

COVER PAGE

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF COLONIAL GREEN**

Date: February 7, 2013

Grantor: COLONIAL GREEN OWNERS ASSOCIATION; McBRIDE COLONIAL GREEN, LLC; NOEL McKEON; JANET R. WILSON REVOCABLE TRUST; PATRICIA ENGLER LNING TRUST; KEITH M. SCHULTE & MARGARET A. SCHULTE; ROBERT E. TRAIL & ANN L. TRAIL REVOCABLE TRUST; BETTYE. WENDLAND & CHRISTINE D. SALYER; HAROLD V. LAYTON & MAUREEN LAYTON REVOCABLE LNING TRUST; ROBERT A. BURROWS & SHERYLL. BURROWS; ROBERT E. PATTEN & NAOMI L. PATTEN; PATRICIA MOTZ; PATRICIA A. BOUDRIA

Grantee: COLONIAL GREEN OWNERS ASSOCIATION; McBRIDE COLONIAL GREEN, LLC; NOEL McKEON; JANET R. WILSON REVOCABLE TRUST; PATRICIA ENGLER LNING TRUST; KEITH M. SCHULTE & MARGARET A. SCHULTE; ROBERT E. TRAIL & ANN L. TRAIL REVOCABLE TRUST; BETTY E. WENDLAND & CHRISTINE D. SALYER; HAROLD V. LAYTON & MAUREEN LAYTON REVOCABLE LNING TRUST; ROBERT A. BURROWS & SHERYLL. BURROWS; ROBERT E. PATTEN & NAOMI L. PATTEN; PATRICIA MOTZ; PATRICIA A. BOUDRIA

Grantee's Address: c/o McBride Colonial Green,-LLC
16091 Swingley Ridge Road, Suite 300
Chesterfield, MO 63017

Legal Description: As set forth on Exhibit A attached hereto

This cover page is attached solely for the purpose of complying with the requirements stated in §§ 59.310.2; 59.313.2 RSMo. 2001 of the Missouri Recording Act. The information provided on this cover page shall not be construed as either modifying or supplementing the substantive provisions of the attached Amended and Restated Declaration of Covenants, Conditions and Restrictions. In the event of a conflict between the provisions of the attached Amended and Restated Declaration of Covenants, Conditions and Restrictions and the provisions of this cover page, the attached Amended and Restated Declaration of Covenants, Conditions and Restrictions shall prevail and control.

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF COLONIAL GREEN



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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
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McBRIDE COLONIAL GREEN, LLC, a Missouri limited liability company (*"Declarant"*); NOEL McKEON; JANET R. "WILSON REVOCABLE TRUST; PATRICIA ENGLER LIVING TRUST; KEITH M. SCHULTE & MARGARET A. SCHULTE; ROBERT E. TRAIL & ANN L. TRAIL REVOCABLE TRUST; BETTYE. WENDLAND & CHRISTINE D. SALYER; HAROLD V. LAYTON & MAUREEN LAYTON REVOCABLE LIVING TRUST; ROBERT A. BURROWS & SHERYLL. BURROWS; ROBERT E. PATTEN & NAOMI L. PATTEN; PATRICIA MOTZ; PATRICIA A. BOUDRIA (collectively, *"Homeowners"*) and COLONIAL GREEN OWNERS ASSOCIATION, a Missouri nonprofit corporation (the *"Association"*), hereby amend and restate the Original Declaration (defined below) and make and enter into this Amended and Restated Declaration of Covenants, Conditions and Restrictions (this *"Declaration"*) effective as of February 7, 2013.

RECITALS:

A. Pursuant to Cottleville, Missouri City Ordinance No. 817 dated February 23, 2006, Greater Midwest Builders, Ltd., d/b/a Greater Missouri Builders (*"GMB"*) subjected the real property described on Exhibit A to a subdivision plat recorded in Plat Book 43 Page 215 of the St. Charles County Records (the *"Plat"*) and to a Declaration of Covenants, Conditions, Easements, Restrictions and Disclosures of Colonial Green recorded in Book DE4510 at Page 2156 of the St. Charles County Records (the *"Original Declaration"*), which Plat and Original Declaration established the Community (as hereinafter defined).

B. The Homeowners subsequently purchased Lots 1416, 1418, 1420, 1422, 1424, 1438, 1440, 1442, 1441, 1439, and 1437 (the *"Sold Lots"*) of the Property and the Dwelling Units (as hereinafter defined) located thereon from GMB and the Homeowners continue to own said Lots and said Dwelling Units.

C. RL REGI-MO GMB, LLC, a Missouri limited liability company (*"REGI-MO"*) took title to all of the Lots except for the Sold Lots (the *"Remaining Lots"*) by Successor Trustee's Deed Under Foreclosure recorded in Book DE5692 at Page 728 of the St. Charles County Records (the *"Foreclosure Deed"*).

D. Declarant purchased all of the Remaining Lots from REGI-MO and took assignment of all of REGI-MO's and GMB's right and interest as *"Declarant"* with respect to the Remaining Lots pursuant to Missouri Special Warranty Deed dated November 29, 2012 and recorded in Book DE5907 at Page 1495 of the St. Charles County Records and that certain Assignment and Assumption of Declarant's Rights dated November 29, 2012 and recorded in Book DE5907 at Page 1540 of the St. Charles County Records.

E. Pursuant to the Original Declaration, GMB established the Colonial Green Owners Association, an unincorporated homeowners association, to serve as the *"Association"* of the Community (the *"Original Association"*), and Declarant and Homeowners (being all the Owners of the Property) have elected to incorporate the Association and appoint successor directors of the Association as provided in this Declaration.

F. Pursuant to Cottleville City Ordinance Nos. 1277 and 1278, the zoning for the Community was amended.

G. Declarant, as successor to GMB as "Declarant", Homeowners and the Association now desire to amend and restate the Original Declaration to facilitate development of the Community and to ensure compliance with the requirements and general purposes and objectives upon which the Community has been established.

H. The parties to this Declaration have full power and authority to amend and restate the Original Declaration because GMB no longer owns any Lots, Declarant is the successor to the "Declarant" under the Original Declaration, and all Owners of real property in the Community are unanimously joining in this Declaration.

I. This Declaration is not a condominium declaration, the Community does not constitute a "Condominium" as defined in Chapter 448 RSMo., as amended, and the Property (as hereinafter defined) now or hereafter subject to this Declaration shall not be subject to or governed by Chapter 448 RSMo., as amended.

J. All reservations, limitations, conditions, easements and covenants herein contained (hereinafter sometimes referred to as "covenants and restrictions") are jointly and severally for the benefit of Declarant and all persons who may purchase, hold or own from time to time any of the Property covered by this Declaration.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements made by the parties hereto, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby declares, and Homeowners and the Association consent and agree, that the Original Declaration shall be amended and restated in its entirety and replaced with this Declaration and that all of the Property and each individual parcel thereof shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The Recitals are incorporated into the body of this Declaration.

1. DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit or clearly indicate otherwise) shall have the following meanings (and shall not have the meaning ascribed thereto in Chapter 448 RSMo., as amended):

- (a) "Adjustment/Variance" shall have the meaning ascribed thereto in Section 2(f).
- (b) "Antenna" shall have the meaning ascribed thereto in Section 10(a)(xii).
- (c) "Assessments" shall have the meaning ascribed thereto in Section 5(a).

(d) "Association" shall mean and refer to Colonial Green Owners Association, a Missouri nonprofit corporation, and its successors and assigns.

(e) "Board" shall mean the Board of Directors of the Association created pursuant to this Declaration. The directors on the Board may be individually or collectively referred to herein as "Director" or "Directors."

(f) "Common Properties" shall mean and refer to those areas of real property and the improvements thereon owned by the Association, and all easements, licenses and other occupancy or use rights which the Association has in any portion of the Property, or in other land or properties adjacent thereto whether as an appurtenance thereto or otherwise, and which are intended to be devoted to the common use and enjoyment of all of the Owners of the Lots, including, without limitation:

(i) paths, open spaces, playgrounds, streets, parking areas within the Common Properties, subdivision entrance areas and monuments, street lights, storm water control easement areas and facilities, paths, walkways, and other trail systems, and other facilities for the benefit in common of the Owners;

(ii) all sanitary and storm sewer facilities, including all detention and retention basins, and all utility installations, lines and connections for gas, electricity, light, telephone, water and plumbing, and cable television wires, as located in any utility easements on a recorded plat in the St. Charles County Recorder of Deeds, excepting those utilities located within a Lot (unless or until such time that any of the foregoing facilities are accepted for maintenance by a Governmental Body);

(iii) all apparatus and installations, now or hereafter, erected on the Common Properties and intended for common use;

(iv) any auxiliary buildings, recreational facilities (if any) and other structures which may, at any time, be erected on the Common Properties and which are intended for common use;

(v) all streets, until such time as they may be accepted by the City of Cottleville, the County of St. Charles or other applicable Governmental Body; and

(vi) Limited Common Elements (defined below).

Common Properties shall not include any item that solely serves a particular Lot or Dwelling Unit. Nothing contained in this definition shall be deemed a representation that any of the enumerated facilities or improvements are or will be included in the Community or constructed on the Common Properties.

(g) "Community" shall mean the planned residential subdivision known as "Colonial Green" created pursuant to the Plat.

(h) "Declarant" shall mean and refer to McBlide Colonial Green, LLC, a Missouri limited liability company, and each of its successors and assigns if such successors or assigns acquire or succeed to ownership of all Lots which have not been improved with a Dwelling Unit remaining in the Conununity and then owned by Declarant for the purpose of development or if Declarant expressly assigns its "Declarant rights" hereunder to such assigns in writing.

(i) "Declaration" shall mean and refer to this Ainended and Restated Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time-to-time.

(j) "Dwelling Unit" shall mean and refer to the building consisting of one dwelling unit to be constructed on each Lot. The Dwelling Unit on each Lot in the Estates (defined below) will be physically connected to at least one other Dwelling Unit on an adjacent Lot along a side lot line. The Dwelling Unit on each Lot in the Manors (defined below) and Trails (definedbelow) will be a detached single family home.

(k) "Encroachment" shall have the meaning ascribed thereto in Section 2(f).

(l) "Estates" shall mean that portion of the Conununity that will contain exclusively attached Dwelling Units and receive maintenance benefits provided by the Association in accordance with this Declaration, consisting of Lots 1416, 1418, 1420, 1422, 1424, 1426, 1428, 1430, 1432, 1434, 1436, 1438, 1440, 1442, 1427, 1429, 1431, 1433, 1435, 1437, 1439 and 1441.

(m) "Governmental Body" shall mean any governmental or quasi-governmental authority, including any federal, state, county, city, town, village, district, administrative, or municipal government, agency, branch, depaiiment, or other entity.

(n) "Interest Rate" shall have the meaning ascribed thereto in Section 5(g).

(o) "Limited Cmmnon Elements" shall mean a poliiion of the Conunon Properties located in the Estates allocated by this Declaration or the Board for the exclusive use of one or more, but fewer than all of the Dwelling Units. Any chute, flue, duct, wire, conduit, bearing wall, beating column, fence and aiily other fixture or improvement which hes pmiially within and partially outside the designated boundaries of a Dwelling Unit or Lot, serving only that Dwelling Unit or Lot, is a Limited Conunon Element allocated solely to that Lot mld any poliiion of such an improvement serving more than one Lot, but less than all of the Lots, is considered a Limited Conunon Element, allocated propmiionately to the Lots served. The Board from time to time by resolution, may deternline which other fixtures and improvements shall be designated as Limited Conu1lon Elements.

