Owners to keep in full force and effect the balance/remainder of the Fire and Casualty Insurance coverages which would otherwise be required to be maintained in effect by the Unit Owners under Section 1 of this ARTICLE.

Section 3. Insurance on Common Elements. The Association, by and through its Board of Directors, shall obtain and maintain Fire and Casualty Insurance on all Common Elements (other than those titled in the name(s) of (a) Unit Owner(s)) and all facilities located thereon against loss or damages by fire, lightening, windstorm, hail, explosion and other casualties which may reasonably be insured against, to the extent that such insurance can reasonably and practicably be obtained.

Section 4. Insurance Premiums. If the Association's Board of Directors has, pursuant to Section 2 of this ARTICLE, as to the Units/Dwelling Units, elected to obtain and maintain in effect the Fire and Casualty Insurance coverage on the Units/Dwelling Units (or any part of same), which would otherwise be required to be insured by the Unit Owners under Section 1 of this ARTICLE, then, in addition to the annual assessment and other assessments provided for by ARTICLE VI of this Declaration, each Owner of each Unit as to which the Association's Board of Directors has made such an election, covenants to pay (and shall be required to pay) to the Association, or its Board of Directors, or its officers, or the insurance carrier for the insurance obtained by the Association's Board of Directors, as determined by the Association's Board of Directors, at such times and in such installments as shall be determined by the Association's Board of Directors or such company, commencing on the day an Owner takes title to a Unit, his prorated share of the total insurance premium charged by the insurance carrier for any insurance obtained and maintained in effect by the Association under Section 2 of this ARTICLE. The Association, or its Board of Directors, or the insurance carrier for the applicable Fire and Casualty Insurance shall apportion the total premium for all insurance among the various Units in such reasonable manner as shall appear, in the discretion of the insurance carrier or the Association's Board of Directors, to be fair and equitable, including any of the following methods:

- Equally among the Units/Dwelling Units; or

- Based upon the estimated costs of replacement and risk involved with respect to each Unit;

- On a square footage basis;

- In any other equitable manner.

In the event an Owner fails or refuses to pay the aforesaid prorated portion of the premium for that insurance described by Section 1 of this Article, then such prorated amount of such premium shall be added to and become a part of the annual assessment or charges to which the Unit is subject under ARTICLE VI of this Declaration, and as a part of such assessments or charges, it shall be a lien and obligation of the Owner, and shall become due and payable, and be collectible, in all respects as provided for the annual assessments provided for by ARTICLE VI of this Declaration.

Section 5. Failure by a Unit Owner to Maintain Fire and Casualty Insurance on Unit Owner's Unit. If a Unit Owner fails to keep or to maintain in effect Fire and Casualty Insurance on the Unit Owner's Unit, Dwelling Unit and that part of the Building containing the Unit Owner's Dwelling Unit, which the Unit Owner is required to keep in effect pursuant to Section 1 of this ARTICLE, then the Association's Board of Directors may, in its complete discretion (but it shall not be obligated to do so) obtain Fire and Casualty Insurance on such Unit/Dwelling Unit and such parts of the Building, and the

cost of such insurance shall be a special assessment against the Unit Owner and such Unit Owner's Unit, which shall be charged and enforceable in the manner provided for by ARTICLE VI of this Declaration, and shall for all purposes under ARTICLE VI of this Declaration be an assessment owing by the Unit Owner.

Section 6. Repair and Restoration of Improvements. In the event of damage to or destruction of a Building or any improvements making up a part of a Unit or Dwelling Unit due to fire or other casualty or disaster, any insurance proceeds payable by reason thereof must be used to repair and restore the damaged or destroyed items, so as to restore same, to the extent practicable, to a condition which as closely comports with the condition which existed prior to the event causing the damage or destruction as shall be reasonably practicable. To the extent that no insurance coverages are available for such purposes the Unit Owner shall be required to repair, rebuild and restore the improvement to a condition substantially as good as that which existed prior to the damage or destruction as is reasonably practicable, within a reasonable time after the date when the damage or destruction occurs. Each Unit Owner hereby irrevocably appoints (pursuant to a power of attorney coupled with an interest, which shall not be revocable or amendable) the Association and its Board of Directors as his true lawful attorney-in-fact, in his name, place and stead, and with full and complete authorization, right and power to collect the proceeds of any policy of any Fire and Casualty Insurance described in this ARTICLE, in its sole name, and to cause the repairs, reconstruction and restoration of any damaged improvements and to pay for same with the insurance proceeds. No Unit Owner shall have a claim against the Association if it does collect proceeds of a policy of Fire and Casualty Insurance and uses same to repair, restore and reconstruct any improvements of a Dwelling Unit of the Unit Owner. If a Unit Owner makes repairs or restorations of a damaged or destroyed component of a Dwelling Unit or Building, then the Unit Owner shall be entitled to receive the proceeds of all Fire and Casualty Insurance coverages payable by reason of the damage or destruction which is repaired by the Unit Owner.

Section 7. Mutual Benefit. All provisions of this ARTICLE are for the mutual benefit of the Unit Owners of all Units and the Association and are necessary for the protection of the Association and all Unit Owners.

Section 8. Other Insurance. Nothing herein shall preclude a Unit Owner from obtaining whatever additional insurance he may desire, and it shall be the individual responsibility of each Owner to provide tenant's theft, liability and other insurance covering personal property, damage or loss.

Section 9. Waiver of Subrogation. To the maximum extent permitted by law, each Unit Owner, and the tenants and occupants of each Unit Owner's Unit, and the members of their families, do hereby totally and completely release, discharge and exonerate the Association, its Board of Directors, and its officers, managing agents, manager and employees of and from each and all, and every, suit, demand, action and cause of action, liability, expense and responsibility which arises out of or might arise out of or is claimed to have arisen out of any damage or destruction, by fire or other casualty, of any Unit of Living Unit, or any failure to have in effect on any Living Unit/Unit any of the insurance coverages required by this ARTICLE XIII, or any failure or purported failure on the part of the Association, or its Board of Directors, officers, managers, managing agents or other agents or employees to require proof of insurance coverage as required by this ARTICLE XIII. To the maximum

extent permitted by law, each Unit Owner and the tenants and lessees and occupants of each Unit Owner's Unit, and the respective members of their families, do hereby release the Unit Owner, tenants, and occupants of any adjacent Unit, and the members of their family, of and from each and every, suit, action, cause of action, demand, loss, expense, liability, damage and responsibility of every kind, nature and description whatsoever which arises out of any loss, damage or destruction caused by fire or other casualty to any Living Unit, Unit or physical improvement, provided only that the Unit Owners have maintained in effect the insurance coverages required by Section 1 of this ARTICLE XIII. For example, if an adjacent Living Unit is damaged by fire or other casualty which allegedly arises out of the fault or neglect of the Unit Owner of the immediately adjacent Unit, or the fault or neglect of any family member of such Unit Owner, the Unit Owner of the damaged Unit shall be deemed to have totally and completely released, discharged and exonerated the Unit Owner of the adjacent Unit and the members of that Unit Owner's family, and the occupants of such adjacent Unit of and from all suits, actions, causes of action, claims, liabilities, expenses and responsibilities arising out of the damage to the Unit Owner's Living Unit which allegedly arises out of the fault or neglect of the adjacent Unit Owner or the occupants of the adjacent Unit. The waivers of subrogation and waivers of claims provided for by this Section 9 should be binding upon the Unit Owners and their respective fire and casualty insurance carriers, meaning that each insurance carrier shall be barred from asserting claims to the extent that its insured is barred from asserting claims under this Section 9.

