



BY-LAWS  
OF  
THE DOLMAN CONDOMINIUM ASSOCIATION

ARTICLE I  
MEMBERS  
(UNIT OWNERS)

Section 1. The members of The Dolman Condominium Association, a not-for-profit corporation organized under the provisions of Chapter 355, R.S.Mo., the General Not for Profit Corporation Act of the State of Missouri (which corporation is hereinafter referred to as the "Association") shall consist of the respective "Unit Owners" of "the Property" located in the City of St. Louis, Missouri, in accordance with the respective "Percentages of Ownership" of the respective Unit Owners. Said quoted terms and all other terms used herein and defined in the Declaration of Condominium Ownership for The Dolman Condominium (which is recorded in the St. Louis Recorder's Office in Book 01122004, Page 0465) shall have the meanings set forth in such Declaration. (The words "member" or "members" as used in these By-Laws under the General Not for Profit Corporation Act of the State of Missouri, mean and shall refer to a "Unit Owner" or the "Unit Owners", as the case may be, referred to in the Declaration).

Section 2. The membership of each Unit Owner shall terminate when they cease to be a Unit Owner, and upon the sale, transfer or other disposition of their ownership interest in the Property their membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest. The Association may issue certificates evidencing membership therein.

Section 3. Meetings of the Unit Owners shall be held annually at such place in St. Louis, Missouri, as may be specified in the notice of the meeting. An annual meeting of the Unit Owners shall be held on the first Monday in October of each year, commencing in 2004, at 8:00 P.M. St. Louis time or at such other date or hour specified in the written notice of such meeting. Special meetings of the Unit Owners may be called by the President or by majority of the Directors of the Board, or by Unit Owners having at least twenty percent (20%) of the votes entitled to be cast at such meetings. Not less than ten (10) or more than sixty (60) days in advance of any meeting, the Secretary shall cause notice to be hand delivered or sent prepaid by the U.S. mail to the mailing address of each Unit or to any other mailing address designated in writing by each Unit Owner. The notice of any meeting shall state the time and place of the meeting and the agenda items to be considered at the meeting.

Section 4. The aggregate number of votes for all Unit Owners shall be one hundred (100), which shall be divided among the respective Unit Owners in accordance with their respective Percentages of Ownership. If only one of the multiple owners of a Unit is present at a meeting of the Association, such owner shall be entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners;

provided that there shall be deemed to be such agreement of a majority in interest of such owners if any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit.

Section 5. Except as provided in Section 3.6 of the Declaration, in all elections for Directors, each Unit Owner shall be entitled to vote on a cumulative voting basis. *Declaration Control*

Section 6. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting. Unless a greater vote is required by the Act, Declaration, or these By-Laws, the act of or approval by a majority of the Unit Owners present in person or by proxy at a meeting at which a quorum is present shall be the act of or approval by the Unit Owners.

## ARTICLE II BOARD OF DIRECTORS (BOARD)

Section 1. The Board of Directors of the Association (referred to in the Declaration and in the Act as the "Board", but referred to as the "Board of Directors" in the General Not for Profit Corporation Act of the State of Missouri, and sometimes referred to herein as the "Board") shall consist of three (3) persons elected by the Unit Owners. The number of persons on the Board may be increased or decreased from time to time by amendment of the By-Laws, provided that such number shall not be less than three. Each Director shall hold office for the term of one year and until his successor shall be elected and qualified.

Section 2. The Board shall be elected from among the Unit Owners, and each Director shall be a Unit Owner or the spouse of a Unit Owner (or, if a Unit Owner is a corporation, partnership or trust, a Director may be any designee of such Unit Owner). If a Director shall cease to meet such qualifications during his term, they shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 3. A quorum of the Board shall be deemed present throughout any meeting of the Board if a majority of the Directors are present at the beginning of the meeting. Except as otherwise provided by law, a majority of the full Board of Directors shall constitute a quorum for the transaction of business, and unless a greater vote is required by the Act, Declaration or these By-Laws, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 4. Any vacancy occurring in the Board, including vacancies due to any increases in the number of persons on the Board, shall be filled by the Board.

Section 5. An annual meeting of the Board shall be held immediately following the annual meeting of Unit Owners and at the same place. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48)

hours notice in writing to each Director, delivered personally or by mail or telegram. If permitted by law, any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting.

Section 6. Notwithstanding any provisions of the Declaration or By-Laws to the contrary, and except as provided in Section 3.6 of the Declaration, the Unit Owners, by a sixty-seven and one-half percent (67 ½%) majority vote of all Unit Owners present and entitled to vote at any meeting of the Unit Owners at which a quorum is present, may remove any member of the Board.

Section 7. Directors shall receive no compensation for their services, unless expressly provided for in resolutions duly adopted by the Unit Owners.

Section 8. The Board shall have the following powers and duties:

- (a) to elect the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and of the Property;
- (c) to engage the services of a manager or managing agent who shall manage and operate the Property and the Common Elements thereof for all of the Unit Owners, upon such terms and for such compensation and such authority as the Board may approve; provided, however, that without the prior written approval of both (i) Unit Owners holding at least sixty-seven and one-half percent (67 ½%) in the aggregate of the Percentages of Ownership and (ii) Eligible Mortgage Holders holding mortgages on Units to which have been allocated Percentages of Ownership of at least fifty-one percent (51%) of such Percentages of Ownership on Units subject to mortgages held by Eligible Mortgage Holders, the Board shall not terminate professional management and assume self-management of the Condominium; and provided further that any management agreement for The Dolman Condominium shall be terminable by the Board without cause upon not more than ninety (90) days written notice and the term of any such agreement shall not exceed one (1) year;
- (d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;
- (e) to adopt administrative rules and regulations governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;
- (f) to provide for the maintenance, repair, and replacement of the Common Elements as provided with the Declaration and payments therefore, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent;

(g) to provide for the designation, hiring and removal of employees and other personnel, including accountants, and to engage or contract for the services of others, and to make purchases, for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements and to delegate any such powers to the manager or managing agent (and any such employees or other personnel may be the employees of the managing agent);

(h) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses, as hereinafter provided; and

(i) to exercise all other powers and duties of the Board or Unit Owners as a group referred to in the Act, and all powers and duties of a Board of Directors referred to in the General Corporation Not for Profit Act of the State of Missouri, and all powers and duties of a Board or a Board of Directors referred to in the Declaration or these By-Laws.

Section 9. In the event of any dispute or disagreement between any Unit Owners, or any question of interpretation or application of the provisions of the Declaration or By-Laws, the determination thereof by the Board shall be final and binding on each and all of the Unit Owners subject to whatever recourse to the courts is otherwise available to the Unit Owners.

Section 10. Notwithstanding the other provisions of these By-Laws, the election of Directors shall be subject to Section 3.6 of the Declaration.

Section 11. Any action which is required to be or may be taken at a meeting of the Board of Directors may be taken without a meeting if consents in writing, setting forth the action so taken, are signed by all of the Directors. The consents shall have the same force and effect as a unanimous vote of the Directors at a meeting duly held and may be stated as such in any certificate or document filed pursuant to the provisions of Missouri law. The Secretary shall file the consents with the minutes of the meetings of the Board of Directors.

### ARTICLE III OFFICERS

Section 1. At each annual meeting of the Board, the Board shall elect the following officers of the Association:

(a) A President, who shall be a Director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Association.

(b) A Vice-President, who shall be a Director and who shall, in the absence or disability of the President, perform the duties and exercise the powers of the President.

(c) A Secretary, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the managing agent, if any.

(d) A Treasurer, who shall keep the financial records and books of account.

(e) Such additional officers as the Board shall see fit to elect.

(f) Any two or more offices may be held by the same person except the offices of President and Secretary.

Section 2. The respective officers shall have the general powers usually vested in such officers of a not-for-profit corporation, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Each officer shall hold office at the pleasure of the Board.

