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Barbara J. Hall
Recorder of Deeds
St. Charles County, MO
BY: Ginger Phillips

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DOCUMENT COVER SHEET

TITLE OF DOCUMENT:

DECLARATION OF CONDOMINIUM COVENANTS,
CONDITIONS AND RESTRICTIONS OF THE
CHARLESTON AT HERITAGE CONDOMINIUM
ASSOCIATION

DATE OF DOCUMENT:

, 2006

GRANTOR:
Mailing Address

The Charleston at Heritage LLC
3555 Highway F
Defiance, MO 63341

GRANTEE:
Mailing Address

None

LEGAL DESCRIPTION:

A tract of land being part of "Charleston at
Heritage Easement Plat", according to the plat
thereof recorded in Plat Book 43, Page 86 of the
St. Charles County Records, in U.S. Survey 23
and Fractional Section 11, Township 46 North,
Range 4 East of the Fifth Principal Meridian. St.
Charles. Missouri.

REFERENCE BOOK AND PAGE

None

**DECLARATION OF CONDOMINIUM COVENANTS,
CONDITIONS AND RESTRICTIONS OF
THE CHARLESTON AT HERITAGE CONDOMINIUM ASSOCIATION**

THIS DECLARATION executed this _____ day of _____, 2006, by THE CHARLESTON AT HERITAGE, LLC, hereinafter referred to as Declarant.

WITNESSETH, THAT:

WHEREAS, Declarant is the owner in fee simple of the real property located in St. Charles County, State of Missouri, described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), and

WHEREAS, Declarant intends that the Property, together with all buildings, improvements and appurtenances of whatsoever kind now or hereafter thereon, shall be submitted to the provisions of the Act (as hereinafter defined).

NOW, THEREFORE, as the owner of the Property and for the purposes above set forth, Declarant does hereby **DECLARE** the Property and all improvements thereon to be a condominium property hereafter known as "The Charleston at Heritage Condominium" (the "Condominium") under the Act, and further declares and provides as follows:

ARTICLE 1

DEFINITIONS

The following terms, as used herein or elsewhere in any documents relating to the Condominium, unless otherwise provided, are defined as:

1.1 **Act**: The Uniform Condominium Act as adopted in the State of Missouri, Sections 448.1-101 to 448.4-120, RSMo. 2000, as amended.

1.2 **Allocated Interest**: The undivided interest in the Common Elements and Common Expense Liability and votes in the Association allocated to each Unit.

1.3 **Articles**: The Articles of Incorporation of the Association as they exist from time to time.

1.4 **Association or Unit Owners' Association**: The Charleston at Heritage Condominium Association, the not-for-profit corporation responsible for operation of the Condominium as organized under the Act.

1.5 **Building or Condominium Building**: The structure which comprises that part of the Condominium Property within which the Units are located.

1.6 **By-Laws**: The By-Laws of the Association, a copy of which is attached to this Declaration as **Exhibit B** and incorporated herein by reference.

1.7 Common Elements: That portion of the Condominium Property not included in the Units.

1.8 Common Expenses: All expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.9 Common Expense Liability: The liability for Common Expenses allocated to each Unit pursuant to Section 448.2-108 of the Act.

1.10 Common Surplus: The excess of all receipts of the Association on account of the Common Elements, including, but not limited to, assessments, rents, profit, and revenues, over the Common Expenses.

1.11 Condominium: The form of ownership of Condominium Property under which (i) Units in the Condominium Buildings are subject to ownership by one or more Owners, and (ii) there is appurtenant to each Unit as part thereof an undivided share in the Common Elements.

1.12 Condominium Property: The Property and all Improvements now or hereafter thereon and all easements and rights appurtenant thereto.

1.13 Declarant: THE CHARLESTON AT HERITAGE, LLC, a Missouri corporation, its successors and assigns.

1.14 Declaration: This instrument by which the Property is submitted to the provisions of the Act and any amendment hereto.

1.15 Development Rights: Any right or combination of rights reserved herein by the Declarant to add real estate to the Condominium; to create Units, Common Elements or Limited Common Elements within the Condominium; to subdivide Units or convert Units into Common Elements; or to withdraw real estate from the Condominium.

1.16 Eligible Mortgage Holders: Those holders of first mortgages on Units who have submitted a written request that the Association notify them of a proposed action required the consent of Eligible Mortgage Holders.

1.17 Executive Board or Board: The board of directors or other administrative body responsible for the administration of the Association.

1.18 Identifying Number: The symbol or address shown on the Plat which identifies only one Unit in the Condominium.

1.19 Improvements: All improvements constructed upon the Property including, without limitation, the Condominium Buildings.

1.20 Limited Common Elements: Those Common Elements described in Section 2.4 and in Article 4 hereof which are reserved for the use of a certain Unit or Units to the exclusion of other Units.

1.21 Majority of the Unit Owners: The Owners in good standing of more than fifty percent (50%) of the Units, each Owner being entitled to an equal vote on all Association matters. Any specified percentage of the Owners means the Owners of such percentage of the total Units in the Condominium.

1.22 Owner(s) or Unit Owner(s): The Person or Persons, individually or collectively, having fee simple ownership of a Unit.

1.23 Person: A natural person, corporation, business trust, estate trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity; provided, however, that in the case of a land trust, "person" means the beneficiary of the trust rather than the trust or the trustee.

1.24 Plat: The surveyor's Plat of the Property recorded in the Office of the St. Charles County Recorder of Deeds in Plat Book 43, Page(s) 86, together with any amendments thereto. The Plat, although not attached hereto, is incorporated herein by reference.

1.25 Unit: That portion of a Condominium Building consisting of one (1) or more floors or a part or parts thereof measured to the inner surfaces of the exterior walls and the inner surfaces of floors and ceilings dividing Units. Each such Unit shall be designated in plans, deeds, plats and other documents by its Identifying Number, and includes all matters designated as part of a Unit in Section 448.2-102 of the Act.

1.26 Working Capital Fee: A one-time fee collected by the Association at closing to cover a pro rata share of initial capitalized items, including but not limited to entrance monuments, landscaping and common area improvements, insurance, etc. and other expenses of the Association.

ARTICLE 2

UNITS

2.1 Number and Location of Building and Units: The entire Condominium shall consist of twenty four (24) Units, all of which shall be utilized only for residential purposes. The location of the Condominium Buildings and of each Unit within the Buildings are (or will be) depicted on the Plat. Each Unit shall constitute a separate and distinct parcel of real property, and shall be subject to ad valorem taxation and assessments. The lien for any delinquent taxes or assessments shall attach only to the Unit and the corresponding Allocated Interest against which levied or assessed, and in no event shall any such lien attach to any portion of the Common Elements.

2.2 Unit Boundaries: The boundaries of each Unit are the walls, floors and ceilings. Each unit shall include the heating, hot water and air conditioning apparatus exclusively serving such Unit whether or not located within the actual boundaries of the Unit.

2.3 Identification of Units: Each Unit's address is shown on the Plat. Any description of a Unit which sets forth (i) the Identifying Number of the Unit; (ii) the name of this Condominium; (iii) the recording data of the Plat; and (iv) the County in which the Condominium is located shall be deemed good and sufficient for all purposes.

2.4 Allocation of Miscellaneous Furnishings and Fixtures:

(a) All lath, furring, wallboard, plasterboard, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the walls, floors or ceilings are a part of the Common Elements.

(b) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one (1) Unit or any portion of the Common Elements is a part of the Common Elements.

(c) Subject to subparagraph (b) above, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(d) The decks, patios, exterior doors and windows and other fixtures if any, designed to serve a single Unit but located outside the Unit's boundaries are Limited Common Elements allocated exclusively to that Unit.

(e) Any carports serving the Property shall constitute a portion of the Common Elements. Notwithstanding, in the event an individual carport parking spaces be assigned to a Unit Owner, then such individual carport parking space shall be considered a Limited Common Elements serving the Unit(s) to which it is assigned.

