

2001

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF HILL POINTE VILLAS

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THIS DECLARATION of Covenants, Conditions and Restrictions of Hill Pointe Villas, made this 11<sup>th</sup> day of January, 2000, by the Exchange St. Charles, Inc., a Missouri corporation, sole owner of the Property to which this Declaration is intended to apply.

ARTICLE I  
DEFINITIONS

1.1 "Association" shall mean and refer to HILL POINTE VILLAS OWNERS ASSOCIATION, a Missouri not-for-profit corporation, its successors, and assigns.

1.2 "Building Lot" shall mean and refer to any lot or plot of land shown upon any recorded subdivision map of the properties which describes the property upon which a building or buildings containing multiple Units is intended to be constructed. The portions of the Building Lot which are not part of the individual Lot(s) shall, from time to time be dedicated to the Association by the Developer free and clear of encumbrance to be referred to herein as the Common Elements.

1.3 "Calamity" shall mean any catastrophe or disastrous event.

1.4 "Common Elements" include:

- a. The "Property," excluding "Units" and "Lots" but including without limitation, all easements appurtenant, open areas, access walkways, public sidewalks, landscaped and planting areas and lawns;
- b. All sanitary and storm sewer facilities, and all utilities, installations, lines and connections for gas, electricity, light, telephone, water, plumbing, cable television wires, except those within the "Lots"; except such items which are subject to municipal ownership or jurisdiction and facilities owned by a public utility company;
- c. All apparatus and installations, now or hereafter erected and intended for the benefit of and common use by all Owners;
- d. All auxiliary buildings, parks, swimming pools, recreation facilities and/or buildings, if any, and any other structures, which may at any time, be erected on the Property. However, the Association is under no obligation to build such facilities;

- e. All other appurtenances not herein specifically designated;
- f. The definition of "Common Elements" is for purposes of this Declaration only, and "Common Elements" shall not be construed according to the Uniform Condominium Act of Missouri, Rev. Stat. Sections 448.1-101-4-120 RSMo.

1.5 "Declaration" shall mean and refer to this Declaration Of Covenants, Conditions and Restrictions applicable to the Property recorded in the office of the St. Charles County, Missouri recorder of deeds.

1.6 "Developer" shall mean and refer to *Exchange St. Charles, Inc., a Missouri corporation*, or its successors, agents and assigns.

1.7 "Improvement" where capitalized shall mean an item or process of addition which is added new to, or a remodeling of, existing facilities or Common Elements.

1.8 "Limited Common Elements" shall mean any item located on the Property which benefit fewer than all of the Owners, or which is part of the exterior of a Unit.

1.9 "Lot" shall mean and refer to any lot or plot of land shown upon any recorded subdivision map of the Property which contains a legal boundary of the individual Lots and describes the portion of the Property, upon which a single Unit (including a driveway, deck and patio, if applicable, is intended to be located), and is expected to have a boundary defined by the front of the exterior wall of the garage, the front exterior surface of the building, and the outside sidewall (for an end Unit) or the center of a party wall (for a middle Unit), and extending back from the front exterior wall of the garage a distance of 68.33 feet set forth out on the plat, and the centerline of the party wall forming the perimeter of the Unit.

1.10 "Member" shall mean an Owner of a fee simple title of a Lot/Unit in Hill Pointe Villas.

1.11 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot/Unit which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation. An Owner is by definition a Member of the Association.

1.12 "Property or Properties" is all of that certain real property designated on the plat of Hill Pointe Villas subdivision (Plat Book 310, Page 246-247 of the St. Charles County records).

1.13 "Rules and Regulations" shall mean those written Rules and Regulations enacted by the Board of Directors from time to time and are incorporated herein by this reference as if fully set forth.

1.14 "System" shall mean any electrical, mechanical, structural, communication, gas, or plumbing assembly or installation.

1.15 "Unit" shall mean the portion of any building or improvement located on any Lot forming a functional dwelling Unit to be used as a personal residence including the driveway, deck and patio (if applicable) and shall include all the floors, ceilings, doors, roofs, gutters and downspouts, walls, mechanical systems (e.g. heating and air conditioning systems, fireplace(s), plumbing, electric and gas systems), windows, foundation, and the portion of all party walls adjacent to such Unit to the centerline of such party walls. Such dwelling becomes a Unit upon completion of its construction and upon recording of the plat designating the Unit boundaries.

The ground floor area of any unit, exclusive of one story open porches, or attached garage, shall not be less than 1200 square feet for a one story dwelling nor less than 1000 square feet for a dwelling of more than one story.