Section 4. Vacancies in any office shall be filled by the Board at special meetings thereof. Any officer may be removed at any time by the Board at a special meeting thereof.

Section 5. The officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted by the Unit Owners.

Section 6. Notwithstanding the above, the appointment of officers shall be subject to Section 3.6 of the Declaration.

#### ARTICLE IV BUDGET AND ASSESSMENTS

Section 1. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated Common Expenses and cash requirements for the year, including salaries, wages, payroll taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power and other common utilities, management fees, lease payments and other Common Expenses (as distinguished from individual mortgage payments, real estate taxes and individual telephone, electricity, gas and other individual utility expenses billed or other expenses to be charged to the separate Unit Owners on an individual or separate basis rather than a common basis as provided in the Declaration). The annual budget shall also take into account the estimated net available cash income for the year, if any, from the operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding

year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account.

Section 2. Within 30 days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget, which date shall be not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all the Unit Owners, or any larger vote specified in the Declaration, reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.

Section 3. On or before the first day of the first month and of each succeeding month of the year covered by each annual budget, each Unit Owner shall pay, as their respective monthly assessment for the Common Expenses, one-twelfth (1/12) of their proportionate share of the Common Expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be computed in accordance with Section 6 and Attachment 3 of the Declaration. The Board may cause to be sent to each Unit Owner on or before the first day of each month a statement of the monthly assessment of such Unit Owner for such month, but the failure to send or to receive such monthly statement shall not relieve any Unit Owner of their obligation to pay his monthly assessment on or before the first day of each month. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment on or before the first day of each month to the manager or managing agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of his obligation to pay his assessment for Common Expenses by abandoning or not using such Unit Owner's Unit or the Common Elements.

Section 4. Within ninety (90) days after the end of each year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner and to each Eligible Mortgagee a financial statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable. Upon request by Eligible Mortgage Holders holding mortgages or deeds of trust on at least fifty-one percent (51%), in number, of the Units, the Board shall cause to be prepared and delivered to such Holders, at their request, and at their expense, an audited financial statement for the immediately preceding fiscal year of the Association, such statement to be furnished within a reasonable time following such request.

Section 5. The Board shall cause to be kept a separate account for each Unit Owner showing the respective assessments charged to and paid by such Unit Owner, and the status of his account from time to time. Upon ten (10) days notice to the Board, and the payment of a reasonable fee, any Unit Owner shall be furnished a statement of their account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 6. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year. Within thirty (30) days after adoption of such supplemental budget for the condominium, the Board shall provide a summary of the supplemental budget to all the Unit owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the supplemental budget, which date shall be not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all the Unit Owners, or any larger vote specified in the Declaration, reject the supplemental budget, the supplemental budget shall be deemed to have been ratified, whether or not a quorum is present. In the event the proposed supplemental budget is rejected, the budget last ratified by the Unit Owners shall be continued until such time as the Unit owners ratify a subsequent budget proposed by the Board.

Section 7. The Board shall not approve any capital expenditures in excess of Ten Thousand Dollars (\$10,000.00), nor enter into any contracts for more than three (3) years, without the approval of a majority of the Unit Owners.

Section 8. It shall be the duty of every Unit Owner to pay their proportionate share of the Common Expenses, computed in the manner set forth in the Declaration, and as assessed in the manner herein provided. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property. The Association and the Board shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Declaration or these By-Laws, or otherwise available at law or in equity, for the collection of all unpaid assessments.

Section 9. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the Common Expenses incurred, and such records and the vouchers authorizing the payment of such Common Expenses (and current copies of the Declaration, these By-Laws, and any rules and regulations of the Association) shall be available for examination by each Unit Owners and their authorized agents (and each Eligible Mortgagee) during convenient business hours.



ARTICLE V  
USE AND OCCUPANCY  
RESTRICTIONS

Section 1. No residential Unit shall be used for anything other than residential purposes, in accordance with the regulations of the City of St. Louis, and no commercial activities shall be carried on in any Unit except those commercial activities permitted by the Zoning Code of the City of St. Louis. No Unit Owner shall be permitted to lease a Unit for transient or hotel purposes. No Owner of a residential Unit may lease less than the entire Unit. Any Lease Agreement covering a Unit shall be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of the Declaration and these By-Laws and that any failure by the lessee to comply with the terms of such document shall be a default under the Lease.

Section 2. Home business use shall be allowed in any residential Unit for any occupation, business or commercial activity carried on, at or in a Unit by the Unit Owner or by a member of the immediate family of the Unit Owner residing at the Unit, which occupation, business or activity employs in the Unit no more than 1 nonrelated employee, and which use of the Unit is otherwise in strict compliance with all applicable laws, ordinances and occupancy permit requirements relating to home business and home occupations applicable to property zoned residential, including (without limitation) the applicable City of St. Louis Zoning Ordinances and Occupancy Permit Requirements for residential property; provided however, that the following business uses are forbidden in the Units: (a) dog grooming; (b) provision of care, instruction or training of children or adults; (c) any wholesale, jobbing or retail business, unless it is conducted entirely by telephone and/or mail; (d) any manufacturing business; (e) a clinic or hospital; (f) a barber shop or beauty parlor; (g) a stable, animal hospital, dog kennel or dovecote; (h) a restaurant; (i) any activity that produces substantial noise, or noxious odors or other emanations, or employs or produces flammable matter or hazardous materials; and (j) any occupation which involves the use of any mechanical equipment other than what is usual for purely domestic or hobby purposes, or what is usual for a small business, professional or medical office.

Section 4. The Common Elements shall be used only for access, ingress and egress to and from the respective Unit Owners and their employees, agents and other authorized visitors, and for such other purposes which are incidental to the business use of the respective Units.

Section 5. No animals, reptiles, birds, rabbits, livestock, fowl or poultry of any kind shall be kept, raised or bred in any portion of the property, except that up to one cat or one dog may be kept as pets in a Unit, subject to the rules and regulations of the Board and applicable law of the jurisdiction wherein said Condominium is located. Fish maintained in a household aquarium shall not be deemed to be "animals" as defined herein. Any pet creating a nuisance or unreasonable disturbance or noise (in the sole judgment of the Board) shall be permanently removed from the property upon written notice from the Board. Any pet owner shall be responsible for complying with all regulations relating to pets established by the Board.

Section 6. No unlawful, immoral, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board cause unreasonable noise or disturbance to others.

Section 7. Each Unit Owner shall maintain their Unit in good condition and in good order and repair, at their own expense, and shall not do or allow anything to be done in their Unit which may increase the rate or cause the cancellation of insurance on other Units or on the Common Elements.

Section 8. Trash, garbage, and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner, and as prescribed from time to time in administrative rules and regulations of the Board.

Section 9. The Common Elements shall not be damaged by any Unit Owner, whether from within or outside of their respective Unit, nor shall he cause damage to other Units, whether by themselves or by their employees, agents or guests, or other authorized occupants or visitors.

#### ARTICLE VI AMENDMENTS

As provided in Section 448.3-106 of the Act, so long as a Declarant is the owner of Units representing an aggregate of ten percent or more of the Units in which votes in the Association are allocated, the By-Laws may only be amended with the affirmative vote of at least sixty-seven percent of the Unit Owners of Units to which votes in the Association are allocated. After the Declarant ceases to own ten percent or more of the Units to which votes in the Association are allocated, the By-Laws may only be amended with the affirmative vote of a majority of the Unit Owners of Units to which the votes in the Association are allocated. In addition, the prior written approval of Eligible Mortgage Holders holding mortgages on Units which have an aggregate total ownership interest in the Common Elements of at least sixty-seven and one-half percent (67 ½%) of such interests which are subject to mortgages held by Eligible Mortgage Holders will be required for any material amendment to these By-Laws. However, no amendment to these By-Laws shall modify or interfere with the exercise of the Special Declarant Rights provided for in the Declaration without the consent of the Declarant.