2.5 Alterations and Subdivision of Units: No Unit Owner may subdivide his Unit into two (2) or more Units. Only after obtaining the written approval of the Executive Board, a Unit Owner may make any structural improvements or alterations to his Unit, except as provided herein, that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Building. Notwithstanding the foregoing, nothing contained in this Section 2.5 shall require any Unit Owner to obtain the consent of the Board in order for the Unit Owner to make any decorative alterations to the interior of his/her Unit or shall prohibit any Unit Owner from performing any decorations within his/her Unit, except to the extent that such decorating work would impair the structural integrity or mechanical systems or lessen the support of any portion of the Building.

ARTICLE 3

COMMON ELEMENTS AND COMMON EXPENSES

3.1 Interests in Common Elements: The Common Elements shall be owned by the Association on behalf of all Unit Owners, each as to an undivided interest in accordance with their respective Allocated Interests. The Allocated Interest of each Unit Owner is shown on Exhibit C attached hereto and incorporated herein by reference. Each Unit shall bear the same proportionate share of the Common Expense Liability as its Allocated Interest bears to 100.

3.2 Allocated Interests: The Allocated Interests have been computed and determined in accordance with the provisions of the Act. The Allocated Interests are computed based upon the ratio that the square footage of each Unit bears to the aggregate square footage of all Units included in the Condominium. The Allocated Interests shall remain constant unless changed in accordance with the provisions of this Declaration and the Act. Notwithstanding anything contained herein or elsewhere in

this Declaration to the contrary, the square footage of all Units in the Condominium is anticipated to be substantially the same, and for purposes of computing Allocated Interests, shall be deemed the same such that each Unit in the Condominium has the same Allocated Interest.

3.3 Voting Rights: Each Unit Owner in good standing is entitled to one (1) vote with respect to matters requiring or permitting a vote of Unit Owners, which vote shall be cast in accordance with the Articles and By-Laws. The Declarant shall have three (3) votes for each unit under its control.

3.4 No Partition of Unit and Allocated Interest: The ownership of a Unit and the corresponding Allocated Interest in the Common Elements shall not be separated, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated shall be void. Any conveyance, transfer or encumbrance of a Unit shall be deemed to convey, transfer, encumber the Unit Owner's corresponding Allocated Interest in the Common Elements even though not expressly mentioned or described or expressly omitted or excepted therefrom.

3.5 No Partition of Common Elements: As long as the Property is subject to the provisions of the Act or any successor legislation, the Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements.

3.6 Use of Common Elements: Each Unit Owner and such Unit Owner's family, guests, licensees and invitees, shall have the right to use the Common Elements in common with all other Unit Owners. Such right to use the Common Elements shall be subject to and governed by the provisions of the Act and this Declaration and such rules and regulations as the Executive Board may from time to time prescribe. Subject to the provisions of this Declaration, the Executive Board may lease, rent or grant licenses or concessions with respect to the Common Elements. Further, pursuant to and on the terms and subject to the payment of any fees prescribed in the Declaration of Trust and Restrictions of Heritage subdivision dated October 14, 1975, and recorded in Book 715, Page 1296 of the St. Charles County Records, and all amendments thereto (the "Master Declaration"), each Unit Owner and such Owner's family, guests, licensees and invitees, shall have the right to use the Common Ground in Heritage subdivision, a subdivision in the City of St. Charles, St. Charles County, Missouri.

3.7 Maintenance: Limitation Upon Improvements: The maintenance of the Common Elements shall be the responsibility of The Charleston at Heritage Condominium Association.

3.8 Alteration of Common Elements: There shall be no material alteration or substantial addition to the Common Elements or Limited Common Elements except in the manner provided herein.

3.9 Alterations by Unit Owners: No Unit Owner shall make any alterations in the portions of the Improvements which are to be maintained by the Association, remove any portion thereof, make any additions thereto, do any work which would affect the safety, soundness or aesthetic quality of the Building or impair any easement.

3.10 Fences: No fence, wall, gate or similar structure may be erected, installed or maintained on the Condominium Property except as expressly permitted by this Declaration.

3.11 Common Expenses: Common Expenses shall include the expenses of the operation, maintenance, repair and replacement of the Common Elements, costs of carrying out the powers and duties of the Association and any other expense designated as a Common Expense by the Act, this Declaration, the Articles or the By-Laws.

3.12 Assessments: Funds for payment of the Common Expenses shall be assessed against Unit Owners in proportion to their Allocated Interests in the manner provided herein.

3.13 Common Surplus: The Common Surplus shall be owned by the Unit Owners in proportion to their Allocated Interests.

3.14 Limitation of Liability:

(a) Common Expenses: The liability of each Unit Owner for Common Expenses shall be limited to the amounts assessed for Common Expenses in accordance with this Declaration, the Articles and the By-Laws.

(b) Liabilities: A Unit Owner may be personally liable for the acts or omissions of the Association in relation to the use of the Common Elements but only to the extent of his pro rata share of that liability in the same percentage as his Allocated Interest, and then in no case shall that liability exceed the value of his Unit. The Association shall at all times maintain insurance as provided in Article 12 hereof insuring each Unit Owner against any liability arising out of his interest in the Common Elements or membership in the Association. Each Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit.

ARTICLE 4

LIMITED COMMON ELEMENTS

4.1 Existing Limited Common Elements: Any portion of any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside a Unit which serves only such Unit shall constitute a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements shall constitute a part of the Common Elements. The decks, patios, exterior doors and windows and other fixtures designed to serve a single Unit but located outside of such Unit shall constitute Limited Common Elements allocated exclusively to such Unit. Notwithstanding any provision of this Declaration to the contrary, each Unit Owner shall maintain the interior of all patio privacy fencing, terraces and decks constituting Limited Common Elements of and for its Unit.

4.2 Additional Limited Common Elements: There may be additional Limited Common Elements appurtenant to the Units in the Condominium which shall be specifically designated and delineated on the Plat (or an amendment to the Plat). Additionally, so long as it has any ownership interest in the Condominium, the Declarant, and thereafter the Executive Board, shall have the right, without the consent of the Unit Owners, to from time to time by recorded instrument conforming to the requirements of the Act, establish additional Limited Common Elements in the Condominium. The Limited Common Elements are reserved for the use of the Units to which they are appurtenant or assigned to the exclusion of other Units, and there shall pass with a Unit as an appurtenance thereto the exclusive right to use the Limited Common Elements so appurtenant or assigned.

4.3 Maintenance of Limited Common Elements: Any expenses of maintenance, repair or replacement of a Limited Common Element shall be treated and paid for as a part of the Common Expenses of the Association but shall be assessed against the individual Unit Owner and Unit to which such Limited Common Element is appurtenant or assigned.

4.4 Parking:

(a) Assignment: Without limiting the generality of any other provision of this Declaration, one (1) outdoor parking space will be available to each Unit.

ARTICLE 5

EASEMENTS

5.1 Encroachment: If through construction, settlement or shifting of a Building, any part of a Common Element or Unit encroaches upon any other Unit or Common Element, the Unit Owner or Association, as the case may be, shall have a perpetual easement for the maintenance of such encroachment and for the use of the space required thereby; provided, however, no easement shall be created under this Section 5.1 if the encroachment is due to the willful conduct of the Unit Owner.

5.2 Easements Appurtenant to Units: Perpetual easements are hereby established, running with the land, appurtenant to all Units, for use by the Owners thereof, their families and guests, invitees and servants, of the Common Elements. Each Unit is further granted a perpetual easement, running with the ownership of the Unit, to use and occupy the patio and, deck, if any, which are attached or assigned to the Unit should there be any encroachment on any Common Element.