W.E.H.  
G.S.

ARTICLE II  
PROPERTY RIGHTS

2.1 Ownership of Common Elements. Fee simple title to the Common Elements within each Building Lot and on all of the Property shall be conveyed by the Developer to the Association immediately following the approval by the City of St. Charles of the resubdivision of that Building Lot, by separate conveyance of record which areas may in such conveyance be described by metes and bounds, or by reference to this instrument as the Common Elements of Hill Pointe Villas or by any other means of description that the Developer may choose, including a plat. The title to each part of the Common Elements so conveyed by express grant shall be vested in the Association, or its successors or assigns under this instrument. Developer reserves an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Developer's obligations hereunder.

2.2 Owners Enjoyment of Easements.

- a. Every Owner of a Unit shall have a right and easement of enjoyment in and to any recreational facilities (if any should be constructed) which shall be considered a Common Element and the other Common Elements as defined herein.
- b. Every Owner shall be a Member of the Hill Pointe Villas Owners Association. Subject to the provisions of the Declaration, every Owner shall have the right to use and an easement in and to the Common Elements which shall be appurtenant to and shall pass with title to every Lot/Unit, subject to paying the annual and special assessments and to the following provisions:
  - (1) Fee simple ownership of the Common Elements and Limited Common Elements shall vest in the Association and not in the Unit Owners. The Association shall have the right and power to regulate the Common

Elements and provide for maintenance, upkeep and use of the Common Elements;

- (2) The Association shall have the power to suspend an Owner's voting privileges and/or the right to suspend an Owner's, his/her guests', or invitees' right to the use of any recreational facilities or other Common Elements for breach of the Declaration, the By-Laws or any of the Association's published Rules and Regulations;
- (3) The right of the Association to dedicate or transfer all or any part of the Common Elements to any institution, trustee, agency, authority, of utility for such purpose and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless a simple majority of all eligible voting members of the Association agree to such dedication or transfer at a duly authorized meeting;
- (4) All Owners and their guests, and invitees shall strictly comply with any use restriction, rules, and regulations of the Association including the Declarations, By-Laws and Rules and Regulations promulgated thereto.

2.3 Encroachment. Through construction, settlement, shifting or an act of God, should any building, or any part of any building or Lot, encroach upon any part of the Common Elements or upon any other Unit, an easement for the repair and/or replacement of such encroachment(s) and for the use of space required thereby, is hereby established and shall exist for the benefit of the Owner(s). If such encroachment can not be corrected, a perpetual easement may be granted for the maintenance of said encroachment and/or the use of the space required thereby. The Association shall replace or restore to the original condition any encroachment(s) which are due to the willful conduct of an Owner and said Owner shall be liable for all associated costs, payable to the Association for said work plus reasonable interest. All easements and rights herein established shall run with the land and inure to the benefit of, and be binding upon the Developer, his successors or assigns, and any Owner, purchaser, mortgagee, of other person having an interest in any portion of the Property.

2.4 Easements in Gross. The Property shall be subject to a perpetual easement in gross to the Association, its successors, and assigns, for ingress and egress to perform its obligations and duties as required by this Declaration. Should it be necessary to enter a Unit or Lot to maintain, service, improve, repair, or replace any Common Elements, employees, agents, and workers shall be entitled to entrance by exhibiting to the Owner an order from the Association. The Association shall specifically have the authority to enter any Unit or Lot for the purpose of protecting any other Unit, property or Lot from fire, flood, or other casualty or catastrophe which will or could result from or arise from a mechanical, electrical, or other malfunction of another Unit. The Association is under no obligation, however to take such action. Nothing in this subsection shall be construed to require

the Association to maintain, repair or replace anything which serves only one Unit. A Unit which is entered while performing the duties outlined in this section shall be returned to the condition as it existed prior to such entry. Care shall be taken to insure that the initial condition is carefully documented prior to any work being started, using photos or video as necessary.

2.5 Streets, Street Lights, Storm and Sanitary Sewers, and Sidewalks. All streets, streetlights, storm and sanitary sewers, and sidewalk adjacent to the street have been dedicated to the City of St. Charles, Missouri for public use.

2.6 Pursuant to St. Charles City ordinance, review standards there is dedicated to the City of St. Charles an easement over the common areas as may be required for any governmental access or maintenance.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

3.1 Every Unit Owner shall be a Member of the Association. Membership is be appurtenant to, and may not be separated from ownership of any Unit or Lot.