EXHIBIT F  
TO  
ORIGINAL SALE CERTIFICATE  
FOR  
THE DOLMAN CONDOMINIUM

**ESTIMATED PROJECTED OPERATING BUDGET FOR  
THE DOLMAN CONDOMINIUM ASSOCIATION**

Property & Liability Insurance	\$4,000
Repairs	4,000
Replacement Reserve	4,000
Exterminating (Garage)	250
Janitorial Expense (Inside entrances)	1,040
Management Fee	5,000
Professional Fees	1,000
Water (based on 2003 usage)	3,000
Sewer (based on 2003 usage)	3,000
Electric (garage and exterior lights)	1,200
Grounds Maintenance (no parking lot)	7,300
<b>Estimated Total Annual Budget</b>	<b>\$33,790</b>
<b>Total Monthly Budget</b>	<b>\$2,816</b>

Estimated range of Condominium Fees \$100 to \$210 per month.

Approximate Monthly Fees

Budget Assumptions

**NOTES TO BUDGET**

1. The accompanying Schedule of Projected Revenues and Expenses for the initial year of operations of the Association related to a 19 unit, 3 building residential condominium located in the City of St. Louis, Missouri, is based on management's assumptions about conditions and courses of action that Declarant believes are reasonably possible, although not necessarily probable. A financial projection based on a set of different conditions and courses of action could differ substantially from the accompanying schedule. Some assumptions inevitably will not materialize and unanticipated events and circumstances may occur subsequent to the date the accompanying schedule was prepared. Therefore, the actual results achieved during the first year of operations, which are scheduled to begin in 2004 will vary from the projection and the variation may be material.
2. Insurance - all risk coverage for full replacement value of real property including Units and personal property of the Association and usual form of liability coverage. The insurance covers only the Common Elements and Units. Unit Owners are required to place their own coverage with respect to improvements made to their Units and personal contents. Also included in operating expenses are any trustee and administration charges, officer and directors' liability insurance to the extent necessary.
3. Total Budget (Expenses) - the total estimated operating and reserve budget to be divided pursuant to the percentage allocated for each Unit which will form the basis of the monthly assessment.

EXHIBIT G  
TO  
ORIGINAL SALE CERTIFICATE  
FOR  
THE DOLMAN CONDOMINIUM

**GENERAL DESCRIPTION OF REHABILITATION  
WORK PERFORMED\***

- All exterior trim scraped, primed and painted as needed.
- Exterior decks scraped and re-stained as needed.
- Most Units have new ceramic tile floors in kitchens and baths.
- Many Units have new hot water heaters and furnaces.
- Interior areas painted as needed.
- Most bathrooms have new granite countertops, sinks and cabinets.
- Most kitchens have new granite countertops, sinks and cabinets.
- Most kitchens have a new stove, dishwasher, microwave and garbage disposal.
- Some Units have new hardwood floors.
- Some Units have new carpeting.
- New garage built to provide 19 parking spaces for cars.

\*Declarant may sell Units to existing tenants without substantial interior improvements or renovation as per contracts with any of said tenants.

EXHIBIT A TO SALE CONTRACT AND  
EXHIBIT H  
TO  
ORIGINAL SALE CERTIFICATE  
FOR  
THE DOLMAN CONDOMINIUM

**WARRANTY AGREEMENT**

THIS AGREEMENT, made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_ ("Purchaser") and Givens/Johnson Partnership ("Declarant").

WHEREAS, Declarant is the owner of the real property at \_\_\_\_\_ Dolman in the City of St. Louis, Missouri or, if such property has already been converted to a Condominium, Declarant is the owner of all unsold condominium units and the common elements in The Dolman Condominium (in either case hereinafter collectively referred to as the "Condominium"); and

WHEREAS, Purchaser has contracted to purchase a residential unit in the Condominium to be known as \_\_\_\_\_ (the "Unit"); and

WHEREAS, pursuant to Section 448.4-103.1(8) of the Missouri Uniform Condominium Act, Sections 448.1-101 to 448.4-120 R.S.Mo. (the "Act"), the terms and significant limitations of any warranties provided by Declarant, including statutory warranties and limitations on the enforcement thereof, shall be fully and accurately disclosed to the Purchaser by Declarant; and

WHEREAS, Section 448.4-116.1 of the Act provides that with respect to a unit which may be occupied for residential use, an agreement to reduce the period of warranty limitation shall be evidenced by a separate instrument executed by each purchaser; and

WHEREAS, it is the purpose of this Agreement to provide for and disclose to Purchaser the terms and significant limitations of the warranties with respect to the Unit and common elements as defined in the Declaration ("Common Elements"), establishing the Condominium provided by Declarant to Purchaser and to reduce the period of limitation under Section 448.4-116.1 of the Act from six (6) to two (2) years;

NOW THEREFORE, in consideration of the premises the Purchaser and Declarant hereby agree as follows:

1. Declarant's Express Limited Warranty. Declarant hereby makes and gives to Purchaser no express warranties respect to the Unit and the construction of the Unit except that (a) the Condominium and the Unit will conform to the descriptions in the Plat, subject to customary tolerances; and (b) the Purchaser may put the Unit to residential use and that the said use is lawful.

2. Disclaimer of all Implied Warranties. Section 448.4-114 of the Missouri Uniform Condominium Act gives a Purchaser certain implied warranties; in particular, that the Unit is free from defective materials and constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner. These implied warranties may be disclaimed by a seller. In connection with the sale of the Unit, Declarant disclaims any and all implied warranties. Furthermore, Declarant does not warrant as to any of the following:

(a) The structural soundness, workmanship or design of the walls, foundation, roof, floor, subfloor and materials in the Unit and the Common Elements.

(b) The performance or workmanship of, or quality of materials in, the electrical fixtures and wiring in the Unit and the Common Elements.

(c) The performance or workmanship of, or quality of materials in, heating, ventilating and air conditioning equipment, vents and components thereof in the Unit and the Common Elements.

(d) The performance or workmanship of, or quality of materials in, the pipes, plumbing system and equipment, lavatories and sinks and hot water heaters in the Unit and the Common Elements.

(e) The performance or workmanship of, or quality of materials in, the appliances in the Unit, including, without limitation, the stove, disposal, refrigerator, washer, dryer and microwave.

Purchaser hereby acknowledges the foregoing disclaimer of implied warranties by Declarant. In consideration of the agreed purchase price under the Contract (and any addenda to it), and in consideration for Declarant's Express Limited Warranty and other additional consideration received by Purchaser pursuant to said Contract, Purchaser hereby waives any such implied warranties by Declarant.

3. Reduction of Statute of Limitations Period. The statute of limitations period pursuant to Section 448.4-116 of the Act applicable to the express warranties contained in Section 448.4-113 of the Act, and (to the extent any implied warranty has not been excluded) to the implied warranties contained in Section 448.4-114 of the Act, is hereby reduced from six (6) years to two (2) years.

4. Purchaser's Acknowledgements. Purchaser acknowledges that the Unit purchased hereunder is sold unfurnished, but will be equipped as provided in the Contract (and any addenda to it) between Declarant and Purchaser. Purchaser further acknowledges and understands that any model unit is for display purposes only and does not constitute a representation or warranty that items therein are included in the purchase price or that any unit purchased will conform to the model. Furthermore, the drawings and pictures contained in any sales brochure or literature do not constitute a representation or warranty of items included in the purchase price or that any unit will conform to the drawings and pictures. Purchaser further

acknowledges that, by this Warranty Agreement executed by Purchaser, Declarant is limiting certain implied warranties contained in Section 448.4-114 of the Act, and the parties have agreed to a reduction in the statute of limitations period pursuant to Section 448.4-116 of the Act.