(p) "Interim Director" shall have the meaning ascribed thereto in Section 6(a).

(q) "Lot" shall mean and refer to the subdivided parcels of land shown on the Plat (with the exception of the Common Properties as herein defined) to be improved with Dwelling Units.

(r) "Manors" shall mean that portion of the Community that will contain detached Dwelling Units with no maintenance to the Lots provided by the Association, consisting of Lots 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1400, 1402, 1404, 1406, 1408, 1410, 1412 and 1414.

(s) "Member" shall have the meaning ascribed thereto in Section 3(a).

(t) "Mortgage" and "Mortgagee" shall mean and refer also to a deed of trust and the trustee and beneficiary under a deed of trust, respectively.

(u) "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of the fee simple title to any Lot, including but not limited to the Declarant where applicable, but shall not mean or refer to any Mortgagee unless and until such Mortgagee has validly acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(v) "Permittees" shall have the meaning ascribed thereto in Section 2(b).

(w) "Property" shall mean and refer to that celiaili real property described on Exhibit A attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(x) "Trails" shall mean that portion of the Community that will contain detached Dwelling Units with no maintenance to the Lots provided by the Association, consisting of Lots 1401, 1403, 1405, 1407, 1409, 1411, 1413, 1415, 1417, 1331, 1333, 1335, 1337, 1339, 1341, 1343, 1345, 1330, 1332, 1334, 1336, 1338, 1340, and 1342.

2. EASEMENTS AND PROPERTY RIGHTS

(a) Every Owner and every resident of the Propeliy subject to this Declaration, except with respect to Limited Conunon Elements, shall have a light and easement of enjoyment in and to the C01mmon Propeliies, and such easement shall be appulienant to and shall pass with the title to every Lot, subject to the following provisions:

(i) The right of the Directors to take such steps as are reasonably necessary to protect the Co1m1lon Properties against liens, foreclosure, and the acquisition of rights therein by the public and other third parties;

(ii) The light of the Directors to promulgate rules and regulations governing the use of the Common Properties;

(iii) The right of the Directors to suspend the voting rights and rights to use of any recreational facilities situated on the Common Properties by any owner or resident (A) for any period during which any Assessment remains unpaid, and (B) for a period not to exceed sixty (60) days for any infraction of the published rules and regulations;

(iv) The right of the Directors to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Properties (except Limited Common Elements) and require licenses and license fees where it is deemed necessary by the Directors;

(v) The right of the Directors to dedicate or transfer all or part of the Common Properties (except Limited Common Elements), or grant such easements and rights of way in and to the Common Properties, to any Governmental Body or utility company subject to such conditions as may be reasonably necessary for the development of the Community. No conveyance or transfer of fee title to all or any of the Common Properties to any party other than a Governmental Body or utility company shall be effective unless an instrument agreeing to such conveyance or transfer has been recorded and approved by two-thirds (2/3) of each class of Members at a meeting of the Members or consented to in writing and signed by Members holding at least eighty percent (80%) of the voting power pursuant to Section 6(k) hereof. The Directors may dedicate or transfer the streets to St. Charles County, the City of Cottleville or other applicable Governmental Body and grant easements over or otherwise affecting the Common Properties to any party at their sole discretion;

(vi) The right of the Declarant or other builder-developers to utilize the Common Properties for promotional purposes until development and sale of each Lot is complete;

(vii) The right of Owners to perpetual easements over any part of the Common Properties for such portion of their Dwelling Unit that may overhang any Common Properties, and if ingress or egress is typically provided to a Dwelling Unit over a particular portion of the Common Properties, then the right of said Owner of ingress and egress over such particular portion of the Common Properties;

(viii) The right of the Directors to enter into licensing agreements with commercial enterprises for the operation of recreation facilities and related concessions for the benefit of Owners and residents of the Property; and

(ix) The right of the Directors and Declarant (during such time as Declarant owns a Lot) to annex additional residential and Common Properties to the Community.

(b) The Common Properties (except Limited Common Elements) shall be for the benefit, use, and enjoyment of the Owners, present and future, of the Community and, at the

discretion of the Board of Directors, may also be used by residents outside the Community ("Permittees"). If such Permittees are permitted to use the Common Properties:

- (i) No Owner shall be denied the use of the Common Properties for any reason related to the extension of such privilege to the Permittees;
 - (ii) All rules and regulations promulgated pursuant to this Declaration with respect to the Owners shall be applied equally to the Owners;
 - (iii) All rules and regulations promulgated pursuant to this Declaration with respect to the Permittees shall be applied equally to the Permittees;
 - (iv) At any time after recording of this Declaration, a majority of the Owners, by election duly called, may elect to allow or disallow usage of the Common Properties by Permittees.
- (c) Every utility easement on each Lot shall constitute an easement for utility purposes to serve any other Lot or the Common Properties.
- (d) In the event that any utilities and utility connections serving a Lot are located in part on a Lot other than the Lot being served by such utilities and connections, the utility provider, the Owner of a Lot being served, and the contractors and employees of such provider or Owner shall have the right and easement to enter upon the Lot in which the utility line or connection is located for the repair, maintenance and replacement of such line or connection.
- (e) There shall be and is hereby imposed on each Lot an easement for reasonable ingress and egress by or on behalf of the Owner of any adjoining Lot for the purpose of repair, maintenance or replacement of improvements on such adjoining Owner's Lot.
- (f) Should any portion of any Dwelling Unit or other improvement as originally constructed, or any planting or tree, overhang or encroach on an adjacent Lot, the Owner of any such Dwelling Unit or other improvement, planting or tree shall have a license to enter upon such adjacent Lot for the purpose of necessary repair and maintenance of such overhanging or encroaching portion of such Dwelling Unit or other improvement or to trim such overhanging or encroaching planting or tree. Should any portion of any Dwelling Unit or other improvement as originally constructed overhang or encroach on an adjacent Lot ("Encroachment"), the Directors are hereby appointed as agent and attorney-in-fact (coupled with an interest) for and on behalf of each of the Owners affected by the Encroachment and may petition the proper authorities for a boundary line adjustment or request such variance as may be necessary ("Adjustment/Variance") to allow for said Encroachment and the Directors, as agent and attorney-in-fact, may also execute and file of record such easement or other necessary documents of record on behalf of each Owner to effectuate such Adjustment/Variance granted upon the determination and payment of reasonable compensation, if any, to the Owner affected by such change to be paid from funds assessed against the Owner benefiting therefrom. All Owners shall be bound by any resulting Adjustment/Variance granted.

(g) There have been or may be designated on the subdivision plat or plats subject hereto driveway easements for the joint and mutual use and benefit of the Lots on which they are located and the Lots to which they provide access from a street. Those easements are to be held by the respective Owners of each of those Lots, and their respective heirs, executors, administrators, successors and assigns as appurtenant to the Lot owned by each of those Owners. The Owners of each of those Lots shall be jointly responsible for the maintenance and repair of the driveway improvement located on each such easement and each such Owner shall pay an equal share of the cost of maintenance. In the event that any such driveway improvement is not kept in good repair, upon thirty (30) days' written notice by the Directors to each Owner, the Directors may cause such maintenance or repair to be provided and the reasonable cost thereof shall be a charge and lien against each Lot to which such driveway easement is appurtenant, in the amount of the equal portion of such cost allocated to such Lot. Said charge shall be enforceable in the same manner as herein provided in Section 5 hereof

(h) There shall be and hereby is imposed a non-exclusive perpetual easement fifteen (15) feet in width along the rear lot lines and four (4) feet in width along the side lot lines (except the side lot line or lines of each Lot in the Estates along which the party wall of the Dwelling Unit on that Lot is located) of all Lots for sump pump drainage purposes. Without limiting the generality of any other provision of this Declaration, the Association may, but shall not be obligated to, maintain, clean and repair all such sump pump drainage easements, and is hereby granted easements in gross for ingress to and egress from such sump pump drainage easements and as otherwise required to perform the foregoing.

(i) The Property, including the Lots and Dwelling Units thereupon located, shall be subject to a perpetual easement in gross to the Directors and the Association, their successors and assigns, for ingress and egress to perform their obligations and duties as required by this Declaration as well as all maintenance, repair and other tasks which the Directors and Association have the right or discretion to perform hereunder. Should it be necessary on a non-emergency basis, to enter a Dwelling Unit or upon a Lot in order to maintain, service, improve, repair or replace any Common Properties, Limited Common Element, the Dwelling Unit, or any other item required or permitted to be maintained by the Association hereunder, employees, agents and workmen shall be entitled to entrance by exhibiting to the Owner an order from the Association signed by one of the members of the Board of Directors or an agent of the Board of Directors. The Association shall specifically have the authority (but not the obligation) to enter any Dwelling Unit or Lot, on an emergency basis, for the purposes of repairing, maintaining, servicing or replacing the roof, plumbing, sewers, other utilities, pipes, walls, and wires within or upon any Dwelling Unit or Lot which serves another Dwelling Unit or Lot, without the necessity of exhibiting an order from the Association. The determination of whether such an emergency exists shall be within the sole discretion of the Association, but it is anticipated that entering any Dwelling Unit or Lot without an order from the Association shall only occur if the Owner is not present or reasonably available at the time such emergency occurs.

(j) The Property, including the Lots and Dwelling Units thereupon located, shall be subject to a perpetual easement in gross to the Declarant, its successors and assigns, for access, ingress and egress to perform any duties and obligations which may be imposed upon

Declarant, its successors and assigns, as developer of the Community, by this Declaration or by any Governmental Body, including, without limitation, any obligations or duties which may be helpful or necessary for the release of development escrows deposited with any such Governmental Body.

3. CREATION OF ASSOCIATION

(a) Every Owner of a Lot which is subject to assessment shall be a member of the Association (a "**Member**"). Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

(b) The Association shall have two classes of voting memberships:

(i) Class A: Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

(ii) Class B: The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier to occur of:

(A) the total votes held by the Class A Members equaling the total votes held by the Class B Member;

(B) December 31, 2022; or

(C) When Declarant, in its sole discretion, so determines and declares in an instrument recorded in the St. Charles County Records.

4. DURATION

(a) The covenants and restrictions established by this Declaration shall run with the land and continue and be binding upon Declarant and the Directors and upon their successors and assigns for the longer of the following: (i) for the duration of the subdivision, or (ii) for a period of twenty (20) years from the date this Declaration is recorded, and shall automatically be continued thereafter for successive periods of fifteen (15) years each; provided, however, that the fee simple record Owners of the Lots now subject and hereafter made subject to this Declaration, by the approving vote of two-thirds (2/3) of each class of Members entitled to vote at a meeting of the Members, or the consent given in writing by Members holding at least eighty-percent (80%) of the voting power, pursuant to Section 6(k) hereof, may terminate the Declaration or release all of the Property restricted thereby at the end of said twenty (20) year period or any fifteen (15) year period thereafter, by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing the same of record in the Office

of the Recorder of Deeds of St. Charles County, Missouri, at least one (1) year prior to the expiration of said twenty (20) year period or of any fifteen (15) year period thereafter.

