

**DECLARATION OF CONDOMINIUM
OF
CHERRY HILL TOWNHOUSES, A CONDOMINIUM**

Table of Contents i-iii

ARTICLE 1. SUBMISSION 1

Section 1.1 Property 1

Section 1.2 Address of Condominium 1

ARTICLE 2. DEFINITIONS 1

Section 2.1 Terms Defined in the Act 1

Section 2.2 Terms Specifically Defined in This Declaration 1

Section 2.3 Provisions of the Act 3

ARTICLE 3. UNIT BOUNDARIES AND MAINTENANCE RESPONSIBILITIES 4

Section 3.1 Unit Boundaries 4

Section 3.2 Relocation of Unit Boundaries 5

Section 3.3 Maintenance Responsibilities 5

ARTICLE 4. DESCRIPTION AND ALLOCATION OF COMMON
ELEMENTS AND LIMITED COMMON ELEMENTS 6

Section 4.1 Description of Common Elements 6

Section 4.2 Description of Limited Common Elements 6

Section 4.3 Specified Limited Common Elements 6

Section 4.4 Location of Common and Limited Common Elements 7

Section 4.5 Reserved Common Elements 7

Section 4.6 Alteration of Common Elements by the Declarant 7

Section 4.7 Allocation of Parking Spaces 7

ARTICLE 5. ALLOCATION OF PERCENTAGE INTERESTS, COMMON
EXPENSES AND VOTING RIGHTS 7

Section 5.1 Percentage Interests 7

Section 5.2	Common Expenses	7
Section 5.3	Allocation of Unit Owner's Voting Rights.....	8
ARTICLE 6. EASEMENTS		8
Section 6.1	Additional Easements	8
Section 6.2	Reservation of Easement Rights	12
ARTICLE 7. RESTRICTIONS ON USE, SALE AND LEASE OF UNITS.....		12
Section 7.1	Use	12
Section 7.2	Sale and Lease of Units.....	13
ARTICLE 8. RIGHTS OF MORTGAGEES, INSURERS AND GUARANTORS.....		14
Section 8.1	Subject to Declaration.....	14
Section 8.2	Rights of Eligible Mortgage Holders	14
Section 8.3	Rights of Mortgage Holders, Insurers or Guarantors.....	15
Section 8.4	Liability for Use and Charges	15
Section 8.5	Condemnation Rights.....	16
Section 8.6	Books and Records	16
ARTICLE 9. INSURANCE.....		16
Section 9.1	Types and Amounts	16
Section 9.2	Required Provisions.....	17
Section 9.3	Insurance Trustee and Power of Attorney.....	19
Section 9.4	Repair of Damage or Destruction to Condominium	19
Section 9.5	Additional Insurance.....	19
Section 9.6	Unit Owner's Insurance	21
ARTICLE 10. LIMITATION OF LIABILITY		22
Section 10.1	Limited Liability of the Executive Board	22
Section 10.2	Indemnification	23
Section 10.3	Joint and Several Liability of Unit Owners and Lessees	23
Section 10.4	Defense of Claims.....	23
Section 10.5	Storage; Disclaimer of Bailee Liability.....	23
ARTICLE 11. UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN		24
Section 11.1	Applicability of Condominium Documents.....	24
Section 11.2	Eminent Domain.....	24
ARTICLE 12. EXECUTIVE BOARD OF THE ASSOCIATION		24
Section 12.1	Members	24
Section 12.2	Disputes.....	25