Section 10. Subordination of Rights. The provisions of ARTICLE XIII shall be subject and subordinate to the rights of any mortgagee or beneficial owner of a deed of trust in and to any insurance proceeds payable by reason of any loss covered by such insurance concerning any Building or an improvement situated on any Unit in which said mortgagee or beneficial owner of a deed of trust may hold a security interest. The provisions of this section notwithstanding, however, all proceeds of Fire and Casualty Insurance coverages payable to a mortgagee or beneficial owner under a deed of trust shall, under all circumstances and without exception, be applied by said mortgagee or beneficial owner (and be required to be so applied) toward the payment of those costs of restoration or repair of the damaged improvements actually incurred. Any excess proceeds received, or if for any reason such restoration or repair does not take place then the entire proceeds, shall be applied in reduction of the mortgage or deed of trust indebtedness.

Section 11. Indemnification. The Unit Owner of each Unit shall indemnify, defend, save and hold harmless each other Unit Owner and the Association, and its Board of Directors, officers, manager, management agent and managing company and managing agent, of and from any and all, and each and every, suit, action, cause of action, demand, loss, expense, liability and responsibility of every kind, nature and description whatsoever which arises out of any failure by a Unit Owner to at all times maintain in full force and effect the Fire and Casualty Insurance coverages required by Section 1 of this ARTICLE.

Section 12. Right of Association to Place Insurance or to Require that Insurance on Units in Same Building be With Same Carrier is Absolute. The Association, acting through its Board of Directors, shall have the absolute right, at the option of the Association's Board of Directors (but shall have no obligation) to require that:

a. Insurance on certain of the Units, or any of the Units, or all of the Units, as required by Section 1 of this ARTICLE, be obtained and placed and put into effect by the

Association, with the premiums therefor to be paid by the Unit Owners of the respective Units, and with such premiums to constitute an additional assessment against the Unit Owners and their Units as provided for by this ARTICLE; or

b. To approve each insurance carrier which provides or is to provide or might provide insurance coverage on any of the Units within the Development, as all such insurance carriers must be approved by the Association's Board of Directors; or

c. To require that each of the Dwelling Units/Living Units within each Building be insured with the same insurance carrier, meaning that the Board of Directors shall be permitted to require that a single insurance carrier insure the Units contained within a Building; or

d. To take any and all other actions which are reasonably required to insure that all Units are adequately insured as described in Section 1 of this ARTICLE.

While the Association's Board of Directors shall have the right to require that insurance coverage required by Section 1 of this ARTICLE be demonstrated by adequate proof of insurance, it shall have no liability, obligation or responsibility for requiring such proof of insurance, and it shall be relieved, discharged and exonerated from all suits, actions, causes of action, claims, liabilities, expenses or responsibilities which might otherwise arise or be claimed to arise out of any failure on its part or purported failure on its part to require proof of insurance coverage or to place insurance coverage on a Unit. For example, if a Unit is not insured through the failure of the Unit Owner to procure insurance, and damage by fire or casualty results, the Unit Owner of an adjacent Unit shall have no claim against the Association or its Board of Directors for any purported failure by the Association or its Board of Directors to require proof of adequate insurance coverage upon the damaged Unit.

Each Unit Owner is also hereby empowered to require, and is authorized to require that the Unit Owner of any Living Unit in the same Building shall provide to the Unit Owner proof that such Unit Owner of the Living Unit in the same Building has in effect the insurance coverage required by Section 1 of this ARTICLE, and if the Owner of an adjacent Living Unit requests that the Unit Owner of each Living Unit/Dwelling Unit in the same Building shall provide to the Unit Owner proof that insurance coverages required by Section 1 of this ARTICLE are in full force and effect.

Even if the Association's Board of Directors does not require that Living Units/Dwelling Units within the same Building be insured by the same insurance carrier, the Unit Owners are strongly advised to obtain insurance on the Units/Living Units/Dwelling Units in a Building with the same insurance carrier in order to avoid conflicts between the insurance carriers in the event of damage or destruction, such as, by way of example only, hail damage to a roof.

SECTION 13. ASSOCIATION AND DEVELOPER HEREBY ADVISE UNIT OWNERS THAT INSURANCE COVERAGE ON DWELLING UNITS IN SAME BUILDING SHOULD BE WITH SAME INSURANCE CARRIER. EACH UNIT OWNER IS HEREBY ADVISED BY THE DEVELOPER AND THE ASSOCIATION THAT IT IS HIGHLY ADVISABLE THAT THE FIRE AND CASUALTY INSURANCE ON THE DWELLING UNITS/UNITS WITHIN AND MAKING UP EACH BUILDING SHOULD BE WITH THE SAME

INSURANCE CARRIER, IN ORDER TO PREVENT DISPUTES AND DISAGREEMENTS BETWEEN THE INSURANCE CARRIERS CONCERNING THE NEEDS FOR VARIOUS REPAIRS AND REPLACEMENTS.

SECTION 14. INSURANCE COMPANIES BOUND. ANY INSURANCE COMPANY/INSURANCE CARRIER WHICH ISSUES INSURANCE ON ANY OF THE BUILDINGS OR PARTS OF THE BUILDINGS OR THE UNITS OR ANY OF THE LIVING UNITS WITHIN THE DEVELOPMENT SHALL BE CONCLUSIVELY TO HAVE ISSUED SUCH INSURANCE WITH FULL KNOWLEDGE OF THIS DECLARATION AND ALL OF ITS PROVISIONS, PARTICULARLY INCLUDING THOSE OF THIS ARTICLE. IF SEPARATE INSURANCE CARRIERS INSURE SEPARATE LIVING UNITS/DWELLING UNITS WITHIN A SINGLE BUILDING (AND PARTS AND COMPONENTS OF THE BUILDINGS CONTAINING THE DWELLING UNITS/LIVING UNITS) WITHIN A SINGLE BUILDING AND THERE ARE DISPUTES BETWEEN THE INSURANCE CARRIERS OR THE UNIT OWNERS OF THE LIVING UNITS WITHIN SUCH BUILDING CONCERNING THE NEEDS FOR VARIOUS REPAIRS, REPLACEMENTS OR RESTORATIONS, INCLUDING, BY WAY OF EXAMPLE ONLY AND NOT BY WAY OF LIMITATION, DISPUTES OR DISAGREEMENTS CONCERNING THE NEED FOR REPLACEMENT OF A HAIL DAMAGED ROOF FOR A BUILDING (MEANING THE ENTIRETY OF THE ROOF), THEN SUCH DISPUTES AND DISAGREEMENTS SHALL AND MUST BE RESOLVED SOLELY IN THE MANNER DESCRIBED IN ARTICLE XVII OF THIS DECLARATION, AND THE INSURANCE CARRIERS SHALL BE CONCLUSIVELY DEEMED TO HAVE AGREED TO RESOLVE SUCH DISPUTES IN THE MANNER DESCRIBED IN SUCH ARTICLE.

ARTICLE XIV
SALE OF COMMON AREA

A sale, mortgaging or other disposition of all or any part of the Common Area titled in the name of the Association shall not be valid unless given prior approval by the titled owner of same, and by a three-fourths (3/4) majority vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than forty (40) days in advance of the meeting setting forth the purpose of the meeting, and unless given prior approval by mortgagees of seventy-five percent (75%) of all Units subject to mortgages or deeds of trust and unless approved by Owners of all immediately adjacent Units and all Owners of Units containing any such Common Area. A disposition, so approved, shall be binding upon all Unit Owners. The provisions of this ARTICLE XIV notwithstanding, the Association's Board of Directors, in the exercise of its discretion, may grant to any public agency, public utility or utility provider, reasonable utility easements, over the various portions of the Common Areas (including those portions of Units designated as Common Area), as reasonably required to provide appropriate utility services to all Unit Owners and Units, or to certain Units.