5.3 Easements in Gross: The Condominium Property shall be subject to the following perpetual easements in gross:

(a) an easement in gross to the Association and the Executive Board for ingress and egress to perform its obligations and duties as required by this Declaration and the By-Laws. Should it be necessary to enter a Unit to repair a Common Element or Limited Common Element, employees, agents and workmen shall be entitled to entrance by exhibiting to the Unit Owner an order from the Executive Board; and

(b) an easement in gross to the Declarant over and through the Common Elements and Limited Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations arising under the Declaration or the Act or making Improvements within the Condominium.

5.4 Driveway, Walkway, Utility and Other Easements: Easements as shown on the Plat are established and dedicated for driveways, walkways, fences, retaining walls, sewers, electricity, gas, water, telephone, cable television, and for all other public utility purposes, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, drainage, gas mains, telephone wires and equipment, cable and electrical conduits and wires over, under, along and on the Common Elements and Limited Common Elements.

5.5 Structural Easement: A non-exclusive perpetual easement is hereby established appurtenant to and for the benefit of each Unit to permit each Unit to have structural support from the structural elements in the Condominium Building so as to permit the Units to remain in good, usable and stable condition.

5.6 Effect of Easements: All easements and rights herein established shall run with the land and inure to the benefit of and be binding on the Declarant, its successors and assigns, and each Unit Owner, purchaser, mortgagee or other person having an interest in any portion of the Condominium Property, whether or not such easements are expressly mentioned or described in any deed of conveyance.

ARTICLE 6

DEVELOPMENT RIGHTS

6.1 Reservation of Development Rights: The Declarant hereby reserves unto itself, its successors and assigns, the following rights, powers and easements with respect to the Property:

- (a) The right to from time to time enlarge the Condominium in a manner prescribed by law or to constrict or reduce the same. Additions to the Condominium shall be accomplished through a duly recorded amendment to this Declaration and, if required, to the Plat. Amendments either enlarging or reducing the Condominium may be effected by Declarant without joinder of any other person;
- (b) The right to from time to time create Common Elements and Limited Common Elements within the Property; to exercise such right, Declarant shall prepare, execute and record an amendment to this Declaration and, to the extent required by the Act, an amendment to the Plat. The amendment shall describe any Common Elements or Limited Common Elements thereby created, and in the case of Limited Common Elements, designate the Unit or Units to which each is allocated;
- (c) The right from time to time to construct, reconstruct, erect, develop, redevelop, demolish, rebuild, relocate and/or complete all or any portion of the original Improvements to the Property;
- (d) The right from time to time to subdivide and resubdivide Units or convert Unit areas into Common Elements;
- (e) The right to convert Common Elements to Limited Common Elements and to convert Limited Common Elements to Common Elements; and
- (f) In addition to the right to the easement provided in Section 5.3(b), within any slope control area established by the Declarant, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or obstruct or retard the flow of water through drainage channels. The slope control areas of the Condominium Property and all improvements in them shall be maintained by the Association, except for those improvements for which a public authority or utility company is responsible;

Any Development Right may be exercised with respect to different portions of the Property at different times. No assurances are made with respect to the order or the timing of such exercise.

6.2 Additional Rights of Declarant During Construction and Sale: Notwithstanding any provision contained in this Declaration to the contrary, and at all times and from time to time prior to Declarant conveying all Units in the Condominium, Declarant shall have the right and privilege (i) to erect and maintain advertising signs, sales flags and other devices and banners for the purpose of aiding the sale of Units in the Condominium, and (ii) to maintain sales, business and construction offices in the Units, Buildings or in trailers on the Condominium Property to facilitate the completion of construction of the Buildings and Improvements comprising the Condominium and the sale of Units therein. The construction of the Buildings and Improvements by Declarant shall not be considered a nuisance. Declarant shall, in exercising any of the foregoing rights, at its own expense, purchase and maintain in force and effect a liability insurance policy covering any liability to which the Owners may be exposed.

6.3 Extinguishing Development Rights: Declarant may from time to time without notice relinquish or assign all or any portion of any Development Right reserved herein by written recorded instrument signed by the Declarant.

ARTICLE 7

RESTRICTIONS

The use of Units and Common Elements is restricted as follows:

7.1 Use of Units: With the exception of any Units during the time period when they are being used by Declarant as a sample, model or sales office, no part of any Unit shall be used for a purpose other than single family residence, and no Unit shall be occupied by more than one (1) family or by more than four (4) unmarried or unrelated individuals. Without limiting the generality of the foregoing, no business, trade, occupation or profession of any kind, permitted by the applicable zoning ordinances, which requires any third party parking of vehicles shall be conducted, maintained or permitted on any part of the Condominium Property.

7.2 Obstructions: There shall be no obstruction of any portions of the Common Elements nor any storage in the Common Elements without prior written consent of the Executive Board. No clothes, laundry or other articles shall be hung or exposed in any portion of the Common Elements or on or about the exterior of a Building.

7.3 Maintenance of Units: Each Unit Owner shall maintain, repair and replace, at his own cost and expense, all portions of his Unit requiring maintenance, repair or replacement including, but not limited to, air conditioning and heating equipment, hot water heaters, and all other appliances and equipment (including any facility and connections required to provide utility service to serve the Unit and no other); paint, decorate and finish interior surfaces of perimeter walls, interior walls, ceilings and floors of the Unit; replace all screens, windows and plate glass installations (including glass doors) forming a portion of the perimeter of the Unit; and pay for any utilities which are separately metered to the Unit. In addition, each Unit Owner shall perform all maintenance in his Unit required to prevent any water from leaking into another Unit, the Common Elements or the Limited Common Elements,

including, but not limited to, repairing and caulking around plumbing fixtures, grouting floor tiles and replacing worn wax rings under toilets, and shall be responsible for all damage caused by its failure to do so. The exterior of all exterior doors of the Units shall be maintained by the Association as a part of the Common Expenses.

7.4 Signs, Windows, etc.: Except for such signs as may be posted by the Declarant for promotional or marketing purposes or signs posted by a mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure, no signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element without the prior written approval of the Board. Further, Unit Owners shall not install or hang in any windows or windows in doors any shade, blind, drapery or other such treatment which does not appear white or off-white from the outside.

7.5 Pets and Animals: NO animal, reptiles, birds, rabbits, livestock, fowl or poultry of any kind shall be kept, raised or bred in any portion of the Condominium Property, except dogs, cats or other household pets, which may be kept, provided they are not kept, bred or maintained for any commercial purposes and provided that such household pets do not exceed two (2) in number per Unit at any one time and provided they do not violate regulations established by the Association. Each Owner shall comply with all ordinances, zoning and subdivision regulations of the County of St. Charles, and any other applicable municipal entity, if any, relating to the supervision, control, responsibility and maintenance of animals and/or pets in residential areas. The Association shall have the power to change its regulations from time to time, but if pets have been previously permitted, such change in regulations shall not affect the rights of Unit Owners to keep any previously permitted pets provided such pets have not become a nuisance. There shall be no structures for any pets outside the Units at any time.

Without limiting the generality of the foregoing, each Owner must ensure that his/her pet does not soil any Unit or Common Element, and shall be obliged to immediately clean up any soilage that occurs. Should an Owner fail to clean up after his/her pet, the pet shall be deemed a nuisance, and the Owner shall, within two (2) weeks after receiving written notice from the Board, permanently remove such pet from the Condominium.

All pets permitted in the Condominium must be on a leash or otherwise constrained when on the Common Elements, and shall be accompanied by its Owner at all times. Pets shall not be permitted on any portion of the Common Elements except the building corridors, the sidewalks and paved areas leading to the Building, the Owner's parking space and Limited Common Elements, and areas specifically designated for pets by the Board, if any.