3.2 The Association shall have one class of voting membership. Members must be Unit owners and shall be entitled to one vote for his/her Unit. When more than one person holds an interest in any Lot/Unit, all such persons shall be Members. In such case the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more then one vote be cast with respect to any Unit.

3.3 Member's voting privilege shall be revoked in the event such Owner is delinquent in payment of the assessment(s). Reinstatement of the right to vote shall be contingent upon said Owner becoming current in his/her assessment status.

### ARTICLE IV BOARD OF DIRECTORS

4.1 Board of Directors. The affairs of the Association shall be managed by a board of three (3) Directors (the "Board").

4.2 Operating Procedures. The term of office, election, removal, meetings, and powers shall be as stated in the By-Laws of the Association.

4.3 Duties of the Directors. It shall be the duty of the Board of Directors to:

- a. cause to be kept a complete record of all financial, tax and corporate affairs and to present a statement thereof to Members at the annual meetings of the Members;

- b. establish a budget as provided by the Declaration and the By-Laws;
- c. supervise all officers, agents, and employees of the Association;
- d. procure and maintain adequate liability insurance for the Board whether elected or appointed;
- e. cause all officers or employees having fiscal responsibilities to be bonded as they may deem appropriate;
- f. cause the Common Elements and the buildings to be insured;
- g. cause the exterior of the buildings and all Properties to be maintained in presentable and serviceable condition; and
- h. enforce compliance with the requirements of this Declaration the By-Laws and the Rules and Regulations.

4.4 The Association and the Board of Directors shall act in accordance with the "Not-for-Profit Corporation Act" of the Missouri statutes.

#### ARTICLE V COVENANT FOR ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner by acceptance of a deed for a Lot/Unit, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments. Such assessments to be established and collected as hereinafter provided. The annual and special assessments, fines, late fees, interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property Lot/Unit which each such assessment is made. Each such assessment, together with late fees, interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot/Unit at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to the Owners' successors in title unless expressly assumed by the successor.

5.2 Purpose of Assessments. The assessments levied by the Association shall be used for the improvement and maintenance of the Common Elements and the exterior of all buildings, except, screened-in porches, sunrooms and Limited Common Elements, for those items mentioned in Article VI, for payment of Association taxes, for the cost of all insurance carried by the Association as required in Article IX of the Declaration, for the provision of utilities in the Common Elements, for the administration and management costs of the Association, for legal, accounting, and auditing fees of the Association, and to build the reserves of the Association. Further, such funds may be used generally to promote the recreation, health, safety, and welfare of the Owners.

5.3 Establishment of Assessment.

- a. The Budget. The Board of Directors shall deliver the budget for review to the Association membership no later than August 15<sup>th</sup> of each year. The budget shall include (i) those items of expenditures for the maintenance of Common Elements, and any building maintenance required, (ii) a total amount the Board deems necessary to pay the costs of carrying out the Association's duties, and (iii) a responsible amount to be retained for build-up of a reserve account to prepare for contingencies and/or anticipated maintenance, all in sufficient detail to reasonably inform the Owners. The delivery of the budget shall include a notice of the date for the annual meeting.

5.4 Budget Review at Annual Meetings. The Board of Directors shall also set the date for an annual meeting of the Owners to review the budget. This meeting shall take place on or before October 15<sup>th</sup>. The purpose of the meeting will be (i) for the Board of Directors to review the budget and answer questions from the Owners concerning any item of the budget, (ii) to introduce the nominees for election to the Board of Directors and entertain additional nominations from the floor, and (iii) to conduct any other business the Board deems necessary or desirable.

5.5 Meetings to Reconsider the Budget. On or before November 1, the Association owners may request by petition and signed by not less than sixty percent (60%) of the Owners entitled to vote, a meeting of the Association to reconsider the proposed budget. Upon receipt of such request, the Board of Directors shall schedule such meeting, during the month of November, and shall notify each Owner, in writing, of the time and place of such meeting and the purpose therefore. At the meeting held to reconsider the budget:

- a. Owners present representing at least ten percent (10%) of the total eligible votes shall constitute a quorum.
- b. The Board of Directors shall discuss and the Owners shall have the opportunity to ask questions about items of expenditure in the proposed budget. Thereafter the budget shall be submitted to a vote of the Owners and shall be approved by a vote of a simple majority of the Owners present and voting thereon.
- c. After the items in the proposed budget have been discussed and voted upon, the Board of Directors shall accept for discussion proposals of additional items of expenditure from the Owners present. These items shall be discussed and voted upon as provided hereinabove.
- d. Each approved change or addition accepted by a majority vote of the Owners present and voting thereon shall be added to and become part of the budget for the next succeeding fiscal year.