ARTICLE XV
RIGHTS OF FIRST MORTGAGEES

Notwithstanding anything to the contrary hereinabove set forth in this Declaration, the following terms and conditions shall prevail when the rights of holders of first mortgages or first mortgage deed of trust are considered or involved, to-wit:

Section 1. Notice. The beneficial holder of a first mortgage or first mortgage deed of trust shall, if it files a written request with the Association's Board of Directors to such effect, be given written notice by the Association when the Owner of any Unit upon which such first mortgage holder or the holder of such first mortgage deed of trust holds a mortgage or deed of trust is in default and such default has not been remedied within sixty (60) days. As indicated, before being entitled to such notice, the first mortgage holder or the holder of such first mortgage deed of trust must have filed with the Association's Board of Directors a written request to be so notified.

Section 2. Examination of Books and Records. The holder of a first mortgage deed of trust, or a first mortgage, shall be entitled to examine the books and records of the manager and Board of Directors of the Association upon reasonable notice to the manager and Board of Directors of the Association of its intent to exercise its right under this Section 2; provided, however, that such examination shall be made only at reasonable times and at reasonable intervals.

Section 3. Taxes in Default. The holder of any first mortgage deed of trust, or first mortgage, upon any Building or Unit shall have the right to pay taxes or other charges which are in default and which may become a lien against the Common Elements or Common Area, and may pay overdue premiums on hazard insurance for the Common Elements or Common Area, and any Unit upon which such first mortgage holder or first mortgage deed of trust holder holds a first mortgage, and any mortgagee or first mortgage deed of trust holder making such payment shall be owed immediate reimbursement and restitution for the sum of such premiums or taxes from the Association.

Section 4. Insurance Proceeds. Any insurance proceeds or condemnation awards paid to the Association, over and above the amount necessary to replace, repair or reconstruct the damaged Building or Unit or damaged Common Area shall be paid over by the Association to the holders of mortgages or deeds of trust of record covering any of the Buildings, Units or Property, if any, solely as their respective interests may appear.

Section 5. Transfer of Common Area. The Association shall not encumber, hypothecate, pledge, transfer, sell or otherwise subject the Common Area or Common Elements to liens or charges or transfer or disposition without the prior written approval of the holder of any mortgage or deed of trust thereby and seventy-five percent (75%) of the holders of first mortgage deeds of trust or first mortgages upon the Units.

Section 6. Other Changes. Neither the Association nor the Board of Directors shall make any change in the method of determining assessments, the architectural control provision, or the insurance requirements set forth in this Declaration without the prior written approval of the holders of seventy-five percent (75%) of the first mortgages or first mortgage deeds of trust upon the Units.

Section 7. Right of First Refusal. Any holder of a first mortgage deed of trust, or first mortgage, which comes into possession of a Unit pursuant to the remedies provided in the mortgage or deed of trust, by foreclosure, or by deed in lieu of foreclosure, shall be exempt from any "right of first refusal."

Section 8. Claims for Unpaid Assessments. Any first mortgagee or holder of a first mortgage deed of trust, which comes into possession of a Building or Unit pursuant to the remedies provided

in the mortgage or deed of trust, or by foreclosure of such mortgage or deed of trust, or by deed in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the Building or Unit which accrued prior to the time such mortgagee or deed of trust holder came into possession of such Building or Unit.

Section 9. Approval of First Mortgagees. Without the written approval of seventy-five percent (75%) of the first mortgagees, or holders of first mortgage deeds of trust upon the Buildings and Units (based upon one vote for each such mortgage or deed of trust upon each Unit), the Association shall not be entitled to:

a. By act or omissions seek to abandon, partition, subdivide, encumber, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by the Association; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Property shall not be deemed a transfer within the meaning of this clause;

b. Change the method of determining the obligations, assessments, dues or other charges which may be levied against each Unit and the Owners thereof;

c. By act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the improvements located upon the Units, the exterior maintenance of the Units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the property;

d. Fail to maintain fire and extended coverage insurance on any insurable permanent structures or improvements erected on the Common Area in an amount not less than one hundred percent (100%) of the current replacement costs;

e. Apply the proceeds from such fire and hazard insurance for other than repair, replacement or reconstruction of improvements and structures.

Section 10. Adequate Reserve. The Association shall establish an adequate reserve funded by regular monthly assessments, rather than by special assessments or charges, for the replacement of any permanent improvement or structure which the Association is required to replace under the terms of this Declaration. The amount of the contributions to the reserve fund shall be determined by the Board of Directors of the Association, based upon the projected useful life of such improvements requiring replacement, and the estimated replacement costs. However, the Association shall be required to establish such reserve only to fund the replacement of items which the Association is required to replace by the terms and conditions of this Declaration.

ARTICLE XVI
GENERAL PROVISIONS

Section 1. Enforcement. The Developer, the Association, or any Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, any covenants, restrictions or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Developer, the Association or

by an Unit Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants, conditions, restrictions, easements, charges and liens of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Units subject to this Declaration, or the Developer, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by not less than sixty percent (60%) of the Class A Members has been recorded, which instrument provides for amending or terminating this Declaration, in whole or in part. During the first twenty (20) year period of this Declaration, it may be amended in whole or in part only by an instrument signed by not less than sixty percent (60%) of the Class A Members and one hundred percent (100%) of the Class B Members, if any, and thereafter it may be amended in whole or in part only by an instrument signed by not less than sixty percent (60%) of the Members of the Association. All amendments to this Declaration shall be recorded in Boone County, Missouri. **All provisions of this Declaration, without exception, shall be subject to being amended in the manner described in this Section 3, regardless of the impact on the individual Units or Unit Owners, Lots or Buildings or Living Units, including but not limited to:**

A. The use restrictions of ARTICLE XII of this Declaration;

B. The insurance provisions of ARTICLE XIII of this Declaration;

C. The maintenance and repair provisions of ARTICLE IX of this Declaration;

D. The assessment provisions and methods for setting and enforcing assessments of ARTICLE VI of this Declaration.

There shall, therefore, be no restriction on the nature of the amendments which may be accomplished pursuant to this Section, any provisions of statute or law notwithstanding. No Unit Owner shall be heard to contend that an amendment imposes burdens on the Unit Owner or the Unit Owner's Unit not imposed by the original Declaration or an amendment of the original Declaration, if an amendment is adopted in accordance with the provisions of this Section 3.

Section 4. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been property sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Language Variation. The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.

Section 6. Titles and Captions. The titles or captions of the various provisions of this Declaration are not part of the covenants hereof, but are merely labels to assist in locating paragraphs and provisions herein.

Section 7. Approval of Plats. All plats of Lots which divide same into Units and Common Area must, prior to recording, be approved by the Developer so long as Class B voting rights exist, and thereafter by the Architectural Control Committee.

Section 8. Attorney's Fees. If any party shall seek to enforce against any other party any of the provisions of this Declaration, by legal or equitable proceedings, then the prevailing party in such proceedings shall receive from the other party to such proceedings, in addition to such other rights and remedies to which such prevailing party shall otherwise be entitled, such prevailing party's reasonable cost, expenses and attorney's fees incurred in connection with such proceedings, and in the preparation for such proceedings, and shall be entitled to judgment for such attorney's fees, costs and expenses, in addition to judgment for such other rights and remedies to which such prevailing party would otherwise be entitled.