7.6 Nuisances: No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done which will become an annoyance or a nuisance to other Owners or occupants. No Unit Owner shall permit or suffer anything to be done or kept in his Unit or garage space which will increase the insurance rates on his Unit or the Common Elements, or which will obstruct or interfere with the rights of other Unit Owners or disturb them by unreasonable noises or otherwise or permit any nuisance, immoral or illegal act in his Unit or upon the Common Elements. All scheduled or routine maintenance, repair and remodeling work to be done on or in any Unit shall be done during normal business hours and in such a manner as to be least disruptive to other Unit Owners. Further, all persons moving in or out of the Building shall do so during normal business hours, and all deliveries to the Building shall be scheduled during such hours.

7.7 Rules and Regulations: No person shall use the Common Elements in any manner which does not conform to the rules and regulations from time to time established by the Executive Board.

7.8 Leases: Unless prohibited by the Association pursuant to Section 9.6(g) of this Declaration, a Unit Owner may lease his Unit (but not less than his entire Unit) at any time and from time to time provided that:

- (a) No Unit may be leased for transient or hotel purposes or to more than two (2) unrelated natural persons without the written approval of the Board.
- (b) All leases shall be in writing and shall contain a clause requiring the lessee and all occupants of the leased Unit to comply with the Declaration and By-Laws and all Rules and Regulations of the Association.
- (c) All leases shall be subject to approval by the Board. Such approval shall not be unreasonably withheld and if a proposed lease is not rejected within ten (10) days after the Board's receipt of a copy thereof together with such information on the proposed tenant as the Board may reasonably request, such lease shall be deemed approved; provided, however, if any of the material terms of any such lease change after the Board's approval or deemed approved thereof, prior to execution, the lease shall again be submitted to the Board for approval.
- (d) The rights of any lessee of the Unit shall be subject to, and each such lessee shall be bound by, the covenants, conditions and restrictions set forth in the Declaration, By-Laws and Rules and Regulations, and a default thereunder shall constitute a default under the lease; provided, however, that the foregoing shall not impose any direct liability on any lessee of a Unit to pay any Common Expense assessments or special assessments on behalf of the Owner of that Unit. In the event of a material breach of any such covenant, condition or restriction, the Board shall have the right to terminate the lease.
- (e) The Declarant shall have the right to lease available unsold Units and such leases shall not be subject to approval by the Board. No Unit will be leased for transient or hotel purposes. All leases shall be in writing and shall contain a clause requiring the lessee and all occupants of the leased Unit to comply with the Declaration and the By-Laws and all Rules and Regulations of the Association.

Notwithstanding the foregoing, the provisions of this Section 7.8 shall not apply to a holder of a first mortgage who is in possession of a Unit following a default in such mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure.

7.9 Refuse Disposal: No trash, garbage, rubbish, refuse, debris, trash cans or trash receptacles of any type shall be accumulated, stored or placed on the Common Elements; provided, however after sunrise on any day designated trash pick-up, trash, garbage, rubbish, refuse and debris secured within appropriate trash cans or receptacles may be placed in designated areas on Common Elements for pick-up; and provided further, such cans or receptacles are again stored out of view prior to sundown of the same day.

7.10 Doors and Security: The Residential Unit Owners and occupants shall at all times other than during normal entry and exit from the Buildings keep the exterior doors to the Buildings closed and locked, and shall not admit any stranger without proper identification into the Buildings.

7.11 Use of Common Elements: No portion of the Common Elements shall be used for any industrial, commercial, business, residential or dwelling purpose.

7.12 Plumbing and Electrical Work: No repairs shall be made or permitted to any plumbing or electrical wiring within a Unit except by plumbers or electricians authorized to do such work by the Association. Plumbing and electrical repairs within the Units shall be paid for by the respective Unit Owners, and the Association shall pay and be responsible for plumbing and electrical repairs within the Common Elements. In the event the Directors are unable to determine in advance whether a repair is the responsibility of the Association or a Unit Owner, the Directors may proceed to have the work performed, and if thereafter determined by the Directors to be a Unit Owner's responsibility, shall assess the Owner with the cost thereof (which shall then be a lien upon the Unit collectible as provided in Article 10 of this Declaration) as if an expense under Section 10.3 of this Declaration.

ARTICLE 8

ELECTRIC, SEWER, WATER, GAS AND REFUSE CHARGES, GENERAL AND SPECIAL TAXES

Each Owner shall pay charges levied by the City, Ameren U.E., Duckett Creek Sanitary Sewer District, Laclede Gas Company, S.W.B.T. Company, or any municipal or private refuse disposal company, or their successors, against his respective Unit for electric, sewer, water, gas and refuse service, and shall pay all general and special taxes levied against said Unit; provided, however, the Executive Board may, at its discretion, provide for the billing of sewer, water and refuse service charges on a total Condominium basis, in which event a pro rata share of such charges shall be allocated and billed to the individual Units based on the total number of Units.

ARTICLE 9

THE ASSOCIATION, ITS POWERS AND RESPONSIBILITIES

9.1 Management: The operation of the Condominium Property shall be vested in the Association.

9.2 Not-for-Profit: The Association shall not be deemed to be conducting a business of any kind, and any funds received by the Association shall be held and applied by it for the Unit Owners in accordance with the provisions of the Declaration and By-Laws. No funds received and held by the Association shall be handled in any manner by anyone other than a member of the Board who is bonded as provided in Section 12.3(d).

9.3 Membership Voting: Each Unit Owner in good standing shall be a member of the Association. Membership in the Association shall be nontransferable except as an incident to the transfer of the Unit to which it relates, and such Membership shall automatically terminate and transfer to successor Owners when an Owner ceases to have an ownership interest. Each Unit Owner shall

have an equal vote (“one Unit – one vote”) in all Association matters, but no Unit Owner, except an officer of the Association, shall have any authority to act for the Association.

9.4 By-Laws: The administration of the Association and operation of the Condominium Property shall be governed by the By-Laws of the Association, a copy of which is attached hereto, marked Exhibit B and made a part hereof by reference. No modification of or amendment to the By-Laws shall be deemed valid unless duly adopted as provided in the By-Laws and set forth in or annexed to a duly recorded amendment to this Declaration executed in accordance with the provisions of the Act. No amendment to the By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage encumbering any Unit or adversely affect the rights of the Declarant.

9.5 Liability: Notwithstanding the duty of the Association to maintain, manage, operate, repair and replace parts of the Property, the Association shall not be liable for any act, omission, injury or damage, except that which is due to the willful misconduct or gross negligence of the Association.

9.6 Powers and Duties: The powers and duties of the Association shall include those set forth in the Articles and By-Laws, the Act and this Declaration, and shall include (but not necessarily be limited to) the following:

(a) The irrevocable right of access to each Unit, at reasonable hours, as may be necessary for the maintenance, repair or replacement of any Common Element contained therein or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements, Limited Common Elements or to another Unit.

(b) The power to adopt and amend budgets for revenues, expenditures and reserves of the Condominium, and to levy and collect assessments for and to lease, maintain, repair and replace the Common Elements.

(c) The power to employ and terminate a managing agent to carry out the administrative duties given to the Association, to serve on a full or part-time basis, and pay such manager reasonable compensation.

(d) The power to employ and retain persons necessary for maintenance, repair and replacement of the Common Elements and Limited Common Elements.

(e) The power to establish, grant and dedicate easements for public utilities and cable television in addition to any shown on the Plat.

(f) The power to enter into contracts with others for the maintenance, management, operation, repair, replacement and servicing of the Condominium Property, and in connection therewith, to delegate the powers and rights herein contained, including that of levying and collecting assessments and perfecting and enforcing liens for non-payment. The service and maintenance contracts referred to herein may delegate the Association’s duty to maintain and preserve the landscaping, gardening, painting, repairing and replacement of the Common Elements or Limited Common Elements, but shall not relieve each Unit Owner from his personal responsibility to maintain and preserve the interior surfaces of his Unit and to paint, clean, decorate, maintain and repair said Unit. Each Unit Owner, his heirs, successors and assigns, shall be bound by any management contract, if any is executed, to the same extent and effect as if he had executed such contract for the purposes herein expressed.