- e. On or before December 15<sup>th</sup> each year, the Board of Directors shall determine the final budget by incorporating any budget adjustments deemed appropriate as a result of input from the Owners at the annual meeting as provided herein or as approved at a special meeting and then notify each Owner subject to the assessment, in writing, of the amount of the assessment pursuant to the Declaration, if different from the preceding annual assessment. The required budget assessment fee income shall be divided by the total number of Lots subject to assessment, and the result shall constitute the next annual assessment for each Owner.
- f. Any budgeted facility or Common Element Improvement exceeding five percent (5%) of the total annual assessment income shall be subject to approval by a majority vote of the Association Members eligible to vote or a majority of a quorum at any annual or special meeting.

5.7 Special Assessments. In addition to the annual assessment authorized above, the Board of Directors may levy, at any time in an assessment year, a special assessment for any Common Element Improvement, other than maintenance or repair provided that any such assessment shall have the assent of the Owners who are voting by Ballot either personally, by proxy or by mail. The vote shall be implemented in accordance with Section 5 herein. The Board of Directors may authorize any Special Assessment required due to any type of calamity, essential repair, or essential maintenance that exceeds the available funds for such purpose.

5.8 Notice and Vote for Any Action Authorized Hereunder. Written notice of any meeting called for the purpose of taking any action authorized pursuant to this Article except those issues relating to Improvements or special assessments, shall be sent, along with a ballot to all members not less than ten (10) days nor more than thirty (30) days in advance of a special meeting. The Improvement(s) and/or the special assessment(s) of this Article shall be accepted by approval of not less than fifty-one percent (51%) of the eligible Owners voting by ballot either personally, by proxy or by mail and present at a meeting called for this purpose.

5.9 Uniform Rate of Assessment. Both annual and special assessments (except as allowed in Article VI) shall be fixed at a uniform rate for all Lots and shall be collected on a monthly basis, or for such other period as may be determined by the Board.

5.10 Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on a monthly basis with respect to any Owner on the first month following the recording of the deed from the Developer or prior Owner by which the Lot is transferred to the new Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The monthly due dates shall be established by the Board. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid.



5.11 Effect of Non-Payment of Assessments; Remedies of the Association. Failure of any Owner to pay any Assessment shall be subject to the provisions for nonpayment and collection as provided in the By-Laws.

5.12 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage. Sale or transfer of a Lot shall cause a lien to become immediately payable. Sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall cause the lien to become immediately payable. No sale or transfer shall relieve such Owner from liability for any assessments thereafter becoming due or relieve the Owner's Lot from the lien thereof.

## ARTICLE VI EXTERIOR MAINTENANCE

### 6.1 Association Responsibility for Maintenance.

- a. The Association shall be responsible for the maintenance to the Common Elements. The Association shall also be responsible for the exterior maintenance of each Unit/Lot which is subject to assessment hereunder as follows: paint and caulk exterior doors and frame, garage doors and frames, care for trees, shrubs, grass, tie-walls and other landscape improvements which are approved by the Board of Directors. In addition, the Association shall be responsible for the maintenance including repair or replacement as necessary of gutters, downspouts, roofs, and the exterior building siding, and the exterior brickwork. The Association shall also be responsible for the exterior treatment and protection against termites and or insect intrusion into any and all buildings/structures on the Property. Such exterior maintenance shall include driveways, concrete patios (if applicable), decks, stoops and walks from stoop to driveway, but shall not include exterior door glass (including garage door glass), and window glass.
- b. Maintenance of the Common Elements shall be the responsibility of the Association and shall comply with all requirements of the City of St. Charles sign standards and any other ordinances or similar standard set by local governmental entities.

### 6.2 Owner's Responsibilities for Maintenance.

- a. An Owner shall have the right and responsibility to perform maintenance or repairs on any screened-in porch, non-concrete patio (if applicable), using only materials and color selections approved by the Board of Directors, or its agents. The Owner shall be responsible for the interior protection of his/her Unit against infestation by insects.

- b. In the event that the need for maintenance, repair or clean-up is caused through accidental, willful, or negligent action or inaction by the Owner, the Owner's family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become part of the assessment to which said Lot Owner is subject. In the event that it becomes necessary for the Board otherwise to act to maintain the exterior of any Unit which would be the responsibility of the Unit Owner, then the costs of such maintenance or repair shall be assessed to the Unit Owner and shall constitute a lien and an additional assessment on said Unit/Lot. Failure of the Unit/Lot Owner to pay the maintenance and repair costs upon presentation of same shall subject the Unit/Lot Owner to the late fees, fines and interest, including collection fees and liens as set herein and in the By-Laws.