ARTICLE XVII
DISPUTE RESOLUTION/LIMITATION ON LITIGATION/MEDIATION AND ARBITRATION

If there is at any time a dispute between and among any Lot Owner(s), and/or Unit Owner(s), and/or any Builder(s), and/or the Developer and/or the Association, its Board of Directors, or any insurance carrier or insurance companies which furnish any of the Fire and Casualty Insurance described in ARTICLE XIII of this Declaration, or with any such insurance carriers by any of the others of said parties, or between or among any of such persons or parties, or between or among any parties or persons bound by the Declaration, which such disputes concern the application of this Declaration, any of the provisions of this Declaration or performance in accordance with any of the provisions of this Declaration, or any of the terms, covenants, conditions, provisions or restrictions of this Declaration, or any duties provided by this Declaration, or the enforcement of any of same or the application of any of same, or the management of running by the Association or its Board of Directors, or the fairness or propriety thereof [but excluding actions for the enforcement of Assessments or for the enforcement of liens, or charges or Assessments levied in accordance with the provisions of ARTICLE VI of this Declaration, which shall not be subject to Arbitration], then all such disputes shall be resolved solely in accordance with the provisions of this ARTICLE.

The Developer, on behalf of the Developer and all present and future Lot Owners and Unit Owners, and the Association, hereby agrees that the following provisions of this ARTICLE shall furnish and provide the sole provisions and remedies for the resolution of all such disputes [excluding, however, actions for the enforcement of Assessments or for payment of Assessments, or enforcement of the liens for such Assessments], and agrees that if any such disputes shall ever arise, the following provisions shall be in effect:

Section 1. Mediation. The disputing parties shall mutually agree upon a mediator who shall be disinterested, but who shall have reasonable competence and experience in the area of the issues involved in such dispute. If the parties are unable to agree upon such a mediator then such mediator shall be selected as hereinafter described in this Section 1. The mediator shall not have the right to enforce a settlement upon the parties, but instead the parties shall use the mediator to try to crystallize and clarify their respective positions and to participate in mediation discussions which, hopefully, will lead to a resolution of the dispute. In order to invoke this portion of this Agreement and to obtain the mediation of the dispute [and submitting the dispute to mediation shall be mandatory and not discretionary], the disputing parties shall proceed in the following manner:

a. Either such party who is not satisfied with an impasse concerning any issue shall be entitled to require that the pending dispute between the parties be submitted to mediation pursuant to the provisions of this Section 1;

b. A party may invoke the provisions of this Section 1 by sending written notice to the other parties, demanding mediation of a particular dispute. Said notice shall be dated and shall be given in the manner provided for by this Agreement (and if such party is known to be represented by such attorney such notice shall also be given to such attorney). Such notice shall specify the issue or issues to be made the subject of the mediation proceeding.

c. Upon receipt of the notice the parties shall seek to mutually agree upon a mediator who is acceptable to both parties and who has no financial or personal interest in the issues in dispute or in any of the parties and who is not related to any of the parties and who has no financial or personal interest in the outcome of the mediation proceedings. If the parties cannot agree upon such a mediator then such mediator shall be selected by that person who then directs, heads or supervises the Dispute Resolution Service or Alternative Dispute Resolution Service, or any similar service or department of the University of Missouri - Columbia School of Law (by whatever name that service is then known), or of any dispute resolution service then offered by the University of Missouri - Columbia School of Law (hereafter referred to as the "Law School Dispute Resolution Service"), but if such mediator cannot be so selected, then such mediator shall be selected by the office of the American Arbitration Association having jurisdiction over Columbia, Boone County, Missouri ("the AAA"), in accordance with the rules of the AAA then applicable to mediation and arbitration of commercial disputes. All costs and expenses incurred in obtaining the mediator, and all fees to be paid to the mediator, and all reasonable expenses incurred in connection with the mediation (excluding the attorneys' fees and individual expenses of the disputing parties) shall be equally shared by the disputing parties. However, each party shall pay such party's own lawyer or attorney and all expenses personally incurred by such party.

d. As soon after the selection of the mediator as is reasonably possible the parties (and their attorneys, if any), and any other persons whom they request to be present, shall meet with the mediator and shall fully and frankly discuss with the mediator the nature and extent of the controversy or controversies between the parties. Thereafter the parties and the mediator shall bargain in good faith to seek to resolve said disputes in a manner which is acceptable to all parties and reasonable under the circumstances.

e. The mediation shall occur in Boone County, Missouri, unless the disputing Parties agree to mediation elsewhere.

Section 2. Arbitration. If the disputing parties are unable through the mediation process described in Section 1 above, to reach an agreement between themselves on a particular dispute (and only after mediation efforts as described in Section 1 above have failed - such mediation shall be mandatory and not optional) any party to such dispute may demand the arbitration of that dispute by referring the dispute to binding **ARBITRATION.** Such arbitration shall be mandatory and shall be conducted in the following manner:

a. The provisions of this Section 2 shall be applicable to all disputes which are subject to this ARTICLE, and shall be required as to all disputes whatsoever.

b. Either of the Parties on either side of the dispute may demand arbitration by written notice to the other parties on the other side of the dispute. Such written notice ("the Notice of Arbitration" or "the Notice" or "the Demand"), shall specify:

(a) The issues to be arbitrated, which shall be specifically described;

(b) If the matter in dispute is greater than One Hundred Fifty Thousand Dollars ($150,000), then the identity of an Arbitrator selected by the party serving the Notice ("the First Arbitrator"). [Note: If the matter in dispute is greater than $150,000, then the party serving the notice must specify the identity of a First Arbitrator in such Notice. If the matter in dispute is $150,000 or less, then the party serving the Notice may or may not identify a First Arbitrator in the Notice. If the matter in dispute is $150,000 or less, and the party serving the Notice does not, in such Notice, identify a First Arbitrator, and the parties do not agree upon an Arbitrator, then arbitration shall occur in the manner described in paragraph 9 of this Section 2 of this ARTICLE, as such paragraph 9 appears below; provided that all other provisions of this ARTICLE shall remain in effect; meaning that arbitration shall proceed in accordance with this ARTICLE, but shall be conducted as described in paragraph g. below, before a single Arbitrator.]

(c) A specific statement of the position taken by the party serving the notice as to the issues to be arbitrated;

(d) The contentions as to the facts which support such position; and

(e) A specific description of all documents relating to the issues to be arbitrated upon which the party serving the notice of arbitration intends to rely;

(f) The identification (names, addresses and telephone numbers) of the witnesses whom the parties serving the Notice or Demand of Arbitration expects to call as witnesses.

Such notice of arbitration may be referred to herein as "the Notice of Arbitration" or "the Notice" or "the Demand".