(b) In the event the Community is vacated, this Declaration shall terminate and the Board shall convey (i) fee simple title to the Common Properties to the then Lot Owners as tenants in common and (ii) fee simple title to the Limited Common Elements to the then-Lot Owners which own the Lots or Dwelling Units in the Estates served by the Limited Common Elements as tenants-in-common, and shall dissolve the Association pursuant to the vote of the Members as provided above. The rights of the tenants in common shall be exercisable appurtenant to and in conjunction with their Lot ownership. Any conveyance or change in ownership of any Lot shall convey with it ownership in the Common Properties and, in the Estates, Limited Common Elements, and no interest in the Common Properties shall be conveyed by an Owner except in conjunction with the sale of a Lot. The sale of any Lot shall carry with it all the incidents of ownership of the Common Properties regardless of whether such ownership is expressly mentioned in the deed of conveyance; provided, however, that no right or power conferred upon the Directors shall be abrogated. Any interest in real property which may vest at any time in the future as a result of this Declaration shall vest, if at all, within the longer of (i) 21 years of the death of the last to survive of the now living descendants of Barack Obama, 44th President of the United States of America, or (ii) such longer vesting period as is allowed by law.

5. COVENANT FOR MAINTENANCE ASSESSMENTS

(a) Except as set forth in Subsection S(h), the Declarant and Homeowners, for each Lot within the Property, hereby covenant and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or their conveyance, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges, (ii) special assessments or charges, with such assessments or charges to be fixed, established and collected from time to time as hereinafter provided, including, but not limited to, any charges or assessments created pursuant to Sections 5(d) and 5(e) below, and (iii) a one time working capital assessment which shall be due immediately upon the first conveyance of any Lot (and not on any subsequent conveyance) after a Dwelling Unit has been constructed upon such Lot in the amount of Five Hundred Dollars (\$500.00) for purposes of providing working capital for the Association; such assessment to be treated as a special assessment hereunder and shall be a charge against the title of each such Lot and shall be a continuing lien and otherwise shall be collectable and enforceable in accordance with this Section 5 (all such assessments and charges being sometimes herein collectively referred to as "Assessments").

(b) Allly and an Assessments, as provided in this Section 5, together with interest thereon at the Interest Rate and costs of collection thereof, shall be a charge against the title of each Lot and shall be a continuing lien upon the Lot against which such Assessment is made, which shall bind such Lot and its Owner, and such Owner's heirs, devisees, personal representatives, successors and assigns without the need or requirement of filing any additional documentation with respect to such lien. Recording of this Declaration constitutes record notice and perfection of the lien as to Assessments which become delinquent thereafter, together with interest thereon and costs of collection thereof as hereinafter provided. Further recording of a

claim for Assessment under this Section 5 is not required. The Association shall be entitled to enforce collection of any and all of such Assessments, interest and costs through enforcement of such lien, whether by foreclosure or otherwise. Each such Assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. Notwithstanding anything herein to the contrary, the lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage and non-payment of any such Assessment shall not constitute a default under any federally insured Mortgage. Furthermore, Mortgagees of any such financing on a Lot or improvements thereon shall not be required to collect, retain or escrow any Assessments as referenced hereinabove.

(c) The Assessments levied under this Section shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property or for maintaining the market value of the Property and in particular for the rendering of services in the furtherance of such purposes, including the carrying out of all functions herein authorized and required, and for the improvement, maintenance and operation of the Common Properties and all facilities thereon, including, but not limited to, the payment of taxes and insurance thereon, debt service and repair, maintenance, replacements and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof and for such other needs as may arise and for maintenance of reserves for the benefit of the Association.

(d) (i) As indicated in Section 5(a) above, in addition to the annual assessment herein authorized, there may be levied in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement within or upon the Common Properties or any easement, street, drive, walkway or other light-of-way provided for the benefit of the Lots subject hereto, and including the provision of necessary fixtures or personal property related thereto, provided that any such assessment shall have the consent given in writing and signed by Members holding at least eighty percent (80%) of the voting power, pursuant to Section 6(k) hereof, or the approving vote of two-thirds (2/3) of the vote of each class of Members who are voting, in person or by proxy, at a meeting of the Members duly called for such purpose, written notice of which shall have been sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance and shall set forth the purpose of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(ii) In addition to other special assessments authorized by this Subsection (d), the Directors may make a separate special assessment, without a vote of the Members, for the construction, operation, maintenance, repair and replacement of sewer systems and creeks and other storm water control easements and facilities including, but not limited to, retention and detention ponds and any underground detention facilities. The special

assessment provided for by this paragraph of Subsection (d) shall be allowed and applicable until the operation and maintenance of such sewer systems and such creeks and other stonn water control easements and facilities have been accepted for maintenance by an appropriate Gove1m1 mental ,Body or utility company.

(iii) In addition to other special assessments authorized by this Subsection (d), the Directors may also make a separate special assessment pursuant to this subparagraph of Subsection (d) as necessary for compliance with all subdivision and other ordinances, rules and regulations of the City of Cottleville, St. Charles County and the Duckett Creek Sanitary Sewer District. Specifically, but not by way of limitation, the Board of Directors may make provisions for the maintenance and operation of all street lights, roadways, easements and utilities.

(iv) The provisions of this Section 5 with respect to the establishment of due dates, effect of non-payment and remedies for enforcement shall be applicable to any special assessment levied as hereinabove authorized.

(v) The Directors are hereby authorized to make and collect a special annual assessment for maintenance of stonn water facilities until such time as all stonn water sewers and facilities are dedicated to and accepted by the Duckett Creek Sanitary Sewer District or its successors or assigns or other applicable Governmental Body or sewer company.

(e) In addition, the Directors may levy a special assessment or charge against aily Owner and any Lot(s) for all costs and expenses incurred, including costs of collection, interest, attorney's fees aild other associated costs for purposes of (i) making repairs or maintenance to a Lot or improvements thereon or Limited Co1mmon Elements serving such Lot(s), which repairs or maintenance the Owner has failed to make or which the Association or Board has the duty or light to make, (ii) for repairing any damage caused by an Owner or such Owner's employees, agents, invitees or tenants or (iii) removal of unapproved or unauthorized signage erected anywhere on the Property. Nothing herein shall be deemed to impose absolute liability without respect to fault or negligence upon the Owners for daimage to the Conm1on Properties or the Lots.

(f) Assessments shall be made in a manner and subject to the following procedure:

(i) As to annual assessments, on or before thirty (30) days in advance of each assessment year, as established by the Directors, the Directors shall prepare proposed budget(s) for the upcoming assessment year taking into consideration all anticipated items of expense, including but not limited to reasonable amounts for Conu1lon Properties maintenance, roadway maintenance, and reasonable replacement and other reserves. Based upon the proposed budgets, the Directors shall establish the annual assessment for the upcoming assessment year for all Lots. The Directors shall set the due date for payment of the assessments, and may provide for a periodic payment schedule if deemed desirable by the Directors. If at any time during an assessment year, the

Directors determine in their reasonable opinion that the annual assessment will not provide sufficient funds during the assessment year to cover the expense of items in the proposed budgets or the expense of any items not indicated on the proposed budget which may occur and are non-extraordinary and reasonably necessary to the general operation of the Association or the Common Properties, then the Directors may levy an additional supplemental assessment for the remainder of the assessment year in the amount necessary to cover the anticipated revenue deficit for that assessment year. The right and power to levy a supplemental annual assessment shall extend to the Directors for the first assessment year and each assessment year thereafter. Written notice of any levy of a supplemental assessment shall be given to each Owner and payment shall be made as directed by the Directors in such notice.

(ii) Subject to requisite Member approval as set forth herein, special assessments shall be made by the Directors upon at least thirty (30) days notice, and, at the discretion of the Directors, may be payable in a lump sum, in periodic installments or due and payable within thirty (30) days from the date of such notice.

(iii) Any Assessment imposed by the Association, with the exception of a special assessment levied under Section 5(e) hereof, shall be equitably divided among all Owners on the basis of an equal amount allocated to each Lot.

(iv) Notice of any Assessment shall be given by the Directors, either by mail, postage prepaid, addressed to the address shown on the real estate assessment records of St. Charles County or any applicable municipality (and notice so given shall be considered given when mailed), or by posting a brief notice of the assessment upon the Lot itself.

(v) The failure or delay of the Directors to prepare or serve any budget or any Assessment shall not constitute a waiver or release in any manner of any Owner's obligation to pay such Assessment whenever the same shall be made, and in the absence of any annual assessment or supplemental annual assessment, the Owner shall continue to pay at the then existing rate established for the previous payment.

(g) If any Assessment is not paid within thirty (30) days after the delinquency date, such Assessment shall bear interest from the date of delinquency at the lesser of eighteen percent (18%) per annum or the highest rate allowed by law (the "Interest Rate"), and the Directors may bring legal action against the Owner personally obligated to pay same, and, in addition, shall be entitled to the rights as set forth in Section 5(b) hereinabove with respect to enforcement of payment of same. The Board of Directors is hereby authorized to notify any obligee that the Board is taking steps to collect unpaid assessments or to enforce a lien against said Lot.

(h) The following properties subject to this Declaration shall be exempt from the Assessments and liens created herein:

(i) All Common Properties.

(ii) All properties exempt from taxation under the laws of the State of Missouri.

(iii) All Lots owned by the Declarant or any successor builder-developers before title to the Lot has been transferred to the first purchaser thereof at retail (as distinguished from sale in bulk or at wholesale to others for development or resale).

(iv) Any Lot subsequently added hereto, the Owners or residents of which are not eligible to use portions of the Common Properties, shall not be subject to assessment for such portions of the Common Properties.

(i) Each Lot Owner shall be responsible for the maintenance, repair and replacement of the lateral sewage line or lines servicing such Owner's Lot.

(j) The liability for fill Assessment may not be avoided by a waiver of the use or enjoyment of any Common Properties, services or recreation facilities, or by abandonment of the Lot against which the Assessment was made, or by reliance upon assertion of any claim against the Board of Directors, the Association or another Owner.

(le) Nothing contained herein shall abridge or limit the rights or responsibilities of Mortgagees and nothing herein shall be construed to require a Mortgagee to collect the Assessments provided for herein.

(l) This Section 5 does not prohibit the Association from taking a deed in lieu of foreclosure.

(m) A judgment or decree in any action brought under this Section is enforceable by execution of the judgment filed shall include costs filed reasonable attorney's fees and paralegal expenses for the prevailing party.

(n) Any payments received by the Association in discharge of a Lot Owner's obligation may be applied to the oldest balance due.

(o) In addition to the annual and special assessments levied under this Section 5 against all Owners, each Owner of a Lot in the Estates shall be assessed and be liable for the costs incurred by the Association in maintaining their Lots and portions of the Dwelling Units pursuant to Section 9.2. The special maintenance assessment against the Estates Lots shall be levied and assessed as follows:

(i) By December 1st of each year, or as soon thereafter as reasonably practicable, the Directors shall estimate the total amount necessary to pay wages and for materials, insurance, water, sewer charges, services and supplies which it anticipates will be required in the performance of their duties under Section 9.2 during the ensuing calendar year together with fill amount which they consider necessary as a reasonable

reserve for any future needs and contingencies. On or about December 15 of each year, or as soon thereafter as reasonably practicable, the Directors shall notify the Owner of each Estates Lot in writing as to the amount of such estimate, which shall then be uniformly assessed against the Owners of all Estates Lots. On the first day of each month thereafter, each Estates Lot Owner shall be obligated to pay the Association one-twelfth (1/12) of the assessment made hereunder. The entire annual assessment levied hereunder shall be deemed delinquent if any monthly installment is not received by the Association on or before the fifth day of the month in which due.