5. Breach of Warranty with Respect to the Unit and Common Elements. Declarant shall not be liable for any breach of warranty hereunder as to the Unit and/or the Common Elements unless the Purchaser commences judicial proceeding for breach of any obligation contained herein or contained in Section 448.4-113 or 448.4-114 of the Act with respect to the Unit within two (2) years after the date the Purchaser first entered into possession of the Unit and with respect to the Common Elements, within two (2) years of when the Common Element is completed, or if later, (i) as to a Common Element which may be added to the Condominium, or any portion thereof, at the time the first Unit therein is conveyed to a bona fide purchaser, or (ii) as to a Common Element within any other portion of the Condominium, at the time the first Unit in the Condominium is conveyed to a bona fide purchaser. The term "first enters into possession of the Unit" shall mean the date on which any of the Purchaser's belongings, personal property or furniture are brought into the Unit or thirty (30) days after the date of closing of the sale on the Unit, whichever date shall first occur.

6. Repairs. Declarant has no obligation to make any repairs to the Unit or Common Elements or to defend any suits arising out of any occurrence occurring prior to the date of the conveyance of the Unit to the Purchaser except claims arising out of an act or representation of the Declarant.

8. Assignment of Third-Party Warranties. Effective upon Closing, Declarant assigns to Purchaser (without recourse or warranty, implied or expresses, on or by Declarant) all warranties, if any, Declarant may have received from its suppliers with respect to tangible personal property (be it attached or free standing once installed) which are installed in the Unit such as the furnace and air conditioning systems, stoves, ovens, microwave ovens, disposal, dishwasher, intercom, clothes washer, clothes dryer, window glass, refrigerator, sky-lights, exterior and interior painting, dry-wall finishing, ceramic tile, landscaping, ground cover, bathroom fixtures, shower doors, mirrors, medicine cabinets, whirlpool baths, central vacuum systems, fireplaces, fireplace doors, water heater, cement slabs outside of Unit, gutters and downspouts, electronic air filter, light fixtures and humidifier. Declarant disclaims liability for possible defects in or failure of any of the items described in this Section 8.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

PURCHASER:

\_\_\_\_\_

\_\_\_\_\_

DECLARANT:

GIVENS/JOHNSON PARTNERSHIP

By: \_\_\_\_\_



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THE DOLMAN CONDOMINIUM

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AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
THE DOLMAN CONDOMINIUM

THIS DECLARATION is made this 1<sup>ST</sup> day of September, 2004 by Givens/Johnson Partnership (hereinafter referred to as "Declarant");

WITNESETH:

WHEREAS, Declarant is the owner in fee simple of a parcel of real estate located in the City of St. Louis, Missouri, legally described in Attachment 1 hereto (the "Property"); and

WHEREAS, Declarant intends by the recording of this Declaration and a Certificate of Substantial Completion to submit the Property to the provisions of the Uniform Condominium Act of the State of Missouri (Sections 448.1-101 to 448.4-120 R. S. Mo.) in effect as of the date of the recording of this Declaration (the "Act").

NOW, THEREFORE, Declarant, as the owner of the Property, for the purposes above set forth, does hereby declare said property and all improvements thereon and those to be erected thereon to be a Condominium, hereinafter known as "The Dolman Condominium", under the Act, and further declares and provides as follows:

1. DEFINITIONS.

1.1. The following terms, as used herein or elsewhere in any condominium documents relating to The Dolman Condominium unless otherwise specifically provided, shall have the meaning set forth below:

a. Access Easement - A perpetual and irrevocable easement and right of access to each Unit, from time to time as may reasonably be necessary for (i) the maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom, (ii) the making of emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit, and (iii) such other reasonable purposes as are deemed by the Association to be necessary for the performance of the obligations of the Association as described herein and in the By-Laws.

b. Act - The Uniform Condominium Act of the State of Missouri (Sections 448.1-101 to 448.4-120 R.S.Mo.) in effect as of the date of the recording of this Declaration.

c. Articles of Incorporation - The Articles of Incorporation of The Dolman Condominium Association, as they exist from time to time.

d. Assessments - The monthly assessments and special assessments established under this Declaration, together with dues, fees, charges, interest, late fees, fines, collection costs, attorneys' fees, and any other amount due to the Association by the Owner of a Unit or levied against a Unit by the Association.

- e. Association - The Dolman Condominium Association (hereinafter referred to as the "Association") a Missouri not-for-profit corporation formed pursuant to Chapter 355, R.S.Mo.
- f. Building(s) - The 3 structures located on the Property, which are designated in this Declaration as the "Buildings".
- g. By-Laws - The By-Laws of the Association as they exist from time to time.
- h. Common Elements - All of the Property other than the Units including but not limited to the Decks, Patios, Porches and Parking Spaces (which shall be Limited Common Elements) and the Parking Garage, and any common utility systems for all Units. All electrical wiring throughout the Property, except that within Units; all pipes, wires, cables, conduits and common stairways throughout the Property, except that within Units; all utility installations, sanitary sewer facilities, and connections for gas, sanitary sewer, electricity, light, water and plumbing except those within Units. Any such installation or system exclusively serving only one Unit, whether such installation or system is located wholly or partially within or outside said Unit, shall be considered as being "within" and being a part of said Unit which is exclusively served by such installation. In addition, any heating, hot water and air conditioning equipment exclusively serving only one such Unit, whether such equipment is located wholly or partially within or outside said Unit, shall be considered as being "within" and being a part of said Unit which is exclusively served by such equipment. The foundations, exterior walls and interior walls separating Units (excluding all wall coverings and glass surfaces), roofs, gutters, down spouts, any common hallways and stairways with access from common hallways, fences, lighting and landscaping installed by the Declarant and all other common portions of the Property not included within Units shall be Common Elements as shall be shown as such on the Plat.
- i. Common Element Easement - An irrevocable and non-exclusive easement for ingress to and egress solely within the Building their Unit is located in and that portion of the Parking Garage that their Parking Space is located in, the right to use and enjoy the Limited Common Elements appurtenant thereto (subject to the rights of other Owners to use and enjoy such Limited Common Elements if appurtenant to more than one Unit), and the non-exclusive right to use and enjoy the general Common Elements.
- j. Common Expenses - All expenditures made by, or financial liabilities of, the Association, including but not limited to the expenses for the maintenance, repair, replacement, administration and operation of the Common Elements and allocations to the Association's working capital fund or operating reserve.
- k. Condominium - The condominium created by this Declaration, known as The Dolman Condominium.

- l. Declarant - Givens/Johnson Partnership or any person, firm or corporation to whom Givens/Johnson Partnership transfers its rights hereunder prior to the time when all Units in the Condominium have been sold.
- m. Declarant Control Period - The period commencing on the date of the recording hereof and continuing until the earlier of: (a) sixty (60) days after conveyance to Unit Owners other than the Declarant of seventy-five percent (75%) of the maximum number of Units which may be created pursuant to Section 2.1 thereof; (b) two years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or (c) two years after any Development Right was last exercised which shall include subdivision of existing Units. Not later than sixty (60) days after conveyance to Unit Owners, other than the Declarant, of twenty-five percent (25%) of the maximum number of Units which may be created pursuant to Section 2.1 hereof, at least one member and not less than twenty-five percent (25%) of the members of the Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance to Unit Owners, other than the Declarant, of fifty percent (50%) of the maximum Units which may be created pursuant to Section 2.1 hereof, not less than thirty-three and one third percent (33-1/3%) of the members of the Board shall be elected by Unit Owners other than the Declarant. Upon termination of the Declarant Control Period, all Directors shall be elected by the Unit Owners.
- n. Deck - The deck attached to any Units, which shall be designated on the Plat as a Limited Common Element for the exclusive use of the Owners of the Units to which said Deck is allocated exclusively as shown on the Plat.
- o. Declaration - This instrument (including all Attachments hereto) and any amendments hereto which may be recorded from time to time.
- p. Development Rights - The rights reserved by the Declarant in this Declaration including but not limited to the construction of Units and Common Elements within the Condominium.
- q. Easements - Collectively, the Access Easement, the Vertical Access Easement, the Common Elements Easement, the Support Easement, the Utility Easement and the Parking Easement.
- r. Eligible Mortgagee - Each holder, insurer or guarantor of a duly recorded first mortgage or deed of trust on any Unit which has made written request to the Board of the Association for notice of all matters of which such holders, insurers or guarantors are entitled pursuant to the provisions of this Declaration, the Act or the By-Laws.
- s. Eligible Mortgage Holder - Each Eligible Mortgagee which is a holder of a mortgage or deed of trust.