Any provisions of this ARTICLE notwithstanding, if the sole remedy being sought is an injunction, a restraining order, enforcement of a lien, specific performance or other equitable remedy, then the amount in dispute shall be deemed to be less than One Hundred Fifty Thousand Dollars ($150,000.00), and all such disputes shall be resolved before a single Arbitrator.

c. Within fifteen (15) days following the receipt of the Demand the party upon whom the Demand is served shall serve upon the party who served the Demand a response to the Demand ("the Response"). If the amount in dispute or the matter in dispute, or the damages sought or which might be sought, is (are) One Hundred Fifty Thousand Dollars ($150,000) or less, and if the party serving the Notice of Arbitration has, therein, identified a First Arbitrator, then the party serving the Response may either agree to Arbitration before the First Arbitrator, or may, in the Response, object to the First Arbitrator, in which event the Arbitrator shall be selected by agreement of the parties and, in the absence of such agreement, in accordance with paragraphs f and g below. If the amount in dispute or the matter in dispute, or the damages sought, or which might be sought is (are) greater than One Hundred Fifty Thousand Dollars ($150,000), then the party serving the Response shall, in the Response, identify an Arbitrator selected by the party serving the Response ("the Second Arbitrator"), and if the party serving the Response fails, in the Response, to identify a Second Arbitrator, or no Response is served, then arbitration shall proceed before the First Arbitrator identified in the Notice of Arbitration, but shall otherwise proceed in accordance with the provisions of the rules set forth in Section 2 of this ARTICLE. In the Response, the party serving the Response shall further set forth, specifically and in detail: (a) a description of any additional issues, if any, to be arbitrated in addition to those specified in the Demand; (b) a specific statement of the position of the party serving the Response upon the issues to be arbitrated as described in the Demand and as described in the Response; and (c) the contentions of fact which purportedly support such positions; and (d) a specific description of any documents to be relied upon by the party serving the Response; and (e) the identification (including names, addresses and telephone numbers) of the witnesses to be called by the party serving the Response. As noted in above in this paragraph c, if the matter in dispute is in excess of One Hundred Fifty Thousand Dollars ($150,000), then the party serving the Response may (but need not), in the Response, indicate that the party serving the Response either agrees to arbitration by the First Arbitrator (in which event the Dispute shall be arbitrated by such First Arbitrator, as a Single Arbitrator, any of the provisions of this Section 2 of this ARTICLE notwithstanding), or may identify a Second Arbitrator.

d. Within fifteen (15) days following receipt of the Response the party upon whom the Response is served may serve a reply to such Response, if such party elects to do so, but no such reply shall be required.

e. The Demand for Arbitration and the Response shall frame the issues to be arbitrated, and the issues shall be limited to those specified in the Demand and the Response. However, with approval of the Arbitrator or Arbitrators, the Demand for Arbitration and the Response may be amended, and same shall be allowed to be amended for reasonable cause. The Arbitrator(s) shall permit amendment with reasonable cause, unless the amendment would cause substantial prejudice to the other party. The Arbitrator(s) shall specifically permit amendments, when justice would reasonably require that such amendments be permitted, if facts which were unknown become known, or witnesses are later identified or documents are later discovered or identified, or if it is otherwise reasonable that a demand or response be amended.

f. Any provisions of this Section 2 of this ARTICLE to the contrary notwithstanding, if in the Notice of Arbitration, the party serving such notice identifies a First Arbitrator, and:

(i) The amount in dispute, or the matter in dispute, or the damages sought or which might be sought is (are) One Hundred Fifty Thousand Dollars ($150,000) or less, and there is no Response to the Notice of Arbitration, or such Response fails to contain an objection to the First Arbitrator; or

(ii) The amount in dispute or the matter in dispute, or the damages sought or which might be sought, is (are) greater than One Hundred Fifty Thousand Dollars ($150,000), and no Response is made, or the party making such Response fails to identify a Second Arbitrator,

then, in either such event, arbitration shall proceed before the First Arbitrator identified in the Notice of Arbitration, in accordance with the provisions of this Section 2 of this ARTICLE. Furthermore, the parties can agree upon a single Arbitrator, who will arbitrate the dispute, regardless of the amount of the dispute, in which event arbitration shall proceed before such agreed upon Arbitrator in accordance with the rules set forth in this Section 2 of this ARTICLE. Furthermore, the parties can agree to amend any of the rules provided for by this Section 2 of this ARTICLE.

g. If the sum in dispute or the matter in dispute, or the damages claimed or sought are One Hundred Fifty Thousand Dollars ($150,000.00) or an amount less than One Hundred Fifty Thousand Dollars ($150,000.00), then the Arbitration shall, and must, be conducted before a Single Arbitrator. If the Parties agree upon such Single Arbitrator, or the party serving the Response fails to object to the First Arbitrator, if any First Arbitrator is identified in the Notice of Arbitration, then Arbitration shall proceed before the agreed upon Arbitrator, or the First Arbitrator, as the case may be, and such Arbitration shall proceed in accordance with the provisions of the rules hereinafter provided for in this Section 2 of this ARTICLE, except to the extent that the parties shall otherwise agree. If the amount in dispute, or the matter in dispute, or the damages claimed or sought, are One Hundred Fifty Thousand Dollars ($150,000), or a lesser amount, and either:

(a) The party serving the Notice of Arbitration fails to specify, in such Notice, the First Arbitrator, and the parties are unable to agree upon an Arbitrator; or

(b) A First Arbitrator is identified in the Notice of Arbitration and the party serving the Response to such Notice objects to the First Arbitrator, and the parties are unable to agree upon an Arbitrator,

then, in such event, Arbitration shall proceed and be conducted, through the auspices of the Law School Dispute Resolution Service, before an Arbitrator selected by the head of, the director of, or the supervising official of such Law School Dispute Resolution Service, or if Arbitration cannot be conducted before such Law School Dispute Resolution Service, then such Arbitration shall be conducted through the AAA, through the auspices of the AAA office having jurisdiction over Columbia, Boone County, Missouri, and shall be conducted pursuant to the rules and regulations for resolution or arbitration of commercial disputes of the AAA, as such rules shall then be in effect (provided that such rules shall, to the extent inconsistent with the provisions of this Section 2 of this ARTICLE be modified to comport with the provisions of this Section 2 of this ARTICLE). XVIII). If such Arbitration proceeds before the AAA, then such Arbitration shall be conducted pursuant to any rules of the AAA for arbitration of smaller commercial disputes, on an expedited basis. If the Arbitration is to be conducted before the AAA, then the Arbitrator shall be selected by the AAA, in

accordance with the rules of the AAA for the arbitration of commercial disputes; provided, however, that to the extent rules of the AAA for arbitration of small commercial disputes on an expedited basis, the dispute shall be arbitrated in accordance with such rules, on an expedited basis; provided that all such rules shall be modified, to the extent inconsistent with the provisions of any of the rules of arbitration set forth in this Section 2, so as to be consistent with the provisions of the rules set forth in this Section 2 of this ARTICLE.

h. If the matter in dispute or amount in dispute is greater than One Hundred Fifty Thousand Dollars ($150,000.00), or the damages sought are greater than One Hundred Fifty Thousand Dollars ($150,000.00), and if the party upon whom the Demand is served fails to identify a Second Arbitrator in the Response, or no Response is made, then the Arbitrator shall be the First Arbitrator and Arbitration shall proceed before a Single Arbitrator, the First Arbitrator, in accordance with the rules specified in this Section 2 of this ARTICLE.

i. If the matter in dispute or amount in dispute is greater than One Hundred Fifty Thousand Dollars ($150,000.00), or the damages sought are greater than One Hundred Fifty Thousand Dollars ($150,000.00), and if the party upon whom the demand is served identifies a Second Arbitrator in the Response, and if, within ten (10) days following selection of the Second Arbitrator in the manner hereinabove described in this Section 2 if this ARTICLE, the parties are unable to agree upon either:

- A Single Arbitrator before whom the Arbitration shall be conducted; or

- The identity of a Third Arbitrator, who shall sit with the First Arbitrator and the Second Arbitrator as a panel of Arbitrators,

then the First Arbitrator and the Second Arbitrator shall meet, and shall select within a period of twenty (20) days following the service of the Response as described in paragraph c above, a Third Arbitrator. If the Two Arbitrators selected in the manner described above fail to select a Third Arbitrator within such time period, then the Third Arbitrator shall be selected by the AAA, and by its office having jurisdiction over Columbia, Boone County, Missouri, and shall be selected in that manner provided for the selection of such Arbitrator by the then effective rules for arbitration of complex commercial disputes before the AAA. In such event, the arbitration shall be conducted before the AAA. Such rules of the AAA shall, however, to the extent inconsistent with the provisions of this Section 2 of this ARTICLE, be modified to comport with the provisions of this Section 2 of this ARTICLE.

j. If there is a Single Arbitrator, then all determinations shall be made by the Arbitrator. If there are three (3) Arbitrators, then all decisions shall be made by their Majority Vote.

k. If a Single Arbitrator is selected or is to be used, then such Arbitrator shall be an Arbitrator to which the matter described in the Demand and Response and any Reply to the Response shall be submitted at a hearing, to be held as soon as practicable after the Arbitrator has been selected, and the Demand and Response and any Reply to the Response have been submitted. A decision of such Single Arbitrator shall be binding upon the parties. If three (3) Arbitrators are selected, then such Arbitrators shall constitute a panel of Arbitrators, to which the matter described in the Demand and the Response and any reply to the Response shall be submitted at a hearing, to be

held as soon as practicable after the Arbitrators have been selected. A decision of a majority of such panel shall be binding upon the disputing parties. The disputing parties may (but need not) be represented at the hearing of (the) Arbitrator(s) by counsel; provided, however, that the parties shall be responsible for paying all of their attorney's fees incurred in such representation, unless the Arbitrator(s) find the position of a party to be unreasonable or to have been asserted in bad faith, in which event the Arbitrator(s) may award the other party reasonable attorneys fees. Each party shall be responsible for paying the fee of the Arbitrator selected by such party. The parties shall share, equally, all fees of any Single Arbitrator, and all fees of the AAA, and all fees of any Third Arbitrator (if three Arbitrators are used) and any other expenses of the Arbitration (other than fees for their individual lawyers and expenses associated with presenting each party's case); except to the extent the Arbitrator(s) determine(s), reasonably, that it is equitable that the losing party pay the fees of the Third Arbitrator and any of the other expenses of the Arbitration, because the position of the losing party is found to be substantially without merit or to not be based on substantial facts, or is found to have been unreasonably asserted or to have been asserted in bad faith.

l. Any provisions of this Section 2 of this ARTICLE notwithstanding, and except to the extent the disputing parties shall otherwise agree, any Arbitrator selected in the manner described above (including an Arbitrator selected by the AAA) must, by virtue of training, education or experience, have some reasonable degree of knowledge, experience or expertise in the area of the issues to be arbitrated; provided, however, that regardless of such expertise, any:

(a) Licensed attorney at law in the State of Missouri; or

(b) Present or retired professor of law, assistant or associate professor of law or instructor of law; or

(c) Recognized Member of a panel of arbitrators of the AAA or similar alternative dispute resolution organization; or

(d) Any Arbitrator designated to serve as such by the AAA; or

(e) Person who regularly practices as an Arbitrator, or mediator; or

(f) Retired state court or federal court judge or magistrate,

shall be a qualified Arbitrator.

m. The Arbitration shall occur in accordance with the rules set forth in this Section 2 of this ARTICLE; provided, however, that if the Arbitration is to be conducted before or by the AAA, then the Arbitration shall proceed in accordance with the rules for arbitration of commercial disputes of the AAA then in effect; provided, however, that such rules of the AAA, to the extent inconsistent with any of the provisions of the rules set forth in this Section 2 of this ARTICLE, shall be modified to comport with the provisions of the rules set forth in this Section 2 of this ARTICLE. The rules set forth in this Section 2 of this ARTICLE shall govern over any inconsistent rules of the AAA. The Arbitrator(s) shall have control of all proceedings, and shall specify and provide for reasonable procedures for discovery, including requirements for production of documents, further

identification of witnesses and documents, the interviewing and deposing of witnesses, and other reasonable pre-hearing discovery procedures. The Arbitrator(s) shall have full and complete authority to dispose of the issues, by proceedings equivalent to motions for summary judgment, if controlling law would provide for such disposition. The Arbitrator(s) shall have full and complete authority to establish reasonable dates and times for hearings, and to extend the dates and times for hearings which would otherwise be specified by law, and to establish reasonable rules for all proceedings. While formal Rules of Evidence shall not be in place, all evidence must be reasonably competent and material. Any decision must be support by substantial and competent evidence. The Arbitrator(s) shall have the authority to authorize that testimony be provided, by witnesses, either personally, or by deposition, or (if the Arbitrator(s) finds it appropriate) by sworn affidavit.

n. Awards shall include the Arbitrator(s) written, reasoned opinion. Resolution of the dispute shall be based solely upon the applicable law governing the claims and defenses plead, and the Arbitrator (s) may not invoke any basis (including, but not limited to, notions of "justice" or "just cause"), other than controlling law. Where the provisions for this Agreement are applicable or are in dispute, such provisions must be fairly and reasonably construed, in accordance with applicable law, and must be applied, and this Agreement must be followed. The Arbitrator(s) may not provide for any relief or remedy, other than that which could be granted by a court of competent jurisdiction. Any decision of the Arbitrator(s) must be supported by substantial and competent evidence. The provisions of this paragraph n notwithstanding, the following provisions shall also be in effect:

(a) Arbitration proceedings under this Agreement may be consolidated with arbitration proceedings pending between other Parties if the arbitration proceedings involve common issues of law or fact. Consolidation will be by the order of the Arbitrator(s) in any of the pending cases, or if the Arbitrator(s) fail(s) to make such an order, any Party may apply to any court of competent jurisdiction for an order, and the other Parties to this Agreement consent to such an order.

(b) A Party, without inconsistency with this Agreement, seek from a court any interim or provisional relief (such as a temporary restraining order) that may be necessary to protect the rights or property of that Party, pending the establishment of the Arbitration or pending the Arbitrator's(s') determinations of the merits of the dispute, controversy or claim. For example, courts of competent jurisdiction may enter temporary restraining orders or preliminary injunctions to preserve the status quo, pending the outcome of the Arbitration.

(c) The Arbitrator(s) shall have authority to issue temporary restraining orders, preliminary injunctions, and other temporary and preliminary orders, and to issue preliminary and other equitable relief, and to grant equitable relief of any kind or nature whatsoever.

(d) The Arbitrator(s) shall have the authority to award any remedy or relief that any court of competent jurisdiction could order or grant, including, without limitation, specific performance of any obligation created under this Agreement, the issuance of an injunction, or the imposition of sanctions for abuse or frustration of the arbitration process, except that the Arbitrator(s) shall not have authority to award punitive damages or any other amount for the purposes of imposing a penalty as opposed to compensating for actual damages suffered or loss incurred. The award shall be in writing, signed by the Arbitrator(s), and shall include a statement regarding the disposition of any claim.

o. The exclusive location for any arbitration proceedings shall be in Boone County, Missouri, unless the Parties agree otherwise.

p. All decrees or judgments of the Arbitrator(s) shall be enforceable by the Circuit Court of Boone County, Missouri, which has jurisdiction over Columbia, Boone County, Missouri.

q. All proceedings with respect to the Arbitration shall be conducted in Columbia, Boone County, Missouri.

r. Under no circumstances will any action for malicious prosecution or abuse of process, action or cause of action, claim or suit lie or be based upon, or be brought by reason of an arbitration result which favors either party. Arbitration is encouraged. Therefore, the parties waive all rights to bring claims for malicious prosecution, abuse of process or any similar claims, which might otherwise arise out of a demand for arbitration or the results of arbitration.

s. In the alternative to the arbitration procedures hereinabove described in this Section 2 of this ARTICLE, the Parties may agree to conduct the arbitration before the AAA, through its offices having jurisdiction over Columbia, Boone County, Missouri, using the then current rules for arbitration of commercial disputes, in which event arbitration shall be conducted in accordance with the then current rules for arbitration of commercial disputes of the AAA.

t. The decision of the Arbitrator(s) shall be binding upon the parties; provided, however, that appeal may be had in accordance with the provisions of Chapter 435 RSMo., the Uniform Arbitration Act as it is in effect in the State of Missouri, and as it is from time to time amended, with such appeal to be to the Circuit Court of Boone County, Missouri, which has jurisdiction over Columbia, Boone County, Missouri.