(g) The power to adopt and amend by-laws and reasonable rules and regulations for the maintenance and conservation of the Condominium Property, and for the health, comfort, safety and welfare of the Unit Owners, all of whom shall be subject to such rules and regulations.

Without limiting the generality of the foregoing, or any provision of Section 7.8 of this Declaration to the contrary, the Association, acting through the Board, shall have authority to adopt rules limiting or restricting the leasing of Units in the Condominium.

(h) The power to institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two (2) or more Unit Owners on matters affecting the Condominium.

(i) The power to impose charges for late payment of Assessments and, after notice and opportunity to be heard, to levy reasonable fines for violations of the Declaration, By-Laws, and rules and regulations of the Association. In the event a Unit Owner does not pay any sum, charge, or assessment required to be paid to the Association within ten (10) days from the due date, each Owner shall, in addition to all other amounts due, pay the Association a late fee of \$25.00 per month for each month or part thereof thereafter such sum, charge or assessment remains unpaid. In addition, in such event the Association, acting through its Board, may enforce its lien for assessments or take such other action to recover the sum, charge, or assessment to which it is entitled in accordance with the Declaration and the laws of the State of Missouri.

If the Association becomes the owner of a Unit by reason of foreclosure, it shall offer said Unit for sale and at such time as a sale is consummated, it shall deduct from the proceeds of said sale all sums of money due it for assessments and charges, all costs incurred in the foreclosure, including reasonable attorney's fees and any and all expenses incurred in the resale of the Unit which shall include, but not be limited to, advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the Unit. All monies remaining after deducting the foregoing items of expenses shall belong to the Association and be deposited in the operating reserve fund.

(j) The power to impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale certificates as required by the Act, or statements of unpaid assessments.

(k) The power to provide for the indemnification of its officers and the Executive Board and to maintain directors' and officers' liability insurance.

(l) The power exercisable at any time after expiration of the period of Declarant Control as provided in Section 9.7 hereof, upon ninety (90) days prior written notice, to terminate, without penalty, any management contract, employment contract or lease of recreational or parking areas or facilities entered into by Declarant on behalf of the Association as well as any contract or lease to which Declarant or an affiliate of Declarant is a party. All such contracts and non-property leases made by Declarant during the period of Declarant Control shall be expressly made subject to this provision. As used herein, the phrase "affiliate of a Declarant" shall mean any person or entity which controls, is controlled by, or is under

common control with, Declarant. A person or entity shall be deemed to control Declarant if that person or entity (i) is a general partner, officer, director or employee of Declarant; (ii) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting shares of Declarant; (iii) controls in any manner the election of a majority of the directors of Declarant; or (iv) has contributed more than twenty percent (20%) of the capital of Declarant. A person or entity shall be deemed to be controlled by Declarant if Declarant (i) is a general partner, officer, director, or employee of that person or entity; (ii) directly or indirectly or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting shares of that person or entity; (iii) controls in any manner the election of a majority of the directors of that person or entity; or (iv) has contributed more than twenty percent (20%) of the capital of that person or entity.

(m) The power to exercise such other powers as may be provided in its Articles of Incorporation or By-Laws, the Act or the general not-for-profit corporation law of the State of Missouri.

(n) The duty to at all times maintain and, during normal business hours, make current copies of the Declaration, Articles, By-Laws, rules and regulations adopted by the Board and books, records and audited financial statements of the Association available for inspection by the Unit Owners and by the holders, insurers and guarantors of first mortgages secured by Units in the Condominium. Without limiting the generality of the foregoing, such audited financial statements shall be available to any such Owner, holder, insurer or guarantor making written request therefor to the Association within 120 days after the end of the Association's fiscal year.

9.7 Declarant Control: Notwithstanding any provision herein or in the Articles and By-Laws to the contrary, Declarant shall, subject to the provisions hereinafter contained, control the Association and have the right to appoint and remove the officers and members of the Executive Board of the Association during the period commencing on the date of recording this Declaration in the Office of the Recorder of Deeds of St. Charles County, Missouri, and terminating no later than the earlier of (i) sixty (60) days after conveyance of ninety-five percent (95%) of the Units in the Condominium; (ii) two (2) years after Declarant ceases to offer Units for sale in the ordinary course of business; or five (5) years after conveyance of the first Unit in the Condominium to an Owner.

Notwithstanding the foregoing, not later than sixty (60) days after conveyance of thirty three and one-third percent (33 1/3%) of all Units in the Condominium to Unit Owners other than Declarant, at least one (1) member of the members of the Executive Board shall be a resident appointed by the Declarant; and not later than sixty (60) days after conveyance of sixty six and two-thirds percent (66 2/3%) of all Units in the Condominium to Unit Owners other than Declarant, at least sixty six and two-third percent (66 2/3%) of the members of the Executive Board shall be a resident appointed by the Declarant; and not later sixty (60) days after conveyance of ninety-five percent (95%) of all Units in the Condominium to Unit Owners other than Declarant, one hundred percent (100%) of the members of the Executive Board shall be a resident appointed by the Declarant.

Upon termination of the period of Declarant Control as above provided, all members of the Executive Board then serving, whether appointed by Declarant or elected as above provided, shall

resign and the Unit Owners shall elect in the manner and for the terms provided in the Articles and By-Laws an Executive Board of at least three (3) members.

ARTICLE 10

ASSESSMENTS, LIABILITY, LIENS, PRIORITY INTEREST AND COLLECTIONS

10.1 Authority: The Association, through its Executive Board, shall have the power to determine and fix the sums necessary to provide for the Common Expenses, including any expense allocable to services being rendered by a management company with whom the Association may contract and hazard and liability insurance premiums. A Unit Owner, regardless of the manner in which he acquired title to his Unit, including, without limitation, a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the owner of a Unit. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the Common Expenses up to the time of such voluntary conveyance.

10.2 Estimate and Payment Dates: By December 1st of each year, the Executive Board shall estimate the total amount necessary to pay wages and for materials, insurance, water and sewer charges, services and supplies which it anticipates will be required during the ensuing calendar year to operate and manage the Condominium together with a reasonable amount which it considers to be necessary as a reserve for any future needs, for contingencies and for replacements. On or about December 15th of each year, the Executive Board shall notify the Owner of each Unit in writing as to the amount of such estimate ("hereinafter Assessment") with the particulars therein itemized; provided, however, a failure by the Executive Board to adhere to either of the foregoing dates shall not relieve the Unit Owners from responsibility for payment of assessments levied for the applicable year. The estimated cash requirements shall then be assessed against the Owners of the Units according to each Owner's Allocated Interest. On the first day of each month of the following year, each Owner shall be obligated to pay to the Executive Board, or as the Executive Board may direct, one-twelfth (1/12th) of the Assessment made hereunder.

In the event that, at any time during the year, the Executive Board shall determine that its December 1st estimate is insufficient to meet current operating expenses, the Board may revise the budget for the balance of the calendar year to such an amount as is actually necessary to pay wages and for materials, insurance, water and sewer charges, services and supplies, together with a reasonable amount which it considers necessary as a reserve for future needs, contingencies, and replacements; and, in such event, the Board shall, within fifteen (15) days of the revision, notify the Owner of each Unit, in writing, as to the amount of the revised budget, with the particulars therein itemized. The cash requirements shall then be assessed against the Owners of the Units according to each Owner's Allocated Interest, and on the first day of each month thereafter, each Owner shall be obligated to pay to the Executive Board, or as the Executive Board may direct, an amount equal to a fraction of the assessment made hereunder, the numerator of which shall be one (1) and the denominator of which shall be the number of months remaining in the then current year.

Notwithstanding any other provision herein, the Executive Board shall make suitable provision for compliance with all subdivision and other ordinances, rules and regulations of the City and for such purposes shall not be limited to any maximum Assessment.