Section 12.3	Abating and Enjoining Violations by Unit Owners	25
ARTICLE 13.	MANAGEMENT	25
ARTICLE 14.	ASSESSMENT; LIABILITY OF UNIT OWNERS	26
Section 14.1	Power to Assess	26
Section 14.2	Special Assessments	26
Section 14.3	Payment of Assessments	26
Section 14.4	Failure to Fix New Assessments	26
Section 14.5	No Exemption by Waiver	27
Section 14.6	Personal Liability of Unit Owners	27
Section 14.7	Liability of Purchaser of Unit for Unpaid Assessments	27
Section 14.8	Subordination of Certain Charges	27
Section 14.9	Surplus	27
ARTICLE 15.	DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS	27
Section 15.1	Reserved Development Rights	28
Section 15.2	Additional Units and Limited Common Areas	28
Section 15.3	General Development Rights and Special Declarant Rights and Easements	29
Section 15.4	Exercise of Rights	30
Section 15.5	Amendment	30
ARTICLE 16.	ASSIGNABILITY OF DECLARANT'S RIGHTS	30
ARTICLE 17.	AMENDMENT OF DECLARATION	30
ARTICLE 18.	TERMINATION	31
ARTICLE 19.	GENERAL PROVISIONS	31
Section 19.1	Headings	32
Section 19.2	Severability	32
Section 19.3	Applicable Law	32
Section 19.4	Interpretation	32
Section 19.5	Effective Date	32
Section 19.6	Notices	32
Section 19.7	Exhibits	32
Section 19.8	Pronouns	32
EXHIBIT A -	LEGAL DESCRIPTION OF REAL ESTATE	34
EXHIBIT B -	ALLOCATED INTERESTS	35
EXHIBIT C -	REDUCED COPY OF PLANS	36

DECLARATION OF CONDOMINIUM OF CHERRY HILL TOWNHOUSES, A
CONDOMINIUM
COLUMBIA, MISSOURI

THIS DECLARATION is made this _____ day of _____, 20____, by Muzzy Builders, Inc., a Missouri corporation with a place of business at 2202 Potomac Drive, Columbia, Missouri 65203 (the "Declarant"), as the owner in fee simple of the Real Estate hereinafter described.

Article 1
SUBMISSION

Section 1.1 Property. Declarant, the owner in fee simple of the Real Estate described in Exhibit A attached hereto and made a part hereof (the "Real Estate") situated in Columbia, Boone County, Missouri, hereby submits the Real Estate, together with and subject to all easements, rights and appurtenances thereto belonging and the Buildings and improvements erected or to be erected thereon (collectively, the "Property") to the provisions of Chapter 448, Missouri Revised Statutes, as the same may be amended from time to time, known as the Uniform Condominium Act (the "Act"). The initial Condominium consists of the land described in Exhibit A, representing a single lot, and the Building consisting of Units 1 through 5, inclusive, as depicted in the Plans (Exhibit C). The said Building consisting of Units 1-5 will be constructed in the first year of the Condominium. As set forth in Article 15 of this Declaration, the Declarant reserves certain development rights which may change the size and scope of the Condominium.

Section 1.2 Address of Condominium. The addresses of the units of the Condominium are:

4120, 4122, 4124, 4126, and 4128 Town Square Drive Columbia, Missouri,
65203

Article 2
DEFINITIONS

Section 2.1 Terms Defined in the Act. Capitalized terms are defined herein, otherwise they shall have the meanings specified or used in the Act.

Section 2.2 Terms Specifically Defined in This Declaration. In addition to the terms hereinabove defined, the following terms shall have the following meanings in this Declaration, the Bylaws, and Plans:

(a) "Association" means the Unit Owners Association of the Condominium, which is known as the "Cherry Hill Townhouses Unit Owners Association".

(b) "Buildings" (or in the singular, a "Building") means any residential, commercial, service or recreational structure or other improvement now or hereafter constructed on the Property.

(c) "Bylaws" means the document having that name and providing for the governance of the Association, pursuant to Section 448.3-106 of the Act, as such document may be amended from time to time.

(d) "Common Elements" (or in the singular, a "Common Element") means those parts of the Property either described in the Act as being Common Elements or described herein or in the Plans as being Common Elements.

(e) "Common Expenses" means expenditures made by or financial liabilities of the Association together with any allocations to reserves.

(f) "Condominium" means the Condominium described in Section 1.1 above.

(g) "Condominium Documents" includes the Declaration, Plans, Bylaws and Rules and Regulations.

(h) "Declarant" means Muzzy Builders, Inc., its successors and assigns.

(i) "Declaration" means this document, as the same may be amended from time to time.

(j) "Development Rights" means those rights, if any, which the Declarant has reserved to itself as set forth in Article 15 and elsewhere in this Declaration.