ARTICLE XVIII
DEVELOPER'S UNILATERAL RIGHT, WITHOUT THE CONSENT OF ANY PERSON OR PARTY, TO AMEND THIS DECLARATION

Any of the provisions of this Declaration to the contrary notwithstanding and any provisions of law to the contrary notwithstanding (whether statutory, common law or other provisions of law) the Developer hereby reserves, and shall have, so long as the Developer holds any Class B memberships and Class B voting rights in the Association, and for so long thereafter as the Developer owns any Lot or Unit within the Parcel as the Parcel then exists, the right and power, without the consent of any Unit Owner, Lot Owner, holder of any mortgage or deed of trust on any Unit, or any other persons or parties whomsoever, to amend or modify this Declaration, as the Developer, in the exercise of good faith, reasonable judgment and the Developer's best judgment, deems necessary in order to:

a. Correct any error in this Declaration;

b. Correct any typographical error in this Declaration;

c. Correct any obvious error in this Declaration;

d. Amend this Declaration in order to reflect the Developer's intentions as such intentions exist on the date of the recording of this Declaration;

e. Correct this Declaration or amend this Declaration or modify this Declaration in order to deal with, or appropriately reflect, or as required by any change in federal law, state law, city ordinance, or other applicable governmental regulation;

f. Fairly and equitably apportion among the Unit Owners of the respective Units any costs or expenses incurred by the Association or its Board of Directors;

g. Eliminate undue hardship upon or burden upon the Unit Owner, the Association, its Board of Directors, or its officers;

h. Cause the Units and Living Units to be appropriately insured;

i. Correct obvious errors or mistakes, or latent or patent mistakes;

j. Eliminate confusion;

k. Clarify any confusing or conflicting provisions of this Declaration;

l. Modify this Declaration so as to include any omitted provisions;

m. Modify this Declaration so as to correct any situations of obvious inequity, obvious injustice or obvious unfairness;

n. Impose reasonable additional use restrictions upon the Units or Living Units, as provided for by ARTICLE VIII or ARTICLE XII of this Declaration, or modify any of the restrictions of such ARTICLES, as reasonably required to assure all Unit Owners of the reasonable, peaceable and safe use of their Units and Living Units, and the preservation of the value of their Units and Living Units, and the protection of the peace, tranquility and safety of the Development.

Any amendments in or modifications in this Declaration which are made by the Developer must be made in good faith, and must be made reasonably and through the use of the Developer's best judgment, and shall not be made arbitrarily, unreasonably or capriciously and may not be such as imposes on any Unit Owner an unfair burden or expense, which could not reasonably be anticipated by the Unit Owner in view of the provisions of this Declaration. Each Unit Owner, by accepting a deed for the Unit Owner's Unit, hereby consents and agrees to the provisions of this ARTICLE, and confers upon the Developer the power and authority conferred upon the Developer by this ARTICLE.

ARTICLE XIX
ALL C LOTS SHALL BE COMMON AREAS DEEMED TO BE OWNED BY ASSOCIATION WHETHER OR NOT OWNED BY ASSOCIATION

Whether or not the "C Lots" [examples: Lots C606, 607 and 609] are or are not conveyed to the Association they shall be Common Areas and Common Elements, and shall for intents and

purposes be treated as if owned by the Association and is conveyed to the Association, and the Association shall for all intents and purposes be the owner of such C Lots. Therefore, if, for example, through inadvertence or otherwise, Lot C607 is not conveyed to the Association, it shall be treated as if so conveyed and the Association shall be the owner of such Lot.

IN WITNESS WHEREOF, Quail Creek Condos, LLC, the Developer, has caused this Declaration to be executed in its name and on its behalf by its duly authorized members, all done on the day and year first above written.

THIS DOCUMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAYBE ENFORCED BY THE PARTIES.

DEVELOPER:
Quail Creek Condos, LLC, a limited liability company

By: _____
Ed Skrabal, Manager

Exhibit A - Articles of Incorporation
Exhibit B - Bylaws

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this 28th day of February, 2008, before me, the undersigned, a Notary Public, personally appeared Ed Skrabal, to me personally known, who being by me first duly sworn, did state and acknowledge that he is the manager of Quail Creek Condos, LLC, a Missouri limited liability company, and that the foregoing document constitutes the free and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in Columbia, Missouri, on the day and year hereinabove first written.

" NOTARY SEAL "
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My Commission Expires 12/15/2010
Commission Number 06425944

Jo Ellen Grace
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My commission expires: 12-15-2010

APPROVAL AND SUBORDINATION BY HOLDER OF FIRST MORTGAGE TO DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS OF QUAIL CREEK TOWNHOMES, AND MODIFICATION OF DEED OF TRUST

THIS APPROVAL AND SUBORDINATION, AND THIS MODIFICATION OF DEED OF TRUST, is attached to the "Declaration of Covenants, Conditions, Easements and Restrictions of Quail Creek Townhomes," dated the 28th day of February, 2008 ("the Declaration"), which such Declaration was executed by **Quail Creek Condos, LLC**, a Missouri limited liability company, as the Developer (the said Quail Creek Condos, LLC being referred to herein as "the Developer"). This document is executed by the said Developer and by **Commerce Bank,** a banking corporation organized under the laws of the United States, with its principal place of business located in Columbia, Boone County, Missouri ("the Bank").

RECITALS

The Bank is the holder of one or more deeds of trust recorded in the Records of Boone County, Missouri as follows:

Deed of Trust recorded 3/2/2007, 2007 in Book 3101 at Page 126 of the Real Estate Records of Boone County, Missouri.

The said Deed of Trust or Deeds of Trust, whether or not more than one, shall be hereinafter referred to (collectively if more than one) as "the Deed of Trust."

The Bank desires to facilitate the development described in the Background Recitals of the foregoing Declaration, including the initial Parcel of such Land which is initially subjected to the foregoing Declaration; meaning Lot 401 of Quail Creek West Plat 4 as shown by plat 4 recorded in Plat Book 41 at Page 14 of the Real Estate Records of Boone County, Missouri.

The Bank, therefore, is willing to enter into an agreement with the Developer pursuant to which the lien of the Deed of Trust shall, as to such Parcel, be subordinated to the Declaration and all of its terms, covenants, conditions and provisions as to the plat of Quail Creek West Plat 6, recorded in Plat Book 41 at Page 14 and any amendment of such plat (and all land contained therein and all Building), shall be subordinated to the Declaration, and all of its terms, covenants, conditions and provisions, and to such Plat.