10.3 Special Allocations: Notwithstanding anything contained herein to the contrary, the Executive Board shall, pursuant to Section 448.3-115(3)(2) of the Act, assess any common expense benefiting fewer than all of the Units exclusively against the Units benefited. Any such special assessment shall be based upon the ratio that the square footage of the Unit being assessed bears to the aggregate square footage of all Units benefited.

10.4 Accounting and Shortages: By June 15th of each year, the Executive Board shall supply to all Owners an itemized accounting of all income and expenses of the preceding calendar year. Any Common Surplus, as shown in such accounting, less reserves for future needs and contingencies, shall be credited according to each Owner's Allocated Interest to the next monthly installments due under the current year's estimate, until exhausted. One-sixth (1/6th) of any net shortages will be added, according to each Owner's Allocated Interest, to the installment due in each of the next six (6) succeeding months after the rendering of the accounting.

10.5 Liability: A Unit shall become liable for assessments under this Indenture upon issuance of an occupancy permit, and thereafter, the liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Element, services or recreation facilities, if applicable, or by abandonment of the Unit against which the assessment was made. Declarant shall not be liable for Assessments on unsold Units with the exception of its obligations if any under the Master Indenture (as defined in Section 3.6 of this Declaration).

10.6 Interest: Assessments and installments thereof not paid when due shall bear interest from the due date until paid at the annual rate of eighteen percent (18%) per annum.

10.7 Liens: The Association shall have a lien upon each Unit to secure the personal obligation of the respective Unit Owner for any unpaid assessment and interest thereon. Such lien shall also secure attorney's fees, Court costs and costs of suit incurred by the Association incident to the collection of such assessment or enforcement of such lien. Notice of the lien may be recorded in the St. Charles County Records, but no such recording shall be necessary to perfect such lien which shall be effective from and as of the time the assessment becomes due; provided, however, such lien shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of the recording of the claim of lien by the Association and to the other liens and encumbrances granted priority under Section 448.3-116(2) of the Act. The Executive Board may take such action as is deemed necessary to collect assessments by either an *in personam* action or lien foreclosure, or both, and may settle and compromise the same if deemed to be in the best interest of the Association.

10.8 Foreclosure of Liens: Liens for assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property under Sections 443.190 RSMo. 2000, et seq., as amended. The Association may purchase the Unit at foreclosure sale and apply as a cash credit against its bid all sums due the Association secured by the lien being enforced, and the Association may hold, lease, mortgage and convey any Unit so acquired.

10.9 Liability of Purchasers at Foreclosure: If the holder of a mortgage or deed of trust of record or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of said mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of Common Expenses or assessments pertaining to such Unit or chargeable to the former Unit Owner which became due prior to acquisition of title as a result of the foreclosure, unless such Expenses or assessments were due and constituted a lien against the Unit prior to a recording of the foreclosed mortgage. Such unpaid share of Common Expenses or assessments shall be deemed to be a Common Expense, collectible from all

Unit Owners, including such acquirer, his successors and assigns. A mortgagee or other purchaser acquiring title to a Unit as a result of foreclosure or a deed in lieu of foreclosure may not, during the period of its ownership of such Unit, whether or not such Unit is unoccupied, be excused from the payment of Common Expenses coming due during the period of such ownership.

10.10 Right to Deny Use of Common Facilities: In addition to the foregoing remedies, the Executive Board shall have the right to deny any Owners who are delinquent in the payment of assessments levied hereunder the right to use such common facilities as the Executive Board shall from time to time determine.

10.11 Priority of Mortgages: Nothing contained herein shall abridge or limit the rights or responsibilities of mortgagees of Units as set forth in the Act.

10.12 Change of Ownership: Upon the conveyance of any Unit in the Condominium other than a conveyance by Declarant, the conveying Owner or grantee of such Unit shall give the Association written notice of such conveyance and remit to the Executive Board a working capital reserve in an amount equal to the current charges to establish the new owner with the property management company. Said reserve shall be held and applied by the Executive Board for the purposes set forth in Section 10.1 of this Declaration, and until paid, shall constitute a lien on the transferred Unit.

ARTICLE 11

MORTGAGES

Each Unit Owner shall have the right to grant one or more mortgage or deed of trust liens against such Unit Owner's interest in the Condominium Property. Upon written request to the Executive Board, the holder of any duly recorded mortgage or deed of trust against any Unit Owner's interest in the Property shall be given a copy of all notices permitted or required by this Declaration to be given to the respective Unit Owner, and without limiting the generality of the foregoing, shall specifically be given written notice of any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage; any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Unit on which it holds the mortgage; a lapse, cancellation, or material modification of any insurance policy maintained by the Association, and any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

ARTICLE 12

INSURANCE

12.1 Purchase of Insurance: The Association shall obtain insurance in the form prescribed in the Act with the coverages contained in Section 12.3 hereof, together with such other insurance as the Association deems necessary, in a company with an "A" rating or better from either A.M. Best Company, Demotech, Inc., or Standard and Poor's, Inc., authorized to do business in the State of Missouri. The premiums for such coverage and other expenses in connection with said insurance shall be assessed against the Unit Owners as part of the Common Expenses. The named insured shall be the Association, individually and as agent for the Unit Owners, without naming them, and as agent for

their mortgagees. Notwithstanding any provision contained herein to the contrary, the insurance maintained pursuant to Section 12.3(a) hereof shall insure the Units as originally constructed and all fixtures (but not personal property) therein or forming a part thereof including, but not limited to, carpeting, cabinets, plumbing and interior partitions; provided as the Declarant sold the unit, and the individual Unit Owners shall be responsible for procuring insurance on any extras thereto or upgrades therefrom. Unit Owners shall obtain personal insurance coverage for their personal property, for their responsibilities of the Unit including Master Insurance Policy deductible(s) and improvements and betterments made after the Unit was first sold by Declarant, for their personal liability, and their additional living expenses at their own expense.

12.2 Mortgagees: The Association shall make provision for its insurer to issue mortgagee endorsements and memoranda of insurance to all lenders holding a deed of trust, mortgage or other security interest in a Unit in the Condominium, and all such policies shall provide for notice of lapse, cancellation or material modification to be given to such mortgagees.

12.3 Coverage:

(a) The Building and other Improvements shall be insured in an amount equal to the maximum insurance replacement value, excluding foundation and excavation costs, and all personal property included in the Common Elements shall be insured for its full insurable replacement value, said value to be determined annually by the Association. Such coverage shall afford protection against:

(i) Loss or damage by fire and other hazards covered by Special Causes of Loss or Special Form coverage and all other perils customarily covered for similar projects; and

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Building including, but not limited to, earthquake.

The Master Insurance Policy held by the Association will have a deductible(s). The responsibility to pay these deductible(s) and any future deductibles shall be as follows:

1. If a loss is to the "Common Elements" only, the deductible shall be paid by the Association. However, if a loss is directly caused by a unit owner or his equipment; a family member or guest; a tenant or their family or guests; then the deductible shall be paid by that unit owner.

2. If a loss is to the Unit or Limited Common Element, the Owner shall be responsible to pay the deductible.

3. If a loss involves more than one Unit or Limited Common Elements, then the unit owners involved in the loss shall share the Master Policy deductible equally, to the extent of their loss. However, if a loss is directly caused by a unit owner or his equipment; a family member or guest; a tenant or their family or guests; then the deductible shall be paid by that unit owner.

Further, each such policy shall waive all rights of subrogation against the Unit Owners; provide that the coverage afforded thereby will not be prejudiced by any acts or omissions of individual Unit

Owners not under the control of the Association; and be primary even if a Unit Owner maintains other insurance covering the same loss.

(b) Public liability in such amounts and with such coverage (which shall not be less than \$1,000,000 for bodily injury and property damage of any single occurrence) as shall be maintained by the Association including, but not limited to, hired automobile and non-owned automobile coverages. Each Unit Owner shall be an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association.

(c) Worker's compensation insurance as required by and meeting the requirements of the laws of Missouri.