(ii) In the event the Directors shall at any time during the year determine that their estimate under Paragraph (i) of this Section 5(o) is insufficient to meet current operating expenses, the Directors may revise their budget for the balance of the calendar year to such an amount as is actually necessary to pay such maintenance expenses and to fund a reserve, and within fifteen (15) days thereafter, shall notify the Owner of each Estates Lot in writing as to the amount of the revised budget, which shall be uniformly assessed against the Estates Lot Owners. On the first day of each month thereafter, each Estates Lot Owner shall be obligated to pay the Association an amount equal to a fraction of the revised assessment made under this clause (ii), the numerator of which shall be one (1) and the denominator of which shall be the number of months remaining in the then current year.

(iii) Notice of each levy under this Section 5(o), shall be given by first class mail addressed to the last known or usual post office address of each Estates Lot Owner and deposited with the United States Postal Service, postage prepaid, or by posting of a notice of the assessment upon the Lot against which it applies.

6. SELECTION OF DIRECTORS; MEETINGS OF OWNERS

(a) The Board of Directors of the Association shall consist of three (3) members (each a "**Director**" and collectively the "**Directors**"). Pursuant to the Original Declaration, the initial directors of the Original Association were Dan Barnard, Paul Campbell and Ron Nelson, all of whom are hereby removed from the Board to the extent they were not already removed. Declarant and Homeowners, being all of the Owners, and the Original Association have unanimously voted to revoke any power of the Original Association over the Community, to establish the Association, and to appoint three (3) Directors of the Association, who are Keith Schulte ("**Director 1**"), Jeremy Roth ("**Director 2**") and Jeff Lewis ("**Director 3**"). During the period of service of Director 1, Director 2, or Director 3 or their appointed successors ("**Original Directors**"), one or more shall be subject to removal with or without cause, and Declarant shall have the exclusive right to designate the successor to such removed Director for his or her unexpired period of service as provided hereunder. Should any of the Original Directors be removed, die, resign, or cease to hold office, or decline to act or become incompetent or unable for any reason to discharge the duties, or avail himself or herself or exercise the rights and powers hereby granted or bestowed upon them as Directors under this Declaration, then, Declarant shall have the exclusive right to designate the successor thereto for his or her unexpired period of service as provided for hereunder. In the event that the provisions of this Declaration cannot be fulfilled due to unfilled vacancies among the Directors, a Lot

Owner may petition the Cottleville Board of Aldermen (and the Cottleville Board of Aldermen shall have the right and power) to appoint or cause to be appointed a director to fill the vacancy during said interim ("Interim Director"). Any Interim Director who is not an Owner shall receive a reasonable fee for services rendered and the fee shall be determined by the Directors who are not Interim Directors. The fee shall be levied as a special assessment against the Lots, which assessment shall not be subject to any limitations on special assessments, if any, contained in this Declaration.

(b) Until such time as all of the Lots (regardless of whether such Lots are constructed or sold in phases), which may be subject to this Declaration have been sold and conveyed to persons or entities or other than a successor builder or developer, the following procedure for designating successor Directors shall be followed:

(i) After fifty percent (50%) of the Lots which may be subjected to this Declaration have been sold and conveyed to persons other than a successor builder or developer, Director 1, or his or her appointed successor Director shall resign and his or her successor shall be elected by the Members other than Declarant at a special meeting of the Members to be called thereafter, such successor being the nominee receiving the highest number of votes cast. Such Director shall serve as Director until all Directors are elected by Members other than Declarant under the provisions of Section 6(c) below.

(ii) After ninety-five percent (95%) of the Lots which may be subjected to this Declaration have been sold and conveyed to persons other than a successor builder or developer, Director 2, or his or her appointed successor Director shall resign and his or her successor shall be elected by the Members other than Declarant at a special meeting of the Members to be called thereafter, such successor being the nominee receiving the highest number of votes cast. Such Director shall serve as Director until all Directors are elected by Members other than Declarant under the provisions of Section 6(c) below.

(iii) After one hundred percent (100%) of the Lots which may be subjected to this Declaration have been sold and conveyed to persons other than a successor builder or developer, Director 3, or his appointed successor Director shall resign and his or her successor shall be elected by the Members of the Association at a special meeting of the Members to be called thereafter, such successor being the nominee receiving the highest number of votes cast. Such Director shall serve as Director until all Directors are elected by Members of the Association under the provisions of Section 6(c) below.

(iv) Declarant, in its sole discretion, may (but shall not be required to) appoint a second Director from the membership of the Association prior to the time designated for election of a second Director as set out in Section 6(b)(ii) and Section 6(b)(iii) and above. In anticipation of Declarant exercising this option, the Association may call a special election in accordance with the provisions of this Declaration to elect an Owner or Owners to be the nominee(s) for Director(s) to be appointed by Declarant under the provisions of this subsection (j-v). If the Association fails or refuses to elect the

nominee(s) for the Director(s) to be appointed, then Declarant shall have the right to appoint any Member(s). In the event Declarant does appoint such second or third Director(s) prior to the time set forth in Sections 6(b)(ii) and (iii) above, then such nominee(s) or Member(s) shall become Director(s) with full powers and shall not be subject to removal by Declarant, just as if such person(s) were elected pursuant to the provisions of Sections 6(b)(ii) and (iii), and no Director(s) shall be elected by the Members under the provisions of Sections 6(b)(ii) and (iii) and the appointed person(s) shall serve as Director(s) until all Directors are elected by the Owners under the provisions of Section 6(c). If Declarant chooses to exercise its option to appoint Director(s) pursuant to this subsection (iv), it shall do so by recording a written instrument evidencing the exercise of such option in the St. Charles County, Missouri land records.

(c) After all of the Lots which may be subjected to this Declaration have been sold and conveyed to persons other than to a successor builder or developer, the following procedure shall be followed:

(i) All of the then-acting Directors shall resign; and

(ii) At a special meeting of the Members, three (3) Directors shall be elected, one for a term of three (3) years, one for a term of two (2) years and the third for a term of one (1) year.

(iii) After the expiration of the term of office of the Directors elected as provided in Section 6(c)(ii), each successor Director must be a Member, and shall be elected by Members, and each such successor Director shall serve for a term of three (3) years so that the terms shall be continuously staggered, one (1) Director being elected at each annual meeting of the Members.

(iv) At least one Director shall be an Owner of an Estates Lot.

(d) Following each annual meeting of the Association as provided for herein, the Directors shall designate one (1) Director to serve as President, one (1) Director to serve as Vice-President, and one (1) Director to serve as Secretary/Treasurer, until the time of the next following annual meeting.

(e) There shall be an annual meeting of the Association (subject to the provisions of Section 6(j) hereof) to be held after 5:00 p.m. on the second Wednesday of March of each year during the term of this Declaration, said meeting to be held at a convenient place in the County of St. Charles, and there may be special meetings of the Association as may be called by any one of the Directors, also to be held at a convenient place in the County of St. Charles. No less than ten (10) days' (except in emergency) notice in writing to each Member of the time and place of any annual or special meeting shall be given by the Directors or by the Director calling said meeting, by depositing same in the United States mail, properly addressed to the address shown on the real estate tax assessment records for each Owner and with postage prepaid. The successor to an elected Director whose term has expired shall be elected at the

special meeting called for that purpose. At any annual or special meeting each Lot shall be entitled to one (1) vote and any action or proposal to be approved shall require approval by a majority of votes cast at such meeting. Any vote may be cast in person or by proxy. Any designation of a proxy shall be on a form approved by the Directors and shall be filed with the Directors at least forty-eight (48) hours before any meeting at which such proxy will vote. Any Member who has failed to pay any Assessments due and payable shall not be entitled to vote at any annual or special meeting provided for herein. The person or persons receiving the highest number of votes cast shall be deemed elected and shall, upon his, her or their acceptance in writing, at once and by force of this Declaration imposed, succeed to, be vested with, and possess and enjoy all of the rights, interests, privileges and powers granted by this Declaration to the Directors. In the event that any Director elected hereunder shall die or become unable for any reason, to discharge the duties or avail himself or herself of or exercise the rights and powers herein granted or bestowed upon him, her or them as Directors under this Declaration, then and thereupon, it shall be the duty of the remaining Directors to select a successor to carry out the duties of such Director for the remainder of such Director's term.

(f) If a Lot is jointly owned, only one person shall be entitled to vote for the Owners of that Lot and such person shall be known as the "Voting Member." If a Lot is jointly owned and if one of the multiple Owners of that Lot is present at a meeting of the Association, he or she shall be entitled to cast the vote allocated to that Lot. If more than one of the multiple Owners are present, the vote allocated to that Lot may be cast only in accordance with the agreement of the majority in interest of the multiple Owners. Once the majority position has been established the Voting Member shall cast the vote. There is majority agreement if any one of the multiple Owners casts the vote allocated to that Lot without protest being made to the person presiding over the meeting by any of the other Owners of the Lot. A corporation, if an Owner, shall act through its president or through another officer or director as the board of directors that corporation designates in writing. A partnership or limited liability company, if an Owner, shall act through a partner or member or manager, as applicable, as designated by the partnership or company in writing. A trust, if an Owner, shall act through its trustee. If there is more than one such trustee for a trust, then the beneficiaries of such trust shall designate in writing which trustee shall be entitled to vote.

(g) All Directors, except Interim Directors and the Original Directors, shall be Owners. If any Owner is a corporation, partnership, limited liability company or trust, then any partner, officer, director, member, manager, employee or agent of such corporation, partnership or company or trustee of such trust may be a Director.

(h) No business may be transacted at any meeting (special or general) at which there is not a quorum, except as provided below. Except as otherwise provided herein, a quorum shall be deemed present at a meeting of the Association if the Members in attendance at the beginning of the meeting represent at least ten percent (10%) of the votes of each class of Members eligible to vote at the time of the meeting, either in person or by proxy. If proper notice is given and a meeting called at which the proposed business cannot be conducted because of failure to achieve a quorum, then the Directors may either:

(i) Give another notice of the meeting indicating the proposed business or purpose and if such meeting is held within thirty (30) days of the date of the first meeting at which there was no quorum, then there shall not be a quorum requirement to transact the proposed business at such second meeting; or

(ii) Take a vote of the Association on any proposed business by written ballot of the Members in lieu of a meeting.

(i) A quorum is present at a meeting of the Directors if a majority of the Directors are in attendance. All actions of the Directors shall be by majority vote. The Directors may take action by majority vote on written ballots or by unanimous consents in lieu of a meeting.

G) For the period from the date of execution hereof until such time as there are fewer than two Original Directors still serving, at the option of the then existing Directors, no annual meeting of the Association shall be held. During such period, the Directors may appoint an advisory board consisting of Owners. The number of members of such advisory board shall be the number deemed appropriate by the Directors from time to time. The members of such advisory board shall serve at the will of the Directors. The advisory board shall be formed for the purpose of reporting to and advising the Directors concerning the status and operation of the Property. Such advisory board may hold informal meetings of its members if so desired by the advisory board, but such meetings are not required.