NOW, THEREFORE, in view of the foregoing Recitals, and in order to facilitate the Development and sale of the Lots and Units, and for good and valuable consideration to the Bank paid and delivered, the receipt and sufficiency of which are by the Bank hereby acknowledged and confessed, the Bank hereby states, covenants, declares and agrees that the Declaration and each of the plats hereinabove described, are hereby approved, and that the Deed of Trust shall, as to the parcel of Quail Creek Townhomes, same being Lot 401 of Quail Creek West Plat 4, and all of the Land and Lots and Buildings and Units contained therein, shall be subject to and shall be subordinated to (and the Deed of Trust is hereby made subject to and subordinated to) the Declaration (and all of its terms, covenants, conditions and provisions) and each of such Plats, the same as though the said Declaration

and each of the said Plats (both existing and future) had, as to all Land subject thereto, been recorded prior to the recording of the Deed of Trust.

In order to induce the Bank to execute this Agreement, the undersigned Developer, acting by and through its undersigned President, who warrants and represents to the Bank hereby that he is lawfully authorized to enter into this Agreement on behalf of such Developer, agrees with the Bank, which is the beneficial holder under the Deed of Trust, that the Deed of Trust (and each Deed of Trust hereinabove described, if more than one, all being collectively referred to herein as "the Deed of Trust") shall be and it is (they are) hereby amended and supplemented, in order to subject to the lien of thereof (in addition to, and as a part of the Property and Premises which are the subject matter of the Deed of Trust) the following additional property, rights, titles and interests, which shall be deemed to be a part of, and shall run with, all of the Land and real estate and property which is at any time subject to the Deed of Trust [with the following description to be treated as if appearing immediately following the legal description of all Land specifically described in the Deed of Trust]:

> "Together with all Class B memberships now in existence or hereafter coming into existence, and all rights to Class B memberships, and all Class B voting rights now in existence or hereafter coming into existence, attributable to the real estate hereinabove described, or any parts thereof, now or hereafter held by party of the First Part, Quail Creek Condos, LLC (Grantor), with respect to Quail Creek Townhomes Owners' Association, a not-for-profit corporation of the State of Missouri, the Association named in and provided for by the Declaration of Covenants, Conditions, Easements and Restrictions of Quail Creek Townhomes, executed by Quail Creek Condos, LLC, as the Developer, and dated the 28th day of February, 2008, and recorded in the Real Estate Records of Boone County, Missouri ("the Declaration"), and together with all rights of the Developer, as described in the Declaration, of every kind, nature or description whatsoever, without limitation, including but not limited to Class B memberships and Class B voting rights and all Architectural Control rights, powers and authorities vested in the Developer by the Declaration, with respect to all real estate described in and conveyed by and which is the subject matter of this Deed of Trust; and further together with all rights of the Developer with respect to the presently existing or hereafter created Class B memberships and Class B voting rights in the Association described in the Declaration, which are attributable to any and all Lots, Units and other parcels of real estate conveyed in or which are the subject matter of this Deed of Trust (and all portions thereof and subdivisions thereof), and including all presently existing or hereafter created rights as the Developer, as described in the Declaration, and any modifications or amendments thereof, and further including but not limited to all rights to elect directors of the Association and all Architectural Control Rights provided for by the Declaration, and all Class B memberships provided for by the Declaration; all such memberships, rights, Class B votes, Class B voting rights, Class B memberships and rights as the Developer and all such Architectural Control authority being hereby assigned to the Party of the Second Part identified in this Deed of Trust, the Trustee, in trust, for the purposes herein expressed, all of same to be deemed to constitute a part of the real estate described in this Deed of Trust, and to run with the said real estate, and all of which may be sold by the Trustee (the Party of the Second Part of this Deed of

Trust), together with, and as an attachment to and as a right, title and interest accruing to, the real estate."

It is the intention of the Developer and of the undersigned Bank that the Deed of Trust shall be hereby modified in order to include, as a part of the subject matter of the property that is subjected to the Deed of Trust and the lien thereof, in addition to the land and real estate described in such Deed of Trust, all of the Developer's Class B memberships, Class B voting rights, Architectural Control Powers and other rights as the Developer, all as hereinabove described, in order that, if there is a default under the Deed of Trust and a conveyance of the Property pursuant to the Deed of Trust, or a conveyance in lieu of foreclosure, the purchaser at foreclosure, or the grantee of the deed in lieu of foreclosure, and their successors and assigns, shall become, and shall stand in the lieu, place and stead, of the "Developer" under the Declaration, and shall have all rights, privileges, powers and authorities conferred upon the Developer by the Declaration, as to all Land which is the subject matter of such foreclosure and sale at foreclosure or which is the subject matter of such deed in lieu of foreclosure.

IN WITNESS WHEREOF, Quail Creek Condos, LLC, the above-named Developer and the Grantor under the above described Deed(s) of Trust, and the above named Bank, have executed this document effective this 28th day of February, 2008, with the said Quail Creek Condos, LLC executing this document through its Members, who warrants and represents hereby that he is lawfully authorized to execute this document in the name of and on behalf of the said Developer and that this document represents the binding act, contract and deed of the said Developer.

THE DEVELOPER:
Quail Creek Condos, LLC

By: _____
Ed Skrabal, Manager

BANK:
Commerce Bank

By: _____
Name Printed: Joseph R. Miller
its Officer

ATTEST:

_____
Jay C. Alexander,
its _____ secretary

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

On this 28th day of February, 2008, me appeared Ed Skrabal, to me personally known, who, being by me duly sworn did say that he is a Member of Quail Creek Condos, LLC, a Missouri limited liability company, and that said instrument was signed in behalf of said limited liability company by authority of its Members, and said Ed Skrabal acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.

" NOTARY SEAL "
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My Commission Expires 12/15/2010
Commission Number 06425944

Jo Ellen Grace
Jo Ellen Grace, Notary Public
Boone County, State of Missouri
My commission expires: 12-15-2010

STATE OF MISSOURI)
) SS.
COUNTY OF Missouri)

On this 28th day of February, 2008, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Joseph R. Miller, to me personally known, who being by me first duly sworn, did state and acknowledge that he/she was officer of Commerce Bank, a banking corporation, that as such he or she had executed the foregoing document in his or her said capacity, and that he or she had executed the foregoing document in the name of and on behalf of such Bank by authority granted to him or her by such Bank's shareholders and Board of Directors; and that the foregoing document was executed as the free act and deed of said Bank.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal on the day and year hereinabove first written.

LORI M. BAUMGARTNER
Notary Public - Notary Seal
State of Missouri
Callaway County
My Commission Expires May 1, 2009
Commission # 05474550

Lori M. Baumgartner
Lori M. Baumgartner, Notary Public
_____ County, State of Missouri
My commission expires: _____.

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

IN WITNESS WHEREOF, we have hereunto affixed our signatures on this 28th day of February, 2008.

Ed Skrabal

STATE OF MISSOURI)
)SS.
COUNTY OF BOONE)

I, Lori M. Baumgartner, a Notary Public, do hereby certify that on the 28th day of February, 2008, personally appeared before me Ed Skrabal ~~and~~ _____, to me personally known, who being first duly sworn by me severally acknowledged that they signed as their free act and deed the foregoing document in the respective capacities therein set forth and declared that the statements contained therein are true, to their best knowledge and belief.

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

LORI M. BAUMGARTNER
Notary Public - Notary Seal
State of Missouri
Callaway County
My Commission Expires May 1, 2009
Commission # 05474550

Lori M. Baumgartner, Notary Public
_____ County, State of Missouri
My commission expires: _____.