(d) Fidelity insurance on the Treasurer of the Association and all other persons or entities handling funds of the Association, including, but not limited to, employees of any professional managers of the Condominium, in an amount equal to a minimum of 150% of the estimated annual operating expenses of the Condominium, plus reserves.

(e) Directors and Officers Liability Insurance.

(f) Such other insurance as the Association shall determine from time to time to be desirable.

12.4 Premiums: Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

12.5 Shares of Proceeds: All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their interests may appear. All proceeds covering property losses shall be paid to the Condominium Association. The duty of the Association shall be to receive such proceeds as are paid and use for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

(a) Common Elements: Proceeds on account of damage to Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, and an undivided share of any excess shall be held for each Unit Owner, such share being the same as the Allocated Interest appurtenant to his Unit.

(b) Units: Proceeds on account of damage to Units shall be held in the following undivided shares:

(i) When the Units are not to be restored, for the Owners of the damaged Units.

(ii) When the Units are to be restored, any excess over the amount needed to effect such restoration shall be held for each Unit Owner, such share being the same as the Allocated Interest appurtenant to his Unit.

(c) Mortgages: In the event a mortgagee endorsement has been issued as to a Unit, the share of that Unit Owner shall be held for the mortgagee and the Unit Owner, as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the

determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except those proceeds paid to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

12.6 Association as Agent: The Association is hereby irrevocably appointed agent for each Unit Owner, for each holder of a mortgage or other lien upon a Unit, and for each owner of any other interest in the Condominium Property, with power to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims. The Association shall provide each holder, insurer or guarantor of a mortgage or other lien upon a Unit with notice of any casualty loss which affects a material portion of the Condominium or a Unit upon which there is a first mortgage or deed of trust.

12.7 Unit Owner's Obligation: Each Unit Owner shall have the obligation to purchase a personal insurance policy providing insurance coverage for their personal property, for their responsibilities toward the Unit including the Master Insurance Policy deductible(s) and improvements and betterments made after the Unit was first sold by Declarant, for their personal liability, and their additional living expenses at their own expense.

ARTICLE 13

RECONSTRUCTION OR REPAIR AFTER CASUALTY

13.1 Determination to Reconstruct or Repair: If any part of the Condominium Property is damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

(a) Common Element: If the damaged Improvement is a Common Element, the damaged property shall be reconstructed or repaired unless it is determined in the manner elsewhere provided herein that the Condominium shall be terminated.

(b) Condominium Building:

(i) Minor damage: If the damaged Improvement is a Building, and if Units to which fifty percent (50%) or more of the damaged Common Elements are appurtenant are found by the Executive Board to be tenantable, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty, it is determined by agreement in the manner elsewhere provided herein that the Condominium shall be terminated.

(ii) Major damage: If the damaged Improvement is a Building, and if Units to which more than fifty percent (50%) of the damaged Common Elements are appurtenant are found by Executive Board to be untenable, the damaged property shall not be reconstructed or repaired and the Condominium shall be terminated unless, within sixty (60) days after the casualty, the Owners of seventy-five percent (75%) of the Units appurtenant to such damaged Common Elements agree in writing to such reconstruction or repair.

13.2 Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Condominium Building or, if not, then in accordance with the plans and specifications approved by the Association, and, if the damaged property is a Condominium Building, by the Owners of not less than seventy-five percent (75%) of the Units, whose approval shall not be unreasonably withheld, and by at least fifty-one percent (51%) of the Eligible Mortgage Holders.

13.3 Responsibility: If the damage is only to those portions of a Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility for reconstruction and repair after casualty shall be the Association's.

13.4 Estimate of Costs: Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility for reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

13.5 Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the Unit Owners who own the damaged Units and against all Unit Owners in the case of damage to the Common Elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction and repair of their Units, and assessments on account of damage to Common Elements shall be in proportion to the Owners' share in the Common Elements.

ARTICLE 14

LIENS

14.1 Against Condominium Property: Except as provided in Section 14.2, no liens of any nature shall arise or be created subsequent to the recording of this Declaration against the Condominium Property (as distinguished from individual Units) without the unanimous consent of the Unit Owners. Subsequent to such recording, liens may arise or be created only against individual Units.

14.2 Against Units: Unless a Unit Owner has expressly requested or consented to work being performed or materials being furnished to his Unit, such labor or materials may not be the basis for the filing of a lien against such Unit. No labor performed or material furnished to the Common Elements shall be the basis for a lien on the Common Elements unless authorized by the Association, in which event the same may be the basis for the filing of a lien against all Units in proportion to each Owners' Allocated Interest.

14.3 Against Several Units: In the event a lien against two (2) or more Units becomes effective, each owner thereof may release his Unit from the lien by paying the proportionate amount attributable to his Unit. Upon such payment, it shall be the duty of the lienor to release the lien of record for such Unit.

ARTICLE 15

BREACHES

The violation of a restriction, condition or regulation adopted by the Executive Board, or the breach of any covenant or provision in this Declaration or in the By-Laws contained, shall give the Board the power:

(a) To enter the Unit and do the work necessary to enforce compliance with said covenants and provisions, to assess the Unit Owner and the Unit for the sums necessary to restore the Unit to good condition, and to collect such assessment, including attorney's fees. The Association shall have a lien against such Unit to secure such assessment which may be perfected and enforced in the manner provided in Sections 10.7 and 10.8 of this Declaration; or

(b) To enter upon the land or Unit upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and in so doing, neither Declarant nor the Association or the Executive Board or its agents, shall be deemed guilty in any manner of trespass; and any costs incurred associated with such action, including attorney's fees shall be assessed against the Unit Owner; or

(c) To enjoin the breach or seek damages therefor by appropriate legal proceedings; and to collect such assessment including Court costs, attorney's fees, costs of suit, and all other expenses of the proceeding from the Owner; or

(d) If such violation shall continue for ten (10) days after notice in writing from the Executive Board, or shall occur repeatedly during any thirty (30) day period after written notice or request to cure such violation from the Board, then the Executive Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the rights of said defaulting Owner to continue as an Owner and to continue to use, occupy and control his Unit and thereupon an action in equity may be filed by the Executive Board against the defaulting Owner, subject to the prior written consent of any mortgagee having a security interest in the Unit of the defaulting Owner, for a decree declaring the termination of the defaulting Owner's right to occupy, use and control the Unit owned by him on account of the breach of covenant, and ordering that all right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale, upon such notice and terms as the Court shall establish, except that the Court shall enjoin and restrain the defaulting Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge Court costs, master's or commissioner's fees, court reporter charges, attorney's fees and all other expenses of the proceeding, and all such items shall be taxed against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid Assessments hereunder and any liens against the Unit, shall be paid to the Owner. Upon the confirmation of such sale, the purchaser shall be entitled to a deed to the Unit and to immediate possession of the Unit, and may apply to the Court for a writ of execution for the purpose of acquiring such possession. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Property sold subject to this Declaration, and the purchaser shall become an Owner in the place and stead of the defaulting Owner.

Each Unit Owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions regardless of the harshness of the remedy available to the Association and regardless of the availability of other equally adequate procedures. It is the intent of all Unit Owners to give to the Association such powers and authority which will enable it to operate on a business like basis, to collect those monies due and owing to it from Unit Owners, and to preserve each Unit Owner's right to enjoy his Unit free from unreasonable restraint and nuisance.

ARTICLE 16

FORM OF NOTICES

Any notice, demand, request, consent, approval or other communication provided for in the Act or this Declaration, or desired to be given by any party to any other party or parties, shall be in writing, and shall be deemed to have been given and received when personally delivered or two (2) business days after deposited with the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed, as the case may be, prior to termination of Declarant Control under the Declaration, to the Registered Agent of Declarant at 220 Salt Lick Road, St. Peters, MO 63376 and subsequently may be changed by the Board as appropriate. The Board may designate a different address or addresses for notices to it by giving notice of such change of address to all Owners. Any Unit Owner shall receive notice at the address of his Unit, or in either case at such other address as is hereafter provided. Any Unit Owner may also designate a different address or addresses for notices to him by giving notice of his change of address to the Executive Board.