(k) Notwithstanding anything contained herein to the contrary, any action required or permitted to be taken herein by approval of the Members may only be taken without a meeting of the Members if the action is approved by Members holding at least eighty percent (80%) of the voting power. The action must be evidenced by one or more written consents, signed by Members representing at least eighty percent (80%) of the voting power and delivered to the Association. Such written consents shall be filed by the Secretary with the minutes of the proceedings of the Members and shall have the same force and effect as a vote at a meeting duly held. Written notice of such Member approval shall be given to all Members who have not signed a written consent. If written notice is required because consents have not been received from all of the Members, such Member approval shall be effective ten (10) days after such written notice is given.

(l) Any special meeting of the Members may be called if five percent (5.0%) of the Members request such a meeting.

(m) All meetings and all records pertaining to subdivision matters, including budgets and financial records, shall be open to Members unless they relate to personnel matters, legal actions, causes of action, litigation, or are otherwise protected by attorney-client privilege or work product. Such records shall be retained for three years unless a majority of owners authorizes their destruction.

7. RESERVATION OF EXPENDITURES

The Declarant reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended, deposited, placed in escrow, or subsequently provided by it for utility facilities or services, streets, subdivision fees or for any other purpose of any nature or description with respect to any subdivision or land which is now or may in the future be made subject hereto. Declarant further reserves the right to receive and retain any monies, damage payments or condemnation award for any easement or other interest granted or condemned as to any street or Common Properties within the Property.

8. ARCHITECTURAL CONTROL

(a) From and after such time as a Lot becomes subject to assessment as provided herein, the Owner thereof shall not cause or allow any (i) building, fence, wall, driveway or other structure or improvement of any sort to be commenced, erected or maintained thereon; (ii) exterior addition or removal of all or any part thereof, or exterior change or alteration in any improvement thereon to be made; (iii) removal of any tree with a three-inch or greater caliper; or (iv) change in grade or slope thereof, until all plans and specifications showing (as applicable) the degree, nature, kind, shape, size, square footage, height, elevation, materials, colors, location, entrances and driveways, and configuration of all improvements upon such Lot shall have been submitted to and approved by the Directors. All decisions rendered by the Directors shall be deemed final. It is the intent of this Declaration that the restrictions of this Section shall not apply to Declarant. With respect to architectural approvals, the Directors, at their option, may appoint an architectural approval committee comprised of not less than three nor more than five Owners to review all proposed construction and submit non-binding recommendations of approval or disapproval of the same to the Directors. All requests for approval submitted to the Board of Directors shall be deemed automatically approved if no response is given within sixty (60) days of making submissions. The Owner shall, after obtaining the approvals required by this Declaration, obtain and maintain in effect all necessary permits and approvals from the City of Cottleville and any other applicable Governmental Body prior to commencing any such improvements and modifications and the same shall be completed in accordance with this Declaration and applicable laws and ordinances. The Owner shall also bear the responsibility for the maintenance of any Owner-constructed improvement authorized under this Section 8. The Association shall not be liable for any damage, loss or prejudice suffered or claimed by any Owner, its agents or any other person or entity on account of: (1) the approval or disapproval of any improvements or modifications under this Section 8, or any plans, contracts, bonds, contractors, sureties or other matters in connection therewith; (2) the construction or performance of any work, whether or not pursuant to approved plans; (3) any Owner's or any other person's or entity's failure to obtain the proper permits and approvals; or (4) the compliance of any improvements or modifications with applicable codes.

(b) A Lot Owner may not change the appearance of the improvements within or upon the Common Properties.

(c) All additions, alterations and improvements to or on the Lots and Common Properties shall not, except pursuant to prior approval of the Board of Directors, cause any increase in the premiums of any insurance policies earned by the Association; and all additions, alterations and improvements to or on the Lots shall not cause any increase in the premiums of any insurance policies carried by the Owners of any Lots other than those requesting or approving such change.

9. DUTIES AND POWERS

9.1 Association Rights and Responsibilities. The Association, acting by and through the Directors, shall have the following rights, powers, duties and obligations:

(a) To acquire and hold the Common Properties and to transfer or sell the Common Properties (except Limited Common Elements) in accordance with the provisions provided for herein, to exercise control over the Common Properties, continuously maintain, improve and operate same with landscaping, shrubbery, decorations, buildings, recreational facilities and structures of any kind or description, and any and all other types of facilities in the interest of the health, welfare, safety, recreation, entertainment, education and for the general use of the Owners of the Property, to grant such easements and rights-of-way over the Common Properties to such utility companies or Governmental Bodies or others as they shall deem necessary or appropriate in accordance with the provisions of Section 2(a)(v), to make rules and regulations, not inconsistent with the law and this Declaration, for the use and operation thereof and in every and all respects govern the operation, functioning and usage of the Common Properties.

(b) To maintain, repair and replace any improvements on Lots which have been neglected and to charge the Owner thereof with the reasonable expense incurred, which shall be a lien against the Lot owned by such Owner and improvements thereon pursuant to Section 5(e) hereof.

(c) To exercise such control over the easements, streets, drives, trail systems, walkways and rights-of-way within the Community that have not been accepted for maintenance by an applicable Governmental Body or utility company, as is necessary to maintain, repair, supervise and insure the proper use thereof, including the right (for the Association and others to whom the Association may grant permission) to construct, operate and maintain on, under and over said easements, streets, drives, trail systems, walkways and rights-of-way, any of the following: street lights, sewers, pipes, poles, wires and other facilities and utilities for service to the Lots.

(d) To establish traffic regulations for the use of the streets, drives and walkways in the Community, and to operate and maintain a system of street lights and pay electric utility payments on the system at such time as the system is completed and delivered to the Directors, and to operate and maintain any storm water control facilities, including lakes, and other detention or retention areas, serving any portion of the Property, which have not been accepted for maintenance by an applicable Governmental Body or utility company.

(e) To plant, care for, maintain, spray, trim, protect and replace trees, shrubbery and vegetation within any rights-of-way, to decorate the entranceway to the subdivision by appropriate landscaping or by a subdivision sign or in such other manner as the Directors shall deem appropriate.

(f) To dedicate the private streets, drives, walkways, or rights-of-way, or any portion or portions thereof, when such dedications would be accepted by an applicable public entity and to grant easements to any party over or otherwise affecting Common Properties.

(g) At the discretion of the Directors, to designate certain parking areas for the sole and exclusive use of Owners, their occupants, guests or invitees.

(h) To clear rubbish and debris and remove grass and weeds from and trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon any neglected Lot in the Community, and to charge the Owner of such Lot with the reasonable expense so incurred, which shall be a lien against such Lot and the improvements thereon. The Directors, or their agents or employees, shall not be deemed guilty or liable for any manner of trespass for any such abatement, removal or planting.

(i) At the discretion of the Directors, to provide for the collection of trash, rubbish and garbage and otherwise to provide such services as shall be in the interest of the health, safety and welfare of the Owners and residents, and to enter into and assume contracts for such purposes covering such periods of time as they may consider advisable; provided, however, that neither Declarant, nor the Association, nor their respective officers, directors, successors, assigns, agents, employees, affiliates or licensees shall provide or maintain or be responsible for providing or maintaining, in any way, security for all or any portion of the Property, and for any Owners, or Owners' principals, shareholders, partners, agents, family members, invitees or guests. Furthermore, each and every Owner, and each of Owners' principals, shareholders, partners, agents, family members, licensees, invitees and guests, hereby releases and holds harmless the Declarant (including any successor builder or developer) and the Association, and their respective officers, directors, successors, assigns, agents, employees, affiliates or licensees from and against any and all claims, demands and liabilities for any damage to real or personal property or injury or death resulting in any way, due to the existence or level of security provided with respect to the Property.

(j) To enter into contracts, employ agents and other employees as the Directors deem necessary or advisable in exercising the rights, powers and privileges granted to them, and in discharging the duties imposed upon them by the provisions of this Declaration, and to employ counsel to advise the Directors or to institute and prosecute such suits as they deem necessary or advisable, and to defend suits brought against them individually or collectively in their capacity as Directors.

(k) To receive, hold, convey, dispose of and administer in trust for any purpose mentioned in this Declaration any gift, grant, conveyance or donation of money or real or personal property.

(l) With regard to all property, real, personal or mixed, owned or held by the Association, the full and unqualified right, power and authority to:

(i) Make all contracts and incur all liabilities necessary, related or incidental to the exercise of the Association's powers and duties hereunder, including the construction of improvements.

(ii) Purchase insurance against all risks, casualties and liabilities of every nature and description.

(iii) Borrow money, including making a permanent, temporary or construction loan; make and execute promissory notes or incur liabilities and obligations with respect thereto; and to grant a lease or leasehold security interest in Common Properties to secure such obligations such that the secured party could charge admissions for the use of said Common Properties to Owners or a wider public until the loan with respect thereto is repaid.

(iv) Sell, convey, trade, exchange, use, handle, manage, control, operate, hold, and deal in and with such property, in all respects, limited only as provided in this Declaration or by law.

(m) In the event it becomes necessary or desirable for any Governmental Body to acquire all or any part of the Common Properties for any public purpose, the Directors are hereby authorized to negotiate with such Governmental Body for such acquisition and to execute such instruments as may be necessary for conveyance to such Governmental Body subject to the provisions of Section 2(a)(v). Should acquisitions of Common Properties by eminent domain become necessary, only the Association need be made a party, and subject to the reservation by Declarant, as provided in Section 7 hereof, any monies, damage payments or condemnation award shall be held by the Association for the benefit of the Owners of the Lots subject hereto.

(n) The Association shall deposit Association funds in a state or national bank protected by the Federal Deposit Insurance Corporation.

(o) All rights, powers, duties, privileges and acts of every nature and description conferred upon the Association and the Directors by the terms of this Declaration may be executed and exercised by a majority of the Directors, unless otherwise provided herein. The Directors shall not be personally liable for their acts in the performance of their duties, except for dishonesty or acts criminal in nature, and the Association shall indemnify and hold the Directors harmless from all such acts to the extent permitted by law.

(p) The Association shall make provision for the maintenance and operation of all street lights, roadways, storm water facilities and easements not otherwise accepted for maintenance by a Governmental Body or utility company.

(q) At the discretion of the Directors, the Association may enter into licensing agreements with commercial entities for the management and operation of any portion of the Common Properties, including, without limitation, any recreational facilities and any related concessions, for the benefit of the Owners and residents of the Property.

(r) The Association, with approval from applicable Governmental Bodies, shall have the power to erect ornamental entrance monuments on the street corners or median within the street right-of-way and adjacent easements as may be shown on any recorded subdivision plat of the Property. The Association shall have the duty to maintain and repair such monuments, together with all related equipment, utility facilities and landscaping.

(s) Notwithstanding any provision of this Declaration to the contrary, the Association shall not be responsible for the maintenance of Owner installed landscaping, including, without limitation, gardens, trees, bushes, shrubbery or the like ("Owner-Installed Landscaping"). Furthermore, each and every Owner, its principal(s), shareholder(s), partners, agents, family members, invitees and guests, hereby release and hold harmless the Declarant (including any successor builder or developer) and the Association, and their respective officers, directors, successors, assigns, agents, employees, affiliates or licensees, from and against any damage to Owner-Installed Landscaping which arises out of, relates to or results from the Association's maintenance of landscaping installed by Declarant (including, without limitation, grass mowing of areas sodded by Declarant and/or overspray of Association applied fertilizers, chemicals, and other lawn and landscaping treatments).