#### ARTICLE VII PARKING

Parking on the development streets is subject to the rules and ordinances of the City of St. Charles. Designated private parking consists of the Owners' personal driveways and garages which are part of the Owners' Lot. Parking on lawns or public sidewalks is strictly prohibited. See also paragraph 10.5 herein.

#### ARTICLE VIII COMMITTEES AND STANDARDS

8.1 Establishment of Committees. The Board of Directors, may, as the need presents itself, appoint Committees to promote the general well-being of the Association and to assist in the general operation of the Association.

8.2 Standards Committee. The Board of Directors shall appoint a Standards Committee consisting of at least three (3) members of the Association. The committee shall include at least one Board member. The chairperson need not be a Board Member.

- a. Review and Enforcement. The Standards Committee shall be responsible for observing and reviewing Owners' compliance with the Association's standards for architectural integrity, structural quality, and aesthetic appearance.
- b. Guidelines. The Standards Committee may adopt reasonable guidelines to facilitate the review of proposed changes. Any recommendation(s) to the Board of Directors for approval of an addition, change, or alteration by the Standards Committee shall include a target completion date to which the Owner requesting said addition, change, or alteration has agreed. The Board's approval to the Owner shall include a completion date for the subject work. In the event the work does not proceed at a pace reasonably consistent with the

approved completion date or appears to be abandoned or stopped, the Board of Directors may withdraw the approval and require the structure or area to be restored to its original condition at the Owner's expense. The cost of restoration shall be enforceable as an assessment as provided in this Declaration and in the By-Laws.

- c. Fees for Review. If the Standards Committee should require outside professional analysis of any proposed changes, the Board of Directors may establish a reasonable fee to be paid by the Owner for review of such proposed changes.

8.3 Standards for Addition, Changes or Alterations. No building, fence, wall, plumbing, wiring, or other structure or system shall be commenced, erected, installed in, or maintained upon the Property, nor shall any exterior addition to or change or alteration be made to buildings or grounds until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Board of Directors. Such review and approval shall take into consideration the harmony of the external design and location in relation to surrounding structures and topography by the Board of Directors. Additions, changes, or alterations shall not begin prior to the Board of Director's approval. A request for change, addition, or alteration, shall include three (3) sets of plans depicting the details of construction including material identification and specifications. These shall be delivered to the managing agent for the Association or the chairperson of the Standards Committee. A receipt shall be provided to the Owner indicating the date of the request. One (1) set of plans shall be placed in the Owner's file, one (1) set shall be forwarded to the Standards Committee for its review, and the last set shall be returned to the Owner with the Board of Directors decision. In the event the Board of Directors fails to act on the additions, changes or alterations as detailed above, within sixty-five (65) days following submittal of said plans and specifications, the project and plans shall be deemed approved without further action of the Board of Directors or the Owner.

8.4 Owner Installed and Maintained System(s).

- a. Restrictive Easement. The Board of Directors may grant a restrictive easement for an Owner installed and owned System to be installed in or on the Common Elements. This restrictive easement shall be provided in two steps: 1) a temporary easement may be granted on receipt of all appropriate plans and specifications for the installation of the System; 2) on final inspection and acceptance by the appropriate governmental authorities the final restrictive easement may be granted and shall be subject to the provisions of this section.
- b. The Owner shall meet all applicable conditions outlined herein as determined by the Board of Directors. Failure of an Owner to do so shall be cause for the restrictive easement to be terminated and revoked and ownership of said System shall then be automatically transferred to the Association. The

Association shall then remove or disable said System and assess the Owner for all costs incurred for such action;