ARTICLE 17

EMINENT DOMAIN

In the event it shall become necessary for any public agency to acquire all or any part of the Common Elements for any public purpose, the Executive Board is hereby authorized to negotiate with such public agency for such acquisition and to execute any and all instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Association need be made party, and in any event the proceeds received shall be held by the Association for the benefit of those entitled to the use of the Common Elements. The Association shall provide each holder, insurer or guarantor of a mortgage or other lien upon a Unit with notice of any condemnation loss which affects a material portion of the Condominium or a Unit upon which there is a first mortgage or deed of trust held, insured or guaranteed.

ARTICLE 18

GENERAL PROVISIONS

18.1 **Binding Effect:** All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, shall run perpetually unless terminated as provided herein and shall be binding upon all Unit Owners. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and

all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, the Articles and By-Laws. Both the burdens imposed and the benefits provided by this Declaration, the Articles and the By-Laws shall run with each Unit and the interests in Common Elements.

18.2 **Invalidity:** If any provisions of this Declaration, the Articles or By-Laws or the Act, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of this Declaration, the Articles, By-Laws and the Act, and of the application of any such invalid provision, section, sentence, clause, phrase, or word in other circumstances shall not be affected thereby.

18.3 **Remedies:** Notwithstanding any provision hereof to the contrary and without limiting any other remedy herein provided, the remedies provided by the Act for violation of any of the terms, covenants or provisions hereof shall be in full force and effect. In addition thereto, should the Association find it necessary to institute legal action to bring about compliance with the Act, this Declaration, the Articles and By-Laws or the Association's Rules and Regulations, upon a finding by the court that the violation complained of occurred, the defendant Unit Owner shall reimburse the Association for attorney's fees, court costs, and costs of suit incurred by it in bringing such action, and the Association shall have a lien under Article 10 to secure the same.

18.4 **Construction:** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Condominium. Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of plural shall include the singular and the singular shall include the plural.

ARTICLE 19

AMENDMENTS

19.1 **Amendments Required by Mortgagees:** There shall automatically be incorporated as part of this Declaration and, where applicable, the Articles and By-Laws of the Association, any and all provisions which now or hereafter may be required by any agency of the United States Government which holds a first mortgage encumbering a Unit or insures or guarantees to the holder thereof the payment of the same, and the provisions required by any such governmental agency shall supersede any conflicting matters contained in this Declaration, the Articles and By-Laws. Should the governmental agency require an amendment to this Declaration, the Articles and By-Laws, then said amendment may be made and filed by the Declarant or Association without regard to any other provisions herein contained regarding amendments and without any requirement of securing the consent of any Unit Owner.

19.2 **By Declarant:** This Declaration may be amended by Declarant at any time and from time to time during his control, to add to the Condominium and the Property subject to this Declaration. In the event any Units are withdrawn from the Condominium, then the interest in the Common Elements for Owners of Units included in the Condominium shall be determined by multiplying the immediately prior Allocated Interest of such Owners by a fraction, the numerator of which shall be the total square footage of Units included in the Condominium prior to the proposed amendment, and the denominator of which shall be the total square footage of Units included in the Condominium after the proposed amendment. Acceptance of a deed from Declarant to any Unit in the

Condominium shall constitute the consent of the Owner of such Unit, their successors and assigns, to any such amendment(s) to the Declaration.

19.3 By Unit Owners:

(a) This Declaration may be amended at any regular or special meeting of Unit Owners called or convened in accordance with the By-Laws by the affirmative vote of sixty-seven percent (67%) of the Allocated Interests; provided, however, no amendment of a "material nature" may be adopted without the approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders. As used herein, an amendment shall be deemed "material" if it changes any provision governing voting rights; increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens; reductions in reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interest in the Common Elements or Limited Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property to or from the Condominium; hazard or fidelity insurance requirements; imposition of any restrictions on the leasing of Units; imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; a decision by the Association to establish self-management if professional management had been previously required; restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in this Declaration; or any provisions that expressly benefit mortgage holders, insurers, or guarantors.

(b) All amendments shall be evidenced by a certificate executed as required by the Act and recorded in the St. Charles County Records; provided, however, that except as otherwise provided in this Declaration:

(i) No amendment shall change the configuration or size or modify the appurtenances to a Unit or Allocated Interest of a Unit Owner unless the Owner and all record owners of liens on the Unit shall join in the execution of such amendment and unless the record owners of all other Units approve the amendment; and

(ii) No amendment shall be passed which shall impair or prejudice the rights and priorities of any mortgagee or the Declarant.

(c) Notwithstanding anything to the contrary herein, the Declarant reserves the right to amend the Declaration and any Exhibits hereto so as to correct any errors or omissions not affecting the rights of Unit Owners, lienors or mortgagees. Such amendment need only be executed and acknowledged by the Declarant, and need not be approved by the Association, Unit Owners, lienors, mortgagees or any other party whether or not their joinder is elsewhere required for other amendments.

19.4 To Plat:

(a) Declarant reserves the right to change the interior design and arrangement of all Units and to alter the boundaries between the Units so long as Declarant owns the Units so altered. No such change shall increase the number of Units nor materially alter the boundaries of the Common Elements without amendment of this Declaration. If more than one Unit is involved, the Declarant shall apportion between the Units the shares of the Common Elements which are appurtenant to the Units concerned.

(b) The amendment of this Declaration reflecting such authorized alteration of the Plat by Declarant need only be signed and acknowledged by the Declarant, and need not be approved by the Association, Unit Owners, lienors, mortgagees or any other party, whether or not their joinder is elsewhere required for other amendments.


ARTICLE 20

TERMINATION OF CONDOMINIUM

If 80% of the Unit Owners and the holders of all liens and mortgages upon all of the Units execute and duly record an instrument terminating the Condominium, or if "major damage" (as defined in Article 13 hereof) occurs, said Property shall be removed from the provisions of the Act and this Declaration and shall thereafter be deemed owned in common by all Unit Owners. The undivided interest in the Condominium Property owned in common by each Unit Owner shall then be the Allocated Interest previously held by such Owner, and liens which encumbered any Unit shall be transferred to the undivided share of the Unit Owner in the Condominium Property attributable to the Unit originally encumbered by the lien in its same priority. Notwithstanding anything contained herein to the contrary, at least fifty-one percent (51%) of the Eligible Mortgage Holders must approve the removal of the Property from the provisions of the Act and this Declaration following major damage

IN WITNESS WHEREOF, the Declarant has executed these presents the day and year first above-written.

**The Charleston at Heritage, LLC
a Missouri corporation**

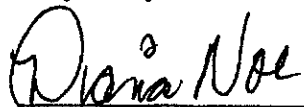
BY: 
Timothy A. Griffey,
Managing Member



STATE OF MISSOURI)
) SS
COUNTY OF ST. CHARLES)

On this 25 day of October, 2006, before me personally appeared Timothy A. Griffey, Managing Member of The Charleston at Heritage, LLC, a Missouri corporation, known to me to be the person who executed the foregoing in behalf of said corporation and acknowledged to me that he executed the same for the purposes therein stated.

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


Notary Public

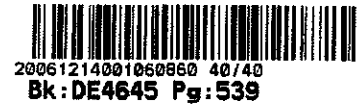


EXHIBIT A

PROPERTY DESCRIPTION

A tract of land being part of "Charleston at Heritage Easement Plat", according to the plat thereof recorded in Plat Book 43, Page 86 of the St. Charles County Records, in U.S. Survey 23 and Fractional Section 11, Township 46 North, Range 4 East of the Fifth Principal Meridian. St. Charles. Missouri.