(t) The Association may remove any signage erected or constructed anywhere within the Property which signage was not approved by the Directors and is not otherwise specifically allowed hereunder.

9.2 Special Association Responsibilities for the Estates. The Association, acting by and through the Directors, shall have the following rights, powers, duties and obligations with respect to the Estates:

(a) The Association shall be responsible for exterior maintenance upon each Dwelling Unit and Lot in the Estates which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, overhangs, downspouts, siding, brick, shutters, trees (except those trees and shrubs installed by the Owners in the Estates with the Directors' permission), shrubs, and grass. Such exterior maintenance shall not include exterior electrical fixtures, glass surfaces, exterior doors, walks, garage doors, awnings, window boxes, doorways, doorsteps, air conditioning units, stoops, mailboxes, utilities, utility meters, porches, balconies, windows, fences, sidewalks, individual decks, patios or driveways. An Owner in the Estates shall not have the right to apply a different color, paint/stain or quality (other than the same color or stain and a comparable or better quality as originally provided by Declarant) to exterior surfaces such as doors, decks, patios or fences without prior written approval by the Directors.

(b) In the event that the need for maintenance or repair to a Dwelling Unit or Lot in the Estates is caused through the willful or negligent act or omission of the Owner or the Owner's family, guests, licensees, invitees, or tenants, the Association may enter upon such Owner's Lot or Dwelling Unit and correct the condition and, in such event, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which Owner is subject under Section 5(e) hereof.

(c) The Association may, but is not required to, budget for and maintain, repair and replace Limited Common Elements, provided that it is performed on a uniform basis or part of a uniform schedule of maintenance, repair and replacement during a year or over a period of years. Should the Association not provide for such maintenance, then the Directors may require a Lot Owner served by a Limited Common Element to maintain, repair or replace such Limited Common Element and if such Owner fails to maintain, repair or replace the same within a reasonable period of time, the Association may maintain, repair or replace the same and assess the Lot Owner for the costs incurred and collect reimbursement in the same manner as if a special assessment has been assessed against the Lot and its Owner.

(d) Commencing not later than the time of the first conveyance of a Lot to a person other than Declarant, the Association shall maintain, to the extent reasonably available:

(i) Property insurance on the Common Properties, Limited Common Elements, Dwelling Units and Lots within the Estates insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall not be less than eighty percent (80%) of the actual cash value of insured Property at the time the insurance is purchased. and at each renewal date, exclusive of land and excavations, foundations and other items normally excluded from the Property policies; and

(ii) Liability insurance in an amount determined by the Directors covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Properties within the Estates.

To the extent that any of the Estates Lots are covered by an insurance policy carried by the Association, the Owners within the Estates shall be responsible for the payment of the deductible amount under said policy, and the Directors shall apply the policy's proceeds to any repair or replacement incurred on an Estates Lot.

(e) Insurance policies carried pursuant to Subsection 9.2(d) must provide that:

(i) Each Owner of a Lot in the Estates is an insured person under the policy with respect to the liability arising out of its membership in the Association;

(ii) The insurer waives its right to subrogation under the policy against any Owner in the Estates or member of his household;

(iii) No act or omission by an Owner in the Estates unless acting within the scope of his authority on behalf of the Association will void the policy or be a condition to recovery under the policy;

(iv) If, at the time of a loss under any policy, there is other insurance in the name of an Owner in the Estates covering the same risk covered by such policy, the Association's policy provides primary insurance; and an insurer that has issued an insurance policy, shall issue certificates or memoranda of insurance through the Association and, upon written request, to any Owner of a Lot in the Estates, or Mortgagee of a Lot in the Estates. The insurer issuing the policy may not cancel or refuse to renew it without giving thirty (30) days prior written notice of the proposed cancellation or non-renewal by regular United States mail to the Association, each Owner of a Lot in the Estates and each Mortgagee of a Lot in the Estates to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

(f) The following shall also apply to the insurance policies carried pursuant to, Subsection 9.2(d) of this Section:

(i) If any insurance described in Subsection 9.2(d) becomes unavailable to the Association, the Association promptly shall cause notice of that fact to be hand-delivered to the mailboxes for the Estates Dwelling Units or to be sent prepaid by United States mail to all Owners of a Lot in the Estates;

(ii) The Association may carry any other insurance it deems appropriate from time to time to protect the Association or the Owners;

(iii) Any loss covered by any property insurance policy described in Subsection 9.2(d) of this Section must be adjusted with the Association, and the insurance proceeds for that loss are payable to the Association, and not to any Mortgagee. The Association shall hold any insurance proceeds in trust for the applicable Owners and lienholders as their interest may appear. Subject to the provisions of this Section, the proceeds must be disbursed first for the repair or restoration of the damaged area, and applicable Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, and then only in the sole discretion of the Directors;

(iv) An insurance policy issued to the Association does not prevent an Owner from obtaining insurance for his/her own benefit. Any parts of a Lot or Dwelling Unit not covered by property insurance maintained by the Association shall be insured by the Owner. Owners are also encouraged to obtain a sewer and drain backup endorsement since this is not the responsibility of the Association unless the Association contracts for such service. The Owner shall be solely responsible for maintaining property insurance on all personal property of the Owner and liability insurance for the acts and omission of the Owner. All insurance maintained by an Owner shall waive the insurance company's right of subrogation against the Association and Declarant.

(v) Any portion of the Property for which the Association is required to maintain insurance under this Section 9.2 and which is damaged or destroyed shall be repaired or replaced by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or eighty percent (80%) of the Owners of a Lot in the Estates vote not to rebuild either at a meeting of the Estates Owners or through written consents of the Estates Owners;

(vi) The cost of repair or replacement of any damaged or destroyed Property for which the Association is required to maintain insurance that is in excess of insurance proceeds and reserves may be declared a special assessment by the Board of Directors;

(vii) If the entire Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Properties must be used to restore the damaged area to a condition compatible with the remainder of the Community, and the insurance proceeds attributable to the Dwelling Units and Limited Common Elements which are not rebuilt must be distributed first to the Owners of those Dwelling Units; second to the Owners of the Dwelling Unit to which those Limited Common Elements were allocated or to lienholders as their interest may appear; and third, the remainder of the proceeds must be distributed to all Owners of a Lot in the Estates or lienholders as their interest may appear in proportion to their ownership interest in the Association;

(viii) With respect to the repair or replacement of any portion of the Property, as soon as practicable after receiving the proceeds of insurance or if in the judgment of the Association additional time is necessary to obtain the sums due from assessments made against Owners, then after the receipt of such assessments, the Association shall pursue to completion, the repair or reconstruction of any Dwelling Unit insured by the Association, Limited Common Elements or other Common Properties damaged or destroyed. No consent or other action by any Owner shall be necessary. Such repair or reconstruction shall be in accordance with the original plans and specifications of such Dwelling Unit or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Dwelling Unit may not vary by more than five percent (5%) from the number of cubic feet and number of square feet for such Dwelling Unit as originally constructed pursuant to such original plans and specifications, and the location of the building shall be substantially the same as prior to damage or destruction.

(g) The Association shall have the discretion to provide snow clearing in the event of a snow fall accumulation of two inches or more, to the extent reasonably practical (by plowing, blowing, or shoveling), from the driveways, the public streets (until acceptance by the City of Cottleville or St. Charles County), city walks and front sidewalks leading to the main entrance to a Dwelling Unit on a Lot in the Estates. The Association shall not clear snow from sidewalks leading to any alternate entrance to a Dwelling Unit on a Lot in the Estates, and shall not provide ice treatment or ice removal. Notwithstanding any provision of this Declaration to the contrary, neither the Declarant nor the Association shall be liable to the Owner or any third

party for, and each and every Owner, its principal(s), shareholder(s), partners, agents, family members, invitees and guests, hereby release and hold harmless the Declarant (including any successor builder or developer) and the Association, and their respective officers, directors, successors, assigns, agents, employees, affiliates or licensees, from and against any and all claims, demands and liabilities for any damage to real or personal property or injury or death resulting in any way from the Association's clearing of, or failure to clear, snow as aforesaid.

9.3 Estates Owner Responsibilities. Each Estates Lot Owner, at his own expense, shall maintain, repair and replace all portions of his Lot and Dwelling Unit that are not the Association's responsibility under Section 9.2 above. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Dwelling Unit are part of that Dwelling Unit except for those which meet the definition of Limited Common Elements. Except as otherwise set forth in this Declaration, any glass surfaces, garage doors, awnings, window boxes, driveways, doorways, doorsteps, sidewalks, decks, air conditioning units, stoops, steps, mailboxes, utilities, utility meters, porches, balconies, patios, all exterior doors, any stormwater filtration systems located on a Lot and windows and other fixtures designated to serve a Dwelling Unit, but located outside the Dwelling Unit's boundaries are allocated exclusively to that Dwelling Unit and are the Owner's responsibility to maintain, repair and replace. Party walls are subject to Section 11, below. The Association shall have no maintenance, insurance, repair, or replacement obligations with respect to Lots in the Manors or Trails except as may otherwise be specifically set forth elsewhere in this Declaration.

10. USE RESTRICTIONS

(a) The following restrictions shall apply to all portions of the Property, and Declarant, for and on its behalf and on behalf of each and every subsequent Owner of any Lot therein, and their grantees, lessees, successors and assigns, covenants that:

(i) No building or structure shall be used for a purpose other than that for which the building or structure was originally designed, without the approval of the Directors. No residence, other than one Dwelling Unit, may be constructed on each Lot.

(ii) No commercial activity of any kind shall be conducted on any Lot, but nothing herein shall prohibit the maintenance of such facilities as are incident to the sale of residences nor the conduct of promotional activities by the Declarant, or any successor builder-developer, nor the conduct of a home occupation in strict accordance with the provisions of the applicable zoning ordinances.

(iii) No noxious or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon that is or may become a nuisance or annoyance to the neighborhood.

(iv) Each Owner shall maintain and keep his or her Lot in good order and repair, subject to the Association's election to maintain any Lot or improvement thereon.

(v) No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind, shall be brought onto or kept on any portion of the Property, except that no more than one dog, cat, or other household pet (except house pets with vicious propensities) and aquarium may be kept or maintained on any Lot. The keeping of any pet which by reason of its noisiness or other factor is a nuisance or annoyance to the neighborhood is prohibited. The Directors may in their discretion, approve one additional dog, cat or other household pet for a maximum of two such pets per the written request of all Owner.

(vi) No signs, advertisements, billboards, or advertising structures of any kind may be erected, maintained or displayed on any Lot; provided, however, that nothing herein shall prohibit (A) Owners from placing one "For Sale" or "For Rent" sign (not to exceed 2 feet x 4 feet in dimension) on a Lot or (B) signs erected or displayed by Declarant or by successor builder-developers in connection with the development of the Property and the sale, rental, or construction of improvements on the Lots.

(vii) No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, whether temporarily or permanently. No outbuildings, detached garages, sheds, shacks or structures whether of temporary character or not, other than the residences constructed on Lots, shall be constructed or maintained on any Lot in any portion of the Property.

(viii) No clothesline, and no swimming pools shall be allowed, constructed or placed upon any Lot in any portion of the Property.