t. Lease - An instrument conveying the use of a Unit between a Unit Owner and a Tenant setting forth the terms and conditions of occupancy and use of the Unit by the Tenant.

u. Lease Memorandum - A form, as promulgated by the Association, and executed by the Landlord and Tenant setting forth certain information concerning the Lease terms of unit. The Lease Memorandum shall, at a minimum, provide the following: Tenant name, emergency contact information, term of Lease, Tenant acknowledgement of Association Declaration, By-Laws and Rules and Regulations.

v. Limited Common Elements - Each portion of the Common Elements as shown on the Plat which is reserved for the exclusive use of one or more but fewer than all of the Units, including but not limited to: (i) Decks, Patios, Parking Spaces and Porches; and (ii) the portions of the Common Elements described in subdivision (2) and (4) of Section 448.2-102 of the Act and those areas designated as Limited Common Elements on the Plat, such as certain stairways and porches.

w. Material Amendment - Any material amendment to any provision of the Declaration, Plat and By-Laws, or the addition of any material provision thereto, including, but not limited to, any amendment or addition or material to any provision which establishes, provides for, governs or regulates any of the following:

- (i) voting;
- (ii) assessments, assessment liens or subordination of such liens;
- (iii) reserves for maintenance, repair and replacement of Common Elements;
- (iv) hazard insurance or fidelity bonds;
- (v) rights to use of Common Elements;
- (vi) responsibility for maintenance and repair of the Property;
- (vii) expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from the regime (except for the Special Declarant Rights, which include, but are not limited to, Development Rights);
- (viii) boundaries and uses of any Unit;

- (ix) interests in Common Elements or Limited Common Elements;
- (x) convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) leasing of Units;
- (xii) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey such Unit Owner's Unit;
- (xiii) provisions which are for the express benefit of Eligible Mortgages.

x. Parking Easement - A perpetual and irrevocable easement covering the Parking Garage and adjacent common areas, as shown on the Plat, for the purposes of maintenance, repair and security of and relating to such structure and area.

y. Parking Garage - The Parking Garage located at the rear of the Property (as shown on the Plat), which shall contain 19 Parking Spaces for the use of the owners of Units exclusively as Limited Common Elements.

z. Parking Space - The spaces located in the Parking Garage intended for the exclusive parking use of individual Owners as a Limited Common Element as designated on the Plat, or any amendments thereto, as well as in their purchase contract and/or deed for their Unit at closing.

aa. Patio - The space shown on the Plat as a Limited Common Element for the use of certain Unit Owners.

bb. Percentage of Ownership - The allocated interest in the Common Elements and common expense liability as well as Association votes allocated to each Unit as described in Attachment 3.

cc. Person - A natural person, partnership, corporation, or legal entity capable of holding title to real property.

dd. Pet - For the purposes of this Declaration "Pet" shall be limited to no warm blooded animal other than dogs and cats; and shall specifically exclude any exotic animals as defined by local, state or federal statute.

ee. Plat - The drawing attached hereto as Attachment 2 which was prepared by a registered land surveyor and which contains the information required by

subsections 2 and 4 of Section 448.2-109 of the Act, as such drawing may be amended from time to time by amendments thereto creating additional Units.

ff. Property - The land described in Attachment 1, which is attached hereto, and any land hereafter added to the Condominium by amendment hereto, together with all improvements and structures from time to time hereafter located thereon, including all appurtenances thereto and all easements and rights intended for the mutual use, benefit or enjoyment of the Unit Owners.

gg. Regulations - The rules and regulations of the Association initially adopted by the Board and relating to the appearance, use and occupancy of the Property, including exterior appearance, use and occupancy of the Units and Common Elements, as amended from time to time.

hh. Special Assessments - The special assessments established by the Board of under the provisions of this Declaration from time to time as may be necessary or appropriate.

ii. Special Declarant Rights - Those rights reserved for the benefit of the Declarant during the Declarant Control Period: (i) to complete improvements indicated on the Plat; (ii) to exercise any Development Right; (iii) to maintain sales offices, management offices, signs advertising the Condominium and models; (iv) to use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate which may be added to the Condominium; (v) to appoint or remove any officer of the Association or any Board member during the Declarant Control Period defined in Section 1.1(n) hereof.

jj. Support Easement - A perpetual and irrevocable easement for support of all foundations, footings, columns, girders, support beams and any and all other structural members that support, uphold or are a part of the Buildings.

kk. Systems - All fixtures, equipment, pipes, lines, wires, computer cables and conduits used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, and audio and video signals.

ll. Unit or Condominium Unit - A physical portion of the Condominium that is designated for separate ownership or occupancy (the boundaries of which are depicted on the Plat), is contained within the perimeter walls, floors, ceilings, windows and doors of a Unit depicted on the Plat, and includes (i) all Systems which exclusively serve such Unit and (ii) the finish materials, fixtures and appliances contained in the Unit, but excludes (i) any of the structural components of the Building in which such Unit is located and (ii) Systems which serve more than one Unit, all as subject to and further described in Section 448.1-103(29) of the Act.



mm. Unit Owner - The person or persons, individually or collectively, having fee simple ownership of a Unit.

nn. Utility Easement - A perpetual and irrevocable easement, as shown on the Plat for utilities; provided, however, the Declarant may, in addition to the rights to relocate set forth in this Declaration, record an easement agreement or easement relocation agreement in the Recorder of Deeds Office of the City of St. Louis, specifically locating or relocating the Utility Easement subsequent to the recordation of this Declaration, and the Owner of each Unit, by acceptance of the deed to a Unit, hereby grants the Declarant an irrevocable power of attorney, coupled with an interest with full power and authority to locate and/or relocate the Utility Easement.

oo. Vote - Each Unit shall have a vote in proportion to its Percentage of Ownership.

1.2. Unless the context otherwise requires, any other terms used in this Declaration shall be assumed to have the meaning attributed to said term in the Act.

## 2. UNITS.

2.1. There are to be 19 residential Units and 19 spaces in the Parking Garage in the Condominium, as well as the other Common Elements shown on the Plat. The Condominium shall consist of the real property legally described in Attachment 1.

2.2. The Declarant reserves the right to create a maximum of 19 residential Units in 4 Buildings and the Parking Garage. Upon the completion of the 19 residential Units, the density of the project will be approximately 42 dwelling units per acre. The Plat recorded concurrently herewith establishes and creates the 19 residential Units as shown on the Plat and the list below.

### 2.3 Units.

a. Building 1 - 1420-1422 Dolman (4 Units)

b. Building 2 - 1424-1434 Dolman (12 Units)

c. Building 3 - 1436 Dolman (3 Units)

2.4. The legal description of each Unit shall consist of the identifying number and/or symbol of such Unit as shown on Attachment 3. Every deed, lease, mortgage or other instrument may legally describe a Unit by such legal description, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. The measurements and square footage sizes set forth on the Plat as to each Unit are nominal values taken from the plans and specifications for the Property and may not be precisely accurate as to any Unit due to

variances in construction and interior floor plans. Declarant shall not be liable to any Owner as a result of any discrepancies in actual Unit measurements or square footage from those set forth on the Plat, and each Owner, by accepting a deed to a Unit, waives any such claim or cause of action against Declarant.