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- c. The Owner shall obtain and maintain liability insurance for damage to property and persons to protect surrounding Owners, Common Elements, and the Association from any and all damages resulting from installation, operation, maintenance or failure of said System. Said insurance shall cover any and all liabilities;
- d. The Owner shall name the Association as an additional insured party of said insurance policy and provide for notice of renewal or cancellation of the policy to the Board. Failure to maintain adequate insurance shall be grounds for revocation of the restrictive easement;
- e. The Owner shall also insure the System for damage to the System itself for the full replacement and repair cost of the System.
- f. In the event an Owner fails to properly operate, maintain or repair the System in a timely manner in accordance with state, city or local law, ordinances, Association rules, or abandons the System, the restrictive easements shall be revoked and terminated;
- g. The Owner shall provide the Board of Directors with specific plans identifying the installation details including but not limited to, the location of all components, the relation of installed components to any existing utilities in the area and the location of emergency shut-off equipment. The Owner shall also provide the Association with access to the emergency shut-off equipment.
- h. The Owner shall advise the Board of Directors of the need, if any, for an annual inspection and shall provide the Board of Directors with annual proof of inspection if said System requires such an inspection. Should state, city, or local laws or ordinances require said inspection be by certified technician the Owner shall utilize such properly Certified personnel. The Owner shall also utilize certified technicians for installation, maintenance or repair if such is required by state, city, or local law or ordinance. Copies of any state, city or local permits shall be provided to the Association by the Owner.
- i. The Owner shall provide all connections for utilities to the System from the private utilities in the Owners' Unit.
- j. The Owner, by accepting the restrictive easement for installation of the System agrees that the Association, its contractors, and/or employees shall not be held liable for any damage caused to the System due to mowing, other lawn care or

general work around the Common Elements, unless said damage was done intentionally.

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- k. The Owner, by accepting the restrictive easement for installation of the System agrees that the Association, its contractors, and/or employees shall not be held liable for any damage which results due to ingress or egress in accordance with this Declaration or the By-Laws.

## ARTICLE IX INSURANCE

9.1 Liability and Hazard Insurance. The Association shall procure and maintain adequate liability and hazard insurance on all property owned by the Association. The Association is authorized to procure and maintain liability and hazard insurance including law and ordinance, flood and earthquake insurance on all building structures, components, appliances, and systems being part of the original Units or Lots (or a replacement of any part of any Unit or Lot), but excluding personal property not constituting a part of the Unit. If insurance upon any property not owned by the Association is procured and maintained by the Association, it shall be procured and maintained in a manner that provides substantially equal benefit to all Owners. Any and all property and casualty losses whether insured or not shall be divided equally among all Unit Owners. The Board of Directors shall review the cost and coverage of the Association's insurance at least annually.

9.2 Property to be Insured. Each Unit for the purpose of property insurance shall include the complete building structure, fixtures, installations, interior walls, floors and ceiling of the individual Units which are original installations or have been replaced according to the original plans. For the purpose of insurance, insured items are to also include such property which is to be maintained, repaired or replaced by the Owner as stated elsewhere in the By-Laws.

9.3 Fixtures to be Insured. Fixtures or installations include paint, wallpaper, paneling, tile/carpeting, heating and air conditioning, cabinets, cooking ranges, electrical fixtures, dishwashers, fire extinguishing apparatus and plumbing fixtures.

9.4 Replacement Cost. The Association's insurance shall provide full replacement cost up to the value of the entire development subject to the terms, conditions and exclusions of the policy. If at the time of a loss, further clarification is required as to insured items, it is to be determined by the Board of Directors.

9.5 Insurance for Board Members. The Association shall procure and maintain adequate liability and fidelity bonding insurance to cover the Board of Directors, whether elected or appointed.

## ARTICLE X USE RESTRICTIONS

10.1 Personal Residence. Each Unit shall be used for single family residential purposes only and shall be owner occupied. The maximum number of persons allowed to reside in any unit shall be limited to two (2) persons per bedroom in accordance with the ordinances of the City of St. Charles.

10.2 Fences. No fences or wall of any kind shall be erected, begun, or permitted to remain upon any Lot or Unit of the Property unless approved by the Board of Directors.

10.3 Business Enterprise.

- a. In accordance with the residential zoning ordinances of the city of St. Charles, Missouri, no trade, or business may be carried on in a Unit.
- b. Specific authorization for a garage, yard or estate sale shall be obtained from the Board of Directors.

10.4 Nuisances. It is the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of the buildings or grounds in the vicinity of his/her Lot. The Association reserves the right to bring legal action or impose monetary fines against any Owners who do not comply with the following:

- a. No Lot/Unit shall be used in whole or in part, for storage of any property or thing that will cause such Lot to appear in an untidy condition, or be offensive to others; nor shall any substance, thing, or material be kept on any Lot or in any Unit that will emit foul or offensive odors or will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of the surrounding property. Loud and/or raucous behavior shall be cause for discipline of the offending Owner by the Board.
- b. No noxious or offensive activity shall be carried on upon any Lot or in any Unit, nor shall anything be done thereon/therein to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be any plants or animals maintained, or device or thing of any sort, whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property in the neighborhood of the Owners thereof.
- c. No trash, garbage, or unsightly or offensive material shall be deposited in/on an Owner's Lot or Unit, except as is temporary and incidental to a bona fide improvement. No trash, garbage, unsightly or offensive, hazardous, or poisonous material may be deposited upon the Common Elements at any time, except as is temporary and incidental to a bona fide improvement. All trash, garbage, unsightly or offensive material shall be kept in sanitary containers, for

the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition.