(ix) No fences or screening of any kind shall be erected or maintained on any Lot except as follows:

(A) In the Estates, one section of privacy fence, 10' long and 6' high, in white vinyl only, may be located on the lot line attached to the Dwelling Units on the Lots at the party wall. This section of fence must be attached to the rear of the Dwelling Unit and must be kept in good repair with the cost of any maintenance to be borne equally by the adjoining Owners. Notwithstanding anything to the contrary in the foregoing, the Association may in its discretion require all Owner, at Owner's sole cost and expense, to erect fencing or screening around any fixtures or other items or improvements located on any patio or other exterior portion of a Dwelling Unit.

(B) In the Manors and Trails, no fences or screening of any kind shall be erected or maintained on any Lot without the prior written consent of the Directors as to location, material and height, and the decision of the Directors to approve or reject a fence shall be conclusive. The Directors' review of all fences for approval shall assure that such fences adhere to the following standards and requirements unless the applicant can demonstrate to the satisfaction of the Directors that strict adherence to such standards and requirements would (i) create an undue hardship on the applicant; and

(ii) approval would be in the best interests of the Community, in which case the Directors are authorized to approve fencing which does not strictly conform to the following requirements:

(1) Maximum height for full perimeter fencing shall be forty-eight inches (48").

(2) Fencing shall only enclose the rear yards of any Dwelling Unit. Rear yard fencing shall run the full perimeter of the yard and no fencing shall be erected or maintained on any Lot between the rear of the Dwelling Unit constructed upon such Lot and the street upon which such Lot fronts. Fencing must start at the rear corners of the Dwelling Unit. Fencing must be within four inches (4") of the Lot lines and Lot corners. With respect to corner Lots, fencing along the side of the rear yard facing the street shall not be placed any nearer to said street than four inches (4") of the building line limit established by the subdivision Plat. Lots may have exceptions at the sole discretion of the Directors.

(3) All fencing shall be:

(a) Wrought iron or aluminum simulated wrought iron; or

(b) Picket style made of vinyl;

(4) All fencing shall be made only of the following materials:

(a) Wrought iron or aluminum simulated wrought iron; or

(b) Vinyl

(5) Vinyl board fencing may have a picket width up to a maximum of six inches (6"). The minimum open space between pickets must be three inches (3") regardless of the picket width.

(6) All fences shall be installed with the good side facing out.

(7) The Directors, in their discretion, may, but shall not be obligated to, require that all Lots be professionally surveyed to assure proper fence locations prior to installation thereof.

(8) All fence posts shall be anchored in a base of concrete at least one foot six inches (1'6") into the soil.

(9) Notwithstanding any provision hereof to the contrary, with the prior written consent of the Architectural Committee, a six foot (6') privacy or "shadow box" fence may be placed along the border of a busy street or to screen an adjacent parcel of property not within the Community. In such event, the fencing on all Lots bordering such area shall be of the same style, material and configuration.

(10) , Within one (1) year following the erection of a fence, the Directors may, in their sole discretion, require the Owner to landscape along such fence, in which event landscaping may include vegetation such as rambling rose, multi-flora rose, evergreen shrubbery or such similar materials as may be approved by the Board.

(C) Nothing herein contained shall prevent placement of fences by the Association or Declarant on the Common Properties.

(x) Nothing contained in this Declaration shall restrict, limit, inhibit or prevent the Declarant, its successors or assigns from developing the Property and building residences and selling the same.

(xi) No Lot may have an exterior solar collector system, wind generator system, or any similar type system or appliance without Director approval pursuant to Section 8 hereof.

(xii) No exterior television, radio aerial, antenna, receiving dish, satellite dish, or any other device for the reception or transmission of radio or television or other electronic signals (hereinafter referred to as "Antenna") shall be erected or maintained on any Lot or upon the exterior of any dwelling or the Common Property except with the prior written approval of the Directors. The Directors or their designated committee shall approve an application for the installation of an Antenna only upon the following conditions:

(A) No more than one Antenna shall be allowed per Lot.

(B) The Antenna shall be for the personal use of the Owner or resident.

(C) The Antenna shall not be visible from the street towards the dwelling (including the street view of dwellings on corner Lots).

(D) The Lot Owner shall satisfy one of the following:

(1) The Antenna shall not be visible from the neighboring Lots, streets or common areas; or

(2) The Antenna shall be disguised to resemble and in fact shall be visually indistinguishable from structures, devices or improvements otherwise allowed in the Community or by this Declaration.

(E) The Antenna shall not pose any known or verifiable hazards to the health of the residents of the Lot or the neighboring Lots. The Directors may require, in their sole discretion, that certain tests be performed on the Antenna at the expense of the Lot Owner at any time before or after the installation of the Antenna.

(F) The Directors or their designated committee shall have the power to require such specific forms of screening (fencing, shrubbery, etc.) as the Directors deem appropriate in order to effectuate the intent of this Section.

(G) All installations must comply with applicable local zoning requirements and building codes.

(H) The Directors reserve the right to require any repair, maintenance, additional landscaping or testing to the Antenna at any time after the installation thereof. Failure to comply with this Section shall be enforceable by a schedule of fines as published by the Directors from time to time. Said fines shall be collected and enforced in the same manner as an Assessment. The Directors shall have the further right to take such action to enforce this Section with all remedies available to it at law or in equity.

(I) The granting of the written permission to install the Antenna pursuant to this Section shall be a revocable license issued by the Directors to the Lot Owner and such Owner's successors, which may be revoked if the Lot Owner does not remain in compliance with the terms of this Section as amended from time to time.

(xiii) No Lot shall be resubdivided nor shall a fractional part of any Lot be sold without the consent of the Directors. This provision shall not, however, require the consent of the Directors for the sale of an entire Lot as shown on a final recorded subdivision plat.

(xiv) Personal property, including, without limitation, boats, trailers, trucks with a gross vehicle weight in excess of five (5) tons, campers and recreational vehicles, shall not be placed or stored permanently or temporarily in the open or in an

unenclosed carport on any Lot, nor shall they or any motor vehicle of any type or description (including motorcycles and motor scooters) be parked for any time on the unpaved portion of any Lot or on any street "overnight." For purposes hereof, overnight shall be defined as being any time between the hours of 12:00 A.M. and 8:00 A.M.

(xv) No trash, garbage, rubbish, refuse, debris, trash cans or trash receptacles of any type shall be stored in the open on any Lot, but shall be kept secured within the improvements located on each Lot; provided that after sunrise on any day designated for trash pick-up, trash, garbage, rubbish, refuse and debris secured within appropriate trash cans or receptacles may be placed at the street curbing for pick-up; provided further that trash cans or receptacles shall be removed and secured within the improvements for each Lot prior to sundown of the same day.

(xvi) All water and other sewer systems servicing the Property (other than lawn sprinkler systems servicing any single Lot or a sprinkler system servicing the Common Properties) shall be constructed by the Declarant or any subsequent builder or developer or by a contractor hired by the Association. No Owner or occupant of any Lot in the Property shall construct any water or other sewer system on the Property, other than a lawn sprinkler system servicing a single Lot.

(xvii) No motor vehicle or equipment shall be repaired or otherwise serviced in front of or adjacent to any residence in the Property. No abandoned cars, motorcycles, jeeps, trucks or other motor vehicles of any kind whatsoever that are unable to move under their own power and no mobile homes, campers, buses, boats or boat trailers may be stored or suffered to remain upon any of the Common Properties or the Lots other than in an enclosed garage.

(xviii) No activity shall be conducted or permitted on the Common Properties which would create a nuisance, disturbance or excessive noise or commotion. The Association shall have the right to prohibit, restrict and prevent such gatherings or assemblies of individuals on the Common Properties under such reasonable rules and regulations as the Association, in its sole discretion, may from time to time determine.

(xvix) No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or portion of the Property. No above ground gas or propane storage tanks shall be permitted upon or in any Lot or portion of the Property.

(xx) No above-ground structure, other than required street lights, may be erected within a cul-de-sac, divided street entry island or median strip without the written approval of the City of Cottleville and other applicable Governmental Bodies.

(xxi) No fences, walls, trees, hedges or shrubs shall be erected or maintained in such manner so as to obstruct sight lines for vehicular traffic.

(xxii) The Board may require a reasonable deposit in connection with the proposed erection of any building or structure on the Property approved in accordance with this Declaration, in order to provide that upon completion of the project, all debris shall be removed from the site and from adjacent Lots and parcels, and that any and all damages to subdivision improvements shall be repaired.

(xxiii) All driveways serving Dwelling Units shall be concrete. The Owners must keep such driveways in good repair and in their natural color. The Board may require a driveway to be replaced if the Owner of the Dwelling Unit has not kept such driveway in good condition and in its natural color. If the Board deems it necessary, the driveway shall be replaced and the Owner shall reimburse the Association for such expenses. If the Owner fails to promptly reimburse the Association for such expenses, the Association may place a lien against the Owner's Lot in accordance with Section 5.

(xxiv) No Dwelling Unit may be constructed or altered on any Lot which has a floor area of less than the following minimum requirements: (A) 1,400 square feet for a Dwelling Unit in the Estates, (B) 1,700 square feet for a Dwelling Unit in the Manors; and (C) 1,300 square feet for a Dwelling Unit in the Trails. No yard appurtenances such as sculptures, bird baths, lawn ornaments or similar personal property items or fixtures shall be placed upon any portion of the Common Properties or any exterior portion of a Lot.

11. PARTY WALLS IN THE ESTATES

(a) Each wall which is built as part of the original construction of a Dwelling Unit and placed on the dividing line between two Lots on which the Dwelling Units on each Estates Lot are connected shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Each Dwelling Unit in the Estates is planned to have at least one party wall.

(b) The costs of reasonable repair and maintenance of a party wall shall be shared by the Estates Owners who make use of the wall in proportion to such use.

(c) If a party wall is destroyed or damaged by fire or other casualty, an Estates Owner who has used the wall may restore it, and if the other Estates Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to their use thereof. Any such use shall be without prejudice to the right of any of those Owners to call for a larger contribution from the others under any rule of law which provides for liability for negligent or willful acts or omissions. To the extent that any of the aforementioned items are covered by an insurance policy carried by the Association, the relevant Owner or Owners shall be responsible for the payment of the deductible amount under that policy, and the Association shall apply the policy's proceeds to any repair or replacement.

(d) Notwithstanding anything herein to the contrary, in the event that any such damage or destruction of a party wall is caused by the willful or negligent act of an Owner, such Owner shall be responsible to pay that portion of the cost of repair thereof which may be in excess of any insurance proceeds. Notwithstanding any other provisions of this Section, 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 such elements.

(e) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

12. LEASES

Each Owner shall have the right to lease or rent the Dwelling Unit for single family residential purposes only, subject to the following requirements:

(a) Every lease or rental agreement shall be in writing, and shall be subject to all provisions of this Declaration as amended from time to time. Further, the lease or rental agreement shall be deemed to incorporate the Rules and Regulations of the Association by reference and shall include the provisions that any violations of (A) the Rules and Regulations; (B) the Declaration as amended; or (C) the covenants and conditions of the lease or rental agreement itself other than nonpayment of rent, shall be the basis for termination of the lease or rental agreement.

(b) Every proposed lease or rental agreement shall be subject to the Directors' approval so as to assure compliance with this Section.