2.5. No Unit Owner shall overload the electrical wiring in the Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating, air conditioning system or plumbing system, without the prior written consent of the Board.

2.6. Each Unit and the improvements thereon shall be used solely for purposes designated on the Plat (as it may be amended from time to time), the zoning requirements of the City of St. Louis, and the restrictions imposed by this Declaration.

2.7. Each Unit Owner shall have exclusive rights to the Limited Common Elements as shown on the Plat including the Deck or Patio, if any, accessible from their Unit and the Parking Space designated for their exclusive use in the Parking Garage.

2.8. The Association, its agents, employees and representatives shall have by virtue of the recordation of this Declaration and there is hereby granted and conveyed by the Owner of each Unit at the time each Owner accepts the deed to a Unit the Access Easement, the Utility Easement, the Parking Easement, and the Support Easement. Each Owner of a Unit is hereby granted and conveyed the Common Elements Easement by each Owner at the time each Unit is conveyed to an Owner.

2.9. If any portion of the Common Elements encroaches upon a Unit, an irrevocable and perpetual easement for such encroachment, and for the maintenance of same stands, and is hereby granted and conveyed to the Association by each Owner at the time each Unit is conveyed to the Owner. If any portion of a Unit encroaches upon the Common Elements, or upon any adjoining Unit, an irrevocable and perpetual easement for such encroachment and for the maintenance of same is hereby granted to the Owner of such Unit. Such encroachments and easements shall not be considered or determined to be encumbrances either upon a Unit or upon the Common Elements.

### 3. ASSOCIATION OF UNIT OWNERS.

3.1. The Association (which has been formed prior to the recording hereof or will be formed prior to the date on which the first Unit is conveyed by the Declarant to a third party purchaser) shall be the governing body for all of the Unit Owners for the maintenance, repair, replacement, administration, and operation of the Property as provided in the Act, this Declaration and the By-Laws.

3.2. The Board of Directors of the Association shall be deemed to be the "Board" for the Unit Owners referred to herein and in the Act.

3.3. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Unit Owners in accordance with the provisions of this Declaration, the By-Laws, and the Act.

3.4. Each Unit Owner shall be a member of the Association so long as that individual shall be a Unit Owner, and such membership shall automatically terminate when that individual ceases to be a Unit Owner, and upon the transfer of the Unit Owner's ownership interest the new Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. The Association may issue certificates evidencing membership therein.

3.5. The aggregate number of votes for all members of the Association shall be One Hundred (100), which shall be divided among the respective Unit Owners in accordance with their respective Percentages of Ownership.

3.6. The Declarant shall control the Association during the Declarant Control Period. Upon termination of the Declarant Control Period, all Directors shall be elected by the Unit Owners.

4. OWNERSHIP OF THE COMMON ELEMENTS AND COVENANT AGAINST PARTITION.

4.1. Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common equal to the Percentage of Ownership allocated to the respective Unit owned by such Unit Owner, as set forth in the schedule attached hereto as Attachment 3, as such schedule is changed from time to time by amendment hereto. Each Unit Owner shall also have the right to exclusive use of any Limited Common Element specifically allocated to their Unit such as their Deck and Parking Space. Each Unit Owner's undivided interest in the Common Elements is equal to the percentage of ownership ("Percentage of Ownership") assigned to their Unit. The Percentage of Ownership for each Unit in the Condominium shall be as shown on Attachment 3. The final allocated Percentage Interest for each Unit shall be that percentage which is the product of the division of 100% which is the total Percentage Interest for all Units divided by the total square feet for each Unit in the Condominium.

4.2. The ownership of each Unit and of the Unit Owner's corresponding Percentage of Ownership in the Common Elements shall not be separated. As long as the Property is subject to the provisions of the Act, the Common Elements shall, except as provided in Section 448.3-113.8 of the Act, remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. Any covenant or agreement to the contrary shall be null and void. Nothing contained herein, however, shall prevent partition of a Unit as between co-unit owners thereof, if such right of partition shall otherwise be available.

Notwithstanding the above, no Unit may be partitioned or subdivided without the prior approval of at least the holder of any first mortgage or deed of trust lien on such Unit.

4.3. No Unit Owner shall own any pipes, wires, conduits, public utility lines, sanitary sewer lines or structural components running through such Unit and serving more than the Unit owned by such Unit Owner except to the extent of such Unit Owner's purchase of an ownership interest.

## 5. USE OF COMMON ELEMENTS.

5.1. Except as provided in Section 5.2 hereof, each Unit Owner shall have the right to the use of the Common Elements and any equipment contained therein in common with all other Unit Owners as may be required for the purposes of access or ingress and egress to and use and occupancy and enjoyment of the respective Unit owned by such Unit Owner and for such other purposes as specific Common Elements are intended. The Association may, from time to time, establish certain regulations and fees for the private use of the Common Elements by Unit Owners and their guests. However, this right shall extend only to the Building in which a Unit Owner's Unit is located and that portion of the Parking Garage in which their Parking Space is located.

5.2. No sign, awning, canopy, antenna or other item of any kind shall be placed or displayed on any portion of the Common Elements or in or around any Unit so as to be visible from outside the Unit, except that "For Sale" or "For Rent" signs may be permitted; subject, however, to such rules and regulations as may be promulgated by the Association with respect to signs.

5.3. There shall be no obstruction of any portion of the Common Elements nor any structure, fixture or item of any nature attached to the Common Elements nor any storage in the Common Elements without prior written consent of the Board. No clothes, laundry, window air conditioning unit or other articles shall be hung or exposed on or about any portion of the Common Elements or on or about the windows or exterior of the Buildings.

5.4. No trucks or commercial vehicles, boats, campers, recreational vehicles, house trailers, boat trailers or trailers of any other description shall be permitted except for parking of a trailer by a Unit Owner in a Parking Space allocated to the Unit owned by such Unit Owner; subject, however, to such rules and regulations as may be promulgated by the Association with respect to parking in the Parking Spaces.

5.5. No noxious, disruptive, loud, illegal or offensive activity shall be carried on in any Unit or on the Common Elements, nor shall anything be done which will become an annoyance or a nuisance to any other Unit Owner or occupant of any Unit.

5.6. The foregoing rights to use the Common Elements shall extend to each Unit Owner, the members of the immediate family of each Unit Owner, and the guests and other

authorized occupants and visitors of each Unit Owner, and such rights shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws and the Regulations of the Association hereinafter referred to. Each Unit Owner shall be deemed to have an easement, in common with the other Unit Owners, in, upon, across, over, through and with respect to the Common Elements to the extent of such right to use the Common Elements. The Association shall have the authority to lease or rent or to grant licenses or concessions with respect to any parts of the Common Elements subject to the provisions of the Declaration and Bylaws.

6. COMMON EXPENSES.

6.1. Each Unit Owner shall pay Unit Owner's proportionate share of the Common Expenses. Each Unit Owner's proportionate share of such Common Expenses shall be that fraction of the total Common Expenses which is equal to Unit Owner's Percentage of Ownership as shown on Attachment 3 hereof.

6.2. Payment of the Common Expenses shall be in such amounts and at such times as determined in the manner provided in Section 7 and the By-Laws.

6.3. Declarant shall have the same responsibility as a Unit Owner pursuant to this Section 6 during such time as Declarant owns any Unit which has received a Certificate of Substantial Completion as provided in Section 448.4-120 of the Act.

6.4. The Board shall give written notice to each Eligible Mortgagee with respect to a Unit if the Unit Owner for such Unit shall fail to pay any Common Expenses when due and such failure shall continue for a period of 60 days.