- d. No hogs, cows, reptiles, horses, rabbits, chickens, goats, poultry, livestock, or other animals of any kind, other than house pets (except pets with vicious propensities) shall be brought onto or kept on any Lot or in any Unit; and no more than a total of one dog, two cats, one of each or one other house pet may be kept or maintained on any Lot or in any Unit. All pets must be leashed and under control of the Owner when outside the Owner's Unit. Owners shall be responsible for picking up after their pets. The feeding of wild animals is strictly prohibited.

10.5 Motor Vehicles, Boats, and Trailers.

- a. No trucks exceeding three-quarter (3/4) ton, or commercial vehicles, boats, house trailers, boat trailers, recreational vehicles, and trailers of every description shall be permitted to be parked or stored on any Lot except during periods of approved construction on the Lot. This prohibition of parking shall not apply to temporary parking (two days maximum) of trucks, travel trailers, motor home or commercial vehicles, such as for pick-up, delivery, or other purposes.
- b. All vehicle maintenance shall take place in the Owner's garage.

10.6 Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on any Lot without consent in writing by the Board of Directors.

10.7 Laundry Poles. No poles for attaching rope or wire lines for the purpose of hanging laundry thereon shall be erected, installed, or constructed on any Lot.

10.8 Antennas. No outside radio, television, or satellite antenna shall be erected, installed, or constructed on the Property, without the written consent of the Board of Directors. A satellite dish shall only be installed on the deck or patio in accordance with the policies of the Board and only after written permission is obtained from the Board.

10.9 Hazardous Materials. No fuel tank or container of any nature shall be erected, installed, or constructed on any Lot. All hazardous materials, chemicals, and fuels shall be kept in legally approved containers.

10.10 Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn, or other out building shall be erected on any Lot at any time.

10.11 Signs. No signs, advertisements, billboards of advertising structures of any kind which are visible from the street shall be allowed to be erected or maintained in any Unit or on any Lot without the approval of the Board of Directors. However, real estate signs advertising the sale of the Unit, not to exceed five (5) square feet in size, may be displayed in the Common Element property adjacent to a specific Unit. Said real estate signs shall be removed within five (5) days following the closing date.

10.12 Drilling and Quarrying. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained, or permitted upon any Lot.

10.13 Sewage Disposal. No individual sewage treatment system shall be permitted on any Lot. All sanitary sewer lines shall connect with the central sewage disposal system provided. Water from downspouts or any surface water shall not be permitted to drain into the sanitary sewer system.

10.14 Water Supply. No individual water supply system (well) shall be permitted on any Lot or Common Element.

10.15. Utility Easements. Easements for installation or maintenance of utilities and drainage facilities are reserved to the Developer as shown on recorded plats. Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which any damage any structure installed in accordance with said easement, or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Any easement area of any Lot and all improvements in it shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible.

10.16 Care and Appearance of Premises. The structures and grounds on each Lot shall be maintained in a neat and attractive manner. The Association shall have the right, upon twenty (20) days' notice to the Owner, setting forth the action intended to be taken, and if at the end of such time such action has not been taken by the Owner, at the expense of the Owner, to remove trash or rubbish, and/or to cut grass, weeds, and vegetation or to trim or prune, and hedge or other planting that in the opinion of the Board of Directors Association, by reason of its location, or the height to which or the manner in which it is permitted to grow is detrimental to adjoining property or is unattractive in appearance. The Association shall further have the right, upon like notice and conditions to care for vacant and unimproved property, and to remove grass, weeds, and rubbish therefrom and to do any and all things necessary or desirable in the opinion of the Association to keep such property in neat and good order all at the cost and expense of the Owner. Such costs and expenses incurred by the



Association shall be paid to the Association upon demand and if not paid within ten (10) days thereof then they shall accrue interest at the rate of one and one-half percent (1 ½%) become a lien upon the related Unit, equal in priority to the lien for assessments as provided herein.

**ARTICLE XI  
GENERAL PLAN**

11.1 Guidelines All of the foregoing covenants and restrictions are intended to constitute a general plan for the benefit of and are to be enforceable by all present and future Owners of or parties in interest of the Lots or Units of Hill Pointe Villas or any part thereof and their heirs and assigns as well as by the Hill Pointe Villas Owners Association.