(c) Every lease or rental agreement shall appoint the Board in its sole and absolute option and discretion, to act as an agent for the Owner for the purpose of enforcing the terms, covenants and conditions of the lease or rental agreement, other than the non-payment of rent. If any such violation is not cured within thirty (30) days or such shorter time that may be provided in the lease or rental agreement, the Association shall have the right of action to evict or otherwise terminate the lease or rental agreement or the tenant's possession to the Dwelling Unit under the Rent and Possession Laws or Unlawful Detainer Laws of the State of Missouri. The Directors and the Association shall have no liability to the Owner or the tenant on account of any action taken to evict or otherwise terminate the lease or the tenant's possession of the Dwelling Unit.

(d) Every lease or rental agreement shall have a minimum initial term of one (1) year.

(e) Every lease shall be subject to the Rules and Regulations as promulgated by the Directors from time to time.

13. GENERAL PROVISIONS

(a) Miscellaneous. The Directors, or the Owner of any Lot subject to this Declaration, shall have the right to enforce, by any proceeding at law or in equity, all of the covenants, conditions, restrictions and provisions hereof, either to restrain or enjoin a violation or threatened violation or to recover damages. Failure or forbearance by the Directors or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any legal action filed by the Directors against an Owner or if the Directors retain legal counsel without filing a legal action in order to enforce any covenant or restriction herein contained or adopted pursuant to Director rules or regulations of any action to recover damages on account of breach of any such covenant, restriction, rule or regulation, the Owner shall be personally liable for and pay the Directors' reasonable attorneys' fees and costs incurred with or without legal action. If the attorneys' fees and costs are not paid by the Owner within thirty (30) days after the Directors have given written notice thereof to the Owner by certified mail, return receipt requested, then the fees and costs shall thereafter bear interest at the Interest Rate provided in Section 5(g) hereof and the Directors may execute and acknowledge an instrument reciting the debt and causing the instrument to be recorded in the Office of the Recorder of Deeds of St. Charles County, Missouri, thereupon the debt shall become a continuing lien on the Lot and the improvements thereon which shall bind the Owner and such Owner's heirs, successors and assigns. The lien shall be enforceable and governed by Section 5 of this Declaration.

(b) Amendment of Declaration. So long as Declarant owns a Lot, it shall have the right from time to time to unilaterally amend, modify or change this Declaration and the provisions herein, including the right to add new burdens or restrictions on Owners and Lots, by recording such amendment in the Office of the Recorder of Deeds of St. Charles County, Missouri. Thereafter, subject to the requirements of Section 4, this Declaration and any part thereof may be altered or amended, and new burdens or restrictions on Owners and Lots may be added, by a written agreement approved by the vote of two-thirds (2/3) of the Owners at a meeting of the Owners, or the consent given in writing and signed by members holding at least eighty percent (80%) of the voting power pursuant to Section 6(k) hereof; and such written alteration or amendment, recorded with the Office of the Recorder of Deeds for St. Charles County, Missouri, shall become a part of the provisions and restrictions of this Declaration. In addition, so long as Declarant owns a Lot, the Directors may amend this Declaration and may add new burdens or restrictions on Owners and Lots by written amendment signed by two-thirds (2/3) of the Directors and recorded with the Office of the Recorder of Deeds for St. Charles County, Missouri. No such amendment, modification or change shall reduce or modify the obligation or right granted to or imposed upon the Directors with respect to maintenance obligations and the power to levy assessments therefor or to eliminate the requirement that there be Directors unless some person is substituted for the Directors with the responsibility and duties of such Directors.

(c) Assignment of Declarant Rights. In connection with the sale of all or part of the Property subject to this Declaration, Declarant shall have the right to assign to such purchaser the rights herein reserved or granted to Declarant.

(d) Notices. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the address shown on the real estate tax assessment records of St. Charles County.

(e) Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

(f) Continuation of Declarant's Development Rights. In the event that the Declarant exercises its option to appoint a second and/or third Director nominated by the Association as set out in Section 6(b)(iv) above thereby giving the Association control of the Directors, the Declarant and successor builder-developers shall retain the sole and exclusive right to exercise all powers heretofore granted to it under the terms of this Declaration pertaining to or in any way related to the continuation of development of the Property until such development is completed. The Directors shall not interfere with the orderly development of the Property or the rights of Declarant in such development. It is the intent of this provision that once control of the Directors is vested in the Association that such Directors shall exercise (independent of Declarant control) all governance powers and duties as provided in this Declaration including, but not limited to, the budget, assessments, and other matters which will come under their exclusive control upon the sale of one hundred percent (100%) of the Lots to persons or entities other than a successor builder or developer. The control of the completion of the development and all rights and powers necessary and appurtenant thereto shall remain exclusively and solely in the Declarant; provided however, the Directors shall execute any and all documents necessary for the proper exercise of the powers and rights set forth and reserved herein to Declarant. For the period after Declarant no longer exercises control of the Directors due to accelerated appointment pursuant to Section 6(b)(iv) and prior to the date Declarant has sold and conveyed ninety-five percent (95%) of the Lots which may be subjected to this Declaration to persons or entities other than a successor builder or developer, the Common Properties shall be operated at the times (both as to hours and days) and in the manner (specifically, without limitation, as to quality of maintenance) which is substantially equivalent to the operation which was provided by the Declarant controlled Directors, unless any such deviation is specifically approved in writing by Declarant. The provisions of this Subsection may not be modified or amended without the written consent of Declarant so long as Declarant or any successor builder-developer owns any Lot in the Property.

(g) Condemnation. In the event it becomes necessary for any public agency to acquire all or any part of the property herein conveyed to the Directors or Association, for any public purpose, the Directors, during the period of this Declaration as well as the times fixed for the appointment or election of Directors, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Association need be made a party, and in any event, the proceeds received shall be held by the Association for the benefit of those entitled to the use of the common property, roads or easements.

(h) Headings. The captions and headings of this Declaration are for the convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(i) PHANA Restrictions. The following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration to the extent such agency(ies) insure, guaranty, or hold any debt secured by a mortgage, deed of trust or other security interest encumbering a Lot and such consent is required by such agency(ies): annexation of additional properties and dedication of additional Common Properties.

(j) No Forfeiture of Declarant's Rights. Any exercise or enforcement by Declarant of its rights or powers as authorized or set forth in this Declaration, including but not limited to its rights with respect to amending the terms and provisions hereof, shall not in any way be deemed to cause a forfeiture, elimination, release, reduction, modification or transfer of Declarant's rights, powers and remedies as set forth herein except as specifically provided otherwise.

(k) Release or Addition of Property. Declarant, so long as Declarant owns a Lot, and the Directors, at any time, shall have the right, without consent of the Directors (in the case of Declarant) or Owners, to amend the Declaration to delete any portion of the Property subject hereto which is owned by Declarant (provided Declarant approved such deletion in writing) or add any property to the Property subject hereto which is contiguous to the Property and the owners of such added property shall be Owners hereunder and such added property when platted shall be included within the definition of Lot(s) or Common Properties hereunder, as designated by Declarant or the Directors, as the case may be.

(l) General Disclaimer. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Community nor shall they be liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of measures undertaken, if any. All members, Owners and occupants of any unit, and all tenants, guests and invitees of any Owner, acknowledge that the Association, its board and Declarant, do not represent or warrant that: any fire protection system, burglar alarm system, gatehouses, roving patrol, electronic monitoring system or other such systems, if any, designated by or installed according to guidelines established by Declarant or the Association may not be compromised or circumvented; that any fire protection or burglar alarm systems or other such systems will prevent loss; nor that fire protection, burglar alarm systems, gatehouse, roving patrol or other such systems will in all cases provide the detection or protection for which the system is designed or intended. Each member, Owner and occupant of any Lot, and each tenant, guest and invitee of any Owner, as applicable, acknowledges and understands that the Association and Declarant, are not insurers and that each member, Owner and occupant of any Lot and each tenant, guest and invitee of any member or Owner assumes all risks of loss or damage to person or property. All Owners hereby agree to hold Declarant (and its subsidiaries and affiliated entities), the Association and their successors and assigns, officers, directors, governors, agents and employees, harmless from any injuries, damages, losses, or claims arising from or in connection with the occurrence of any criminal or other unlawful activity of such Owner. Declarant and Association and their successors and assigns, officers, directors, governors, agents, and employees, shall not be bound by any prior or present terms, statements, representations,

conditions, obligations or warranties, oral or written, implied or express, including, but not limited to, the implied warranties of habitability, merchantability and fitness for a particular purpose, which are not contained in this Declaration. Neither Declarant nor the Association are responsible for the security of the Owners and their family members, tenants, invitees, licensees and guests and the guests, invitees and licensees of their tenants. All Owners are advised to notify the appropriate police or sheriff's department of any and all health and property emergencies in the Community.

(m) Recitals and Exhibits. Each recital set forth and exhibit referenced in this Declaration is incorporated herein and is a part of this Declaration.

(n) Counterparts. This Declaration may be executed in any number of counterparts, which, when taken together shall constitute one and the same instruments.

[signature page follows.]

IN WITNESS WHEREOF, the undersigned have executed this Declaration the day and year first above written.

DECLARANT:

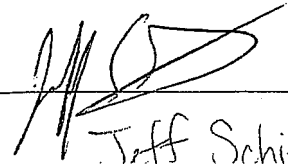
McBRIDE COLONIAL GREEN, LLC,
a Missouri limited liability company

**CONSENT OF THE DIRECTORS OF
COLONIAL GREEN OWNERS
ASSOCIATION,** a Missouri nonprofit
corporation

By: _____

Name: _____

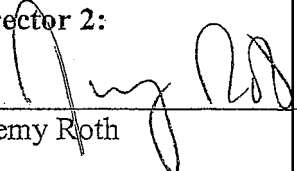
Title: _____


Jeff Schindler
Authorized Agent

D i r e c t o r s

_____, Esq.
Keith Schulte

Director 2:

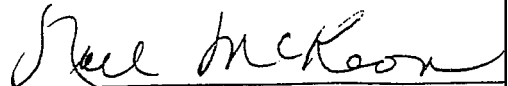

Jeremy Roth

Director 3:

OAA.
Jeff LevJrs v

Being all of the Directors of the Association

HOMEOWNERS:


Noel McKeon

HOMEOWNERS:

Janef.R.. Wilson Revocable Trust

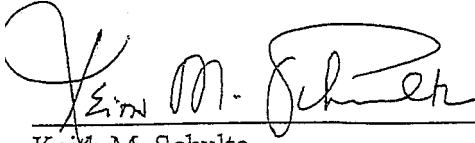
By: Janet R Wilson, trustee

HOMEOWNERS:

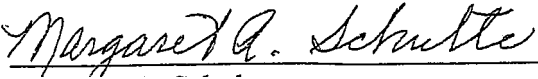
Patricia Engler Living Trust

By: Patricia Engler, Trustee

HOMEOWNERS:



Keith M. Schulte



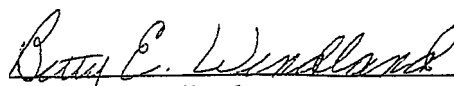
Margaret A. Schulte

H01\1E0"1NERS:

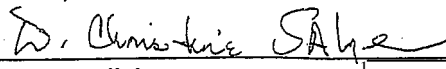
Robert E. Trail & Ann L. Trail Revocable
Trust

By: Ann L. Trail,
trustee
ANN TRAIL

HOMEOWNERS:



Betty E. Wendland



1 Christine Bl. Salyer

HOMEOWNERS:

Harold V. Layton & Maureen Layton
Revocable Living Trust

By: Harold V. Layton **4** Maureen Layton

V. LA