7. ASSESSMENTS.

7.1. Monthly Assessments. The Association shall possess the right, power, authority and obligation to establish a regular monthly assessment of the Owners which shall be sufficient in the judgment of the Board to pay Common Expenses when due. Such Monthly Assessments so established shall be payable by the Owners on the first day of each calendar month, and shall be applied to the payment of charges for which the Association is responsible, including, without limitation, charges relating to maintenance and repair of elements of the Property not the responsibility of the Owners, care of the Common Elements, casualty, public liability and other insurance coverages required or permitted to be maintained by the Association, governmental impositions not separately levied and assessed, utilities relating to the Common Elements or not separately metered, professional services, such as management, accounting and legal, and such other costs and expenses as may reasonably relate to the proper maintenance, care, operation and management of the Property, and the administration of the Association and the Condominium established hereby, including an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Elements. No consent or approval of the Owners shall be required for the establishment of the Monthly Assessments. Collection of Monthly Assessments, as to each Owner, shall commence upon the acquisition by such Owner of

title to their Unit. Until such time a Declarant's control of the Condominium shall have terminated, the Association reserve funds may not be used for payment of operating expenses of the Condominium.

7.2. Association Budget. Prior to the commencement of each fiscal year of the Association, the Board of Directors shall prepare and deliver to each of the Owners a budget setting forth the anticipated Common Expenses for the ensuing year. Such budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred, and shall be accompanied by a statement setting forth each Owner's monthly share thereof and the date as of which such monthly assessment commences to be payable. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Monthly Assessment payable hereunder, and the failure of the Board of Directors to timely deliver the budget provided for herein shall in no event excuse or relieve an Owner from the payment of the Monthly Assessments contemplated hereby. Any budget prepared and delivered to the Owners as hereby contemplated may be amended as and to the extent reasonably necessary, and that amount of an Owner's Monthly Assessment changed to correspond therewith. If the proposed budget for a fiscal year increases more than five percent (5%) above the budget for the preceding fiscal year, such budget must be approved by the affirmative vote of the Owners of Units holding no less than sixty-seven percent (67%) of the votes allocated by the Declaration.

7.3. Special Assessments. In addition to the Monthly Assessments contemplated by Section 7.1, the Association shall possess the right, power and authority to establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Board of Directors to pay non-recurring Common Expenses relating to the proper maintenance, care, alteration, improvement, operation and management of the Property, and the administration of the Association and the Condominium established hereby. No consent or approval of the Owners shall be required for the establishment of a Special Assessment as contemplated by this Section 7.3, except for any Special Assessment relating to the alteration or improvement of any element of the Property, which must be approved by the affirmative vote of those Owners holding not less than seventy-five percent (75%) of the votes allocated by this Declaration at a meeting of the Association duly called for purposes of considering same.

7.4. Obligation to Pay Assessments. Each Owner shall be personally obligated to pay his share of all Assessments duly established pursuant to this Article provided that Declarant's obligation shall commence as provided in Section 7.5 below. Unpaid Assessments due as of the date of the conveyance or transfer of a Condominium Unit shall not constitute a personal obligation of the new Owner (other than such new Owner's pro rata share of any reallocation thereof); provided, the old Owner shall continue to be personally liable for such unpaid Assessment. No Owner shall be entitled to exempt themselves from liability for their obligation to pay such Assessments by waiver of the use and enjoyment of the Common Elements, by an abandonment of their Unit or by any other action whatsoever. Any Assessment not paid within fifteen (15) days of the date due shall bear interest at the highest allowable rate in Missouri from time to time, and shall be recoverable by the Association, together with interest as

aforesaid and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of competent jurisdiction sitting in the City of St. Louis. It shall be the responsibility of the Board of Directors to collect any such delinquent Assessment, the existence of which shall be made known by written notice delivered to the defaulting Owner and, where required, the Owner's First Mortgagee.

7.5. Lien to Secure Payment of Assessments. Declarant hereby reserves and assigns to the Association a lien, pursuant to the provisions of Section 448.3-116 of the Act, against each Unit, the rents, if any, payable to the Owner of any Unit and insurance proceeds received by the Owner of any Unit to secure the payment of all Assessments, which lien shall be and constitute a line and encumbrance, in favor of the Association, upon such Owner's Unit, the rents and any insurance proceeds. The liens established herein shall be prior and superior to all other liens and encumbrances subsequently created upon such Unit, rents and insurance proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of first lien indebtedness (provided such lien was recorded prior to the date on which the assessment became delinquent) and the liens for unpaid taxes, assessments and other governmental impositions. The liens and encumbrances created herein may be enforced by any means available at law or in equity, including, without limitation, a non-judicial foreclosure sale of the Unit of a defaulting Owner, such sale to be conducted in the manner set forth in Chapter 443, RSMo (as now written or as hereafter amended). The Owner of each Unit, by acquisition of such Unit grants to the Association a power of sale in connection with the Association's liens. By written resolution, the Board of Directors may appoint, from time to time, an officer, agent, trustee or attorney of the Association to exercise the power of sale on behalf of the Association. The Association may bid for and purchase the Unit, as a Common Expense, at any such foreclosure sale. The foreclosure by a first mortgagee of a Unit in order to satisfy first lien indebtedness will extinguish the subordinate lien for any Assessments which became payable prior to the date of such foreclosure sale.

7.6. Commencement of Obligation to Pay Assessments. The obligation to pay Assessments with respect to each Unit owned by an Owner other than Declarant shall vest on the first day of the calendar month following the month in which this Declaration is recorded. Each Owner shall be obligated to commence payment of all Assessments against their Unit on the date the Unit is conveyed to the Owner. If such date is other than the first day of a month, then such Owner shall be obligated to pay only a pro rata share of the Assessment against such Unit based on the number of days during such month that the Owner will hold title to the Unit. Prior to the commencement of the initial Monthly Assessment (which shall be at the sole discretion of the Declarant), the Declarant shall pay all Common Expenses of the Condominium; provided, however, nothing contained herein shall prevent the Declarant from collecting from the Purchaser of a Unit at closing any expenses, such as taxes, insurance or utility fees, that the Declarant may have prepaid on behalf of the Unit being purchased.

7.7. Redemption by Owner. The Owner of a Unit purchased by the Association, at a foreclosure sale of the Association's lien for Assessments, may redeem the Unit not later than one year after the date of the foreclosure sale. To redeem the Unit, the Owner must

pay to the Association all amounts due the Association at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the past due rate, reasonable attorneys' fees and costs incurred by the Association in foreclosing the lien, any Assessment levied against the Unit by the Association after the foreclosure sale, and any reasonable cost incurred by the Association, as Owner, including costs of maintenance and leasing. On redemption, the Association shall execute a deed to the redeeming Owner of the Unit. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption period expires unless the redeeming Owner of the Unit records the deed from the Association or an affidavit stating that the Owner has exercised the right of redemption. A Unit that has been redeemed remains subject to all liens and encumbrances on the Unit before foreclosure. All rents collected from the Unit by the Association from the date of foreclosure sale to the date of redemption belong to the Association, but the rents shall be credited against the redemption amount. An Association purchasing a Unit at a sale foreclosing its lien may not transfer ownership of the Unit during the redemption period to a person other than a redeeming Owner.

7.8. Notice of Default. If the Owner of a Unit defaults in the Owner's monetary obligations to the Association, the Association may notify other lien holders of the default and the Association's intent to foreclose its lien. The Association shall notify any holder of a recorded lien or duly perfected mechanic's lien against the Owner's monetary default or the Association's intent to foreclose its lien.

7.9. Alternative Actions. Nothing contained in this Declaration shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

## 8. SEPARATE MORTGAGES.

8.1. Each Unit Owner shall have the right to make a separate mortgage or encumbrance on the Unit Owner's respective Unit together with the Unit Owner's respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or affecting the Property or any part thereof, except only to the extent of the Unit Owner's own Unit and the Unit Owner's respective ownership interest in the Common Elements.

8.2. Each Eligible Mortgagee shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit is subject to such Mortgagee's mortgage or deed of trust.