11.2 Rules and Regulations. The Board shall provide rules and regulations and implement a system of late fees, fines and penalties, applicable to all Owners, their guests and invitees (the "Rules and Regulations").

**ARTICLE XII  
OFFICES, APPLICABILITY, DEFINITIONS**

12.1 Offices. The principal office of the Hill Pointe Villas Owners Association shall be located upon the Property as described in this Declaration or at such other address as the Board of Directors may designate from time to time.

12.2 Applicability of By-Laws. The provisions of the By-Laws as established and revised from time to time by the Association shall be applicable to all of the Property that is the subject of this Declaration.

12.3 Personal Application. All present and future Owners, occupants, residents and mortgagees (as used in this Declaration, "mortgagee" includes any holder or beneficiary of a deed of trust) of Lots and their employees, and any other person who may own a Lot in any manner, are subject to the By-Laws, this Declaration, and the Rules and Regulations of the Association. The mere acquisition, occupancy of a Unit shall constitute an agreement that the By-Laws, the Declaration, and the Rules and Regulations, as amended from time to time, are accepted, ratified, and will be complied with.

12.4 Definitions. The definitions of words and terms as contained in this Declaration shall apply to those words and terms used in the By-Laws, and for that purpose are incorporated into the By-Laws as though fully set forth therein, by this reference.

**ARTICLE XIII  
GENERAL PROVISIONS**

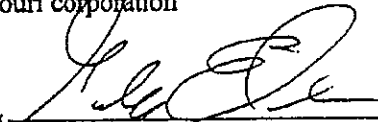
13.1 Enforcement. The Association shall have the right to enforce all restrictions, conditions, covenants, reservations liens, and charges now or hereafter imposed by the provisions of the Declaration or the By-Laws by imposing fines, restricting membership privileges, or by any proceeding at law or in equity. Failure by the Board of Directors 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 such action instituted by the Association acting through its Board of Directors, exclusively, the prevailing party shall have the right to collect its reasonable attorneys' fees and shall have the right to recover any and all costs of suit.

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

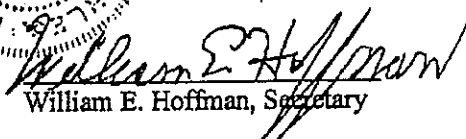
13.3. Amendment. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time the covenants and restrictions shall automatically be extended for successive periods of ten (10) years for three (3) consecutive extensions. This Declaration may be amended at any time by the Developer or its successors or assigns so long as Developer or its successors or assigns owns any Lot(s)/unit(s). Subsequent to the sale of the last lot/unit owned by Developer, or its successors or assigns, this Declaration may be amended by an instrument signed by not less than two-thirds (2/3) of the eligible Owners. Any amendments to this Declaration must be recorded.

IN WITNESS WHEREOF, the undersigned has hereto set its hand and seal this 7<sup>th</sup> day of January, 2000.

EXCHANGE ST. CHARLES, INC.  
a Missouri corporation

By:   
Gerald E. Scheidegger, President



  
William E. Hoffman, Secretary

Husband & Wife

STATE OF MISSOURI,

\_\_\_\_\_ of \_\_\_\_\_ } ss.

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On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_ his wife, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public.

Single Individuals

STATE OF MISSOURI,

\_\_\_\_\_ of \_\_\_\_\_ } ss.

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed and the said \_\_\_\_\_ further declared \_\_\_\_\_ to be single and unmarried.

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public.

Corporation

STATE OF MISSOURI,

County \_\_\_\_\_ of St. Charles } ss.

On this 7th day of January, 1900, before me appeared Gerald E. Scheidegger to me personally known, who, being by me duly sworn, did say that he is \_\_\_\_\_ President of EXCHANGE ST. CHARLES, INC. and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Gerald E. Scheidegger acknowledged said instrument to be the free act and deed of said corporation.

My Commission expires \_\_\_\_\_

*Charlene M. Schulte*  
\_\_\_\_\_  
Notary Public.

CHARLENE M SCHULTE  
Notary Public - Notary Seal  
STATE OF MISSOURI  
ST CHARLES COUNTY  
MY COMMISSION EXP OCT 22 2002

STATE OF MISSOURI  
COUNTY OF ST CHARLES  
RECORDERS OFFICE  
FILED FOR RECORD

JAN 10 2000

By *Barbara Hall*  
Time 2:44 p.m.

END OF DOCUMENT