8.3. In the event any Unit Owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or deed of trust against the Unit Owner's Unit, the Association shall have the right to cure such default (in accordance with the provisions of, and during the time period provided in, such mortgage or deed of trust) by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefore



against such Unit, which lien may be perfected and foreclosed in the manner provided in Section 448.3-116 of the Act with respect to liens for failure to pay a share of the Common Expenses. In the event the Association does not elect to cure such default, then the lien holder may proceed to foreclose such lien and sell the property in accordance with the mortgage or deed of trust. Nothing herein contained shall be construed to require the holder of a mortgage or deed of trust to furnish notice of default under said mortgage or deed of trust to the Association.

8.4. Each holder of a first mortgage or deed of trust on a Unit who comes into possession of the Unit by virtue of foreclosure of such mortgage or deed of trust, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, will take the Unit free of any claims for unpaid assessments and charges against the Unit which accrue prior to the time such holder or purchaser comes into possession of the Unit if such holder's mortgage or deed of trust, or the mortgage or deed of trust so foreclosed, was properly recorded prior to the date of the recording of the notice of delinquency with respect to such assessments.

9. SEPARATE REAL ESTATE TAXES AND SPECIAL TAX ASSESSMENTS.

9.1. The real estate taxes on each Unit are to be separately paid by each Unit Owner as provided in the Act.

9.2. If, for any reason, the tax bills are not separately issued by the taxing authorities, then each Unit Owner shall pay the Unit Owner's individual share of the taxes as determined by the Association in accordance with each Unit Owner's Percentage of Ownership.

10. UTILITIES.

10.1. Each Unit Owner shall pay for the Unit Owner's own telephone, cable, electricity, water, gas, cable television and other utilities which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses.

10.2. All utilities and the Metropolitan Sewer District are hereby granted the right to lay, construct, renew, alter, remove, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment into and through the Common Elements for the purpose of providing Utility Services to the Property. As used herein, the term "Utility Services" shall include, but not be limited to, water, sanitary and storm water sewers, telephone, power, electricity, natural gas, cable television, irrigation and other utility services. The Board may hereafter grant additional Utility Easements for the benefit of the Property over, under, along and on any portion of the Common Elements, and each Unit Owner hereby grants to the Board an irrevocable power of attorney to execute, acknowledge, register and record for and in the name of all Unit Owners, such instruments as may be necessary to effectuate the foregoing.

## 11. INSURANCE

11.1. Commencing not later than the time of conveyance of the first Unit to a Person other than the Declarant, the Association shall maintain to the extent reasonably available the insurance required by Section 448.3-113 of the Act and the insurance hereinbelow described in this Section 11. The premiums for such insurance shall be a Common Expense.

11.2. The Association shall obtain insurance for the Property against loss or damage by fire and such other hazards as the Association may deem advisable for the full insurable replacement cost of the Common Elements and the Units, as of the time of closing on the sale of Units by Declarant to individual purchasers; provided, however, that such insurance shall provide protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement and against all other perils which are customarily covered with respect to projects similar in construction, location and use as the Property, including all perils normally covered by the standard "all risk" endorsement. If available at reasonable cost, the policies obtained by the Association shall also have agreed-amount and inflation guard endorsements. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association or the Board, as the trustee for each of the Unit Owners, and also as trustee for each such Unit Owner's mortgagee(s), if any, in their respective Percentages of ownership. Any insurance proceeds so paid to the Board or the Association which are disbursed for reconstruction of damaged premises shall be disbursed by a title insurance company or other escrow agent selected by the Association (or the Board) pursuant to an agreement between the Association (or the Board) and such agent, providing appropriate mechanic's lien protection. Application of the insurance proceeds to reconstruction, and disposition of the Property where the insurance proceeds are insufficient for reconstruction, shall be as provided in the Act. In the event of damage or destruction of any Unit or Units, the insurance proceeds shall be used in accordance with the provisions of Section 448.3-113.8 of the Act.

11.3. The Association shall also obtain comprehensive public liability insurance, including medical payments insurance, in such limits as it shall deem desirable, and workmen's compensation insurance and other insurance as it may deem desirable, insuring each Unit Owner and the Association, Board, manager and managing agent from liability in connection with the Common Elements, and the premiums for such insurance shall be Common Expenses. Notwithstanding anything set forth above, the liability coverage shall be for at least \$1,000,000 combined for bodily injury, including deaths of persons, and property damage arising out of a single occurrence, and coverage shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements. The Association shall also obtain medical payments insurance in an amount not less than \$10,000.00.

11.4. If any of the insurance described in subsections 11.2 and 11.3 of this Section 11 is not reasonably available, the Association shall promptly cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners.

11.5. Insurance policies carried pursuant to subsections 11.2 and 11.3 of this Section 11 shall provide that:

a. Each Unit Owner is an insured person under the policy with respect to liability arising out of Unit Owner's interest in the Common Elements or membership in the Association;

b. The insurer waives its rights to subrogation under the policy against any Unit Owner or members of the Unit Owner's household;

c. No act or omission by any Unit Owner, unless acting within the scope of Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

d. If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

11.6. Each Unit Owner shall be responsible for Unit Owner's own insurance on the contents of the Unit Owner's own Unit improvements and the Unit Owner's additions and improvements to their Unit after closing on the purchase of their Unit from Declarant, the decorating, furnishings and personal property therein, and Unit Owner's personal property stored elsewhere on the Property, and Unit Owner's personal liability to the extent not covered by the liability insurance for all of the Unit Owners obtained as part of the Common Expenses as above provided. Each Unit Owner shall place on file with the Association a copy of its current homeowner's insurance certificate.

11.7. In the event of substantial damage to or destruction of any of the Unit improvements, the Unit Owner of such Unit shall give prompt written notice of any such damage or destruction to all Eligible Mortgagees with respect to such Unit, and in the event of substantial damage to or destruction of any part of the Common Elements, the Association shall give prompt written notice of any such damage or destruction to all Eligible Mortgagees with respect to any Unit.

11.8. If the Property is at any time located within an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (the "NFIP"), the Board shall obtain a master or blanket policy of flood insurance on the Property in an amount not less than the lesser of (i) the maximum coverage available under the NFIP for all buildings and other insurable property within the Property, and (ii) 100% of the current replacement cost of all such buildings and other insurable property.

11.9. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, if permitted by law, the Board may name as an insured under

the property and liability insurance policies, on behalf of the Association, the Association's authorized representative (including any trustee with whom the Association may enter into any insurance trust agreement or any successor to such trustee) who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Unit Owner, by acceptance of a deed from the Declarant or any other Unit Owner to any Unit, hereby appoints the Association or such representative or trustee as attorney-in-fact for the purpose of purchasing or maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, negotiation of losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to accomplish such purpose. The Association or any such representative or any such trustee, shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for the Unit Owners and their mortgage holders, as their interests may appear.

11.10. All officers, directors and employees of the Association, and all other persons handling or responsible for funds of or administered by the Association shall be covered by a blanket fidelity bond(s). The total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the managing agent of the Association at any given time during the term of the bond(s); provided, however, that in no event shall the aggregate amount of such bond(s) be less than a sum equal to three months' aggregate assessments on all Units plus any reserve funds held by the Association. Such fidelity bond(s) shall also meet the following requirements:

- (a) It shall name the Association as an obligee;
- (b) It shall contain waivers by the issuers of the bond of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee", or similar terms or expressions;
- (c) The premiums on the bond (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a Common Expense; and
- (d) The bond shall provide that it may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association and to each holder of a first mortgage or deed of trust which is listed as a scheduled holder of a first mortgage or deed of trust in the bond.

11.11. All insurance obtained pursuant to subsections 11.2 and 11.3 of this Section 11 shall provide that any insurer who has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner, or Eligible Mortgagee. No insurer issuing a policy may cancel, substantially modify, or refuse to renew it until thirty (30) days after notice of the proposed cancellation, modification or non-renewal has been mailed to the Association, each Unit Owner and each