(k) "Eligible Mortgage Holder" means the holder of a recorded first mortgage or deed of trust on a Unit which has requested the Association to notify it of actions by the Association requiring the consent of Eligible Mortgage Holders under this Declaration.

(l) "Executive Board" means the Executive Board of the Association.

(m) "Insurance Trust Agreement" means that certain agreement, if any, between the Association and the Insurance Trustee providing for the management and disbursement of insurance proceeds in accordance with Section 9.3 hereof.

(n) "Insurance Trustee" means that certain entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.

(o) "Limited Common Elements" (or in the singular, a "Limited Common Element") means those parts of the Property either described in the Act as being Limited Common Elements or described herein or in the Plans as being Limited Common Elements.

(p) "Monthly Assessment" means the Unit owner's share of the anticipated Common Expenses, allocated by Unit, for each month of the Association's fiscal year as reflected in the budget adopted by the Executive Board for such year.

(q) "Mortgagee" means the holder of any recorded first mortgage or deed of trust encumbering one or more of the Units.

(r) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit, as set forth on Exhibit B attached hereto, as the same may be amended from time to time.

(s) "Property" means the Property described in Section 1.1 above.

(t) "Plans" means the Plans recorded herewith as such may be amended from time to time, reduced photocopies of which are attached hereto as Exhibit C.

(u) "Record" means to record in the office of the Boone County Recorder of Deeds.

(v) "Rules and Regulations" means such rules and regulations as are promulgated by the Declarant or the Executive Board from time to time with respect to the use of all or any portion of the Property.

(w) "Special Assessment" means a Unit owner's share of any assessment made by the Executive Board in addition to the Monthly Assessment.

(x) "Special Declarant Rights" means those rights which the Declarant has reserved to itself as set forth in Article 15 and elsewhere in this Declaration.

(y) "Unit" means a physical portion of the Condominium created by this Declaration or any amendment thereto and designated for separate ownership or occupancy, the boundaries of which are described in Article 3.

Section 2.3 Provisions of the Act. The provisions of the Act shall apply to and govern the operation and governance of the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the Condominium Documents.

Article 3

UNIT BOUNDARIES AND MAINTENANCE RESPONSIBILITIES

Section 3.1 Unit Boundaries.

(a) The boundary lines of each Unit are as shown on the Plans and are formed by the following planes:

(1) The Unit-side surface of the walls and partitions of the Buildings which enclose such Unit and separate it from adjoining Units or Common Elements, the Unit to include the thickness of the finish material such as plaster or drywall;

(2) The Unit-side surface of furring around utility shafts, and other Common Elements within or passing through such Unit, the Unit to include the thickness of the finish material such as plaster or drywall;

(3) The Unit-side surface of the ceiling of the uppermost story of the Unit and furring under and around (i) wood members and (ii) utility lines, ducts and cables, the Unit to include the thickness of the finish material such as plaster or drywall;

(4) The Unit-side surface of the concrete slab constituting the basement floor or bottom floor of the lowest story of such Unit, the Unit to include the thickness of the finish material such as carpet, ceramic or resilient tile or hardwood;

(5) The Unit-side surface of the sash of windows which are set in the exterior walls of such Unit, the exterior surface of the panes of such windows and the Unit-side surface of window sills, moldings, trim, jambs and mullions for such windows, the Unit to include the thickness of the finish material such as plaster or drywall; and

(6) The exterior surface of doors, and their sills and hardware, and the Unit-side surface of the door frames in which such doors are set, the Unit to include the thickness of the finish material such as plaster or drywall.

(b) Each Unit consists of all portions of the Building in which it is located within the aforesaid boundary lines, except the air space displaced by (i) structural members, firewalls including gypsum drywall finish, and load bearing partitions within or passing through such Unit which are deemed to be Common Elements and (ii) other Common Elements within such Unit including, without limitation, chutes, flues, ducts, wires, conduits and piperuns which serve more than one Unit. By way of illustration and not limitation, there is included within a Unit: (1) the air space enclosed by such boundary lines, (2) all nonload bearing partitions which are wholly contained within such boundary lines including, but not limited to, all doors, door frames, hardware, electrical outlets and wiring, telephone outlets and conduits and other equipment and devices in such partitions serving only such Unit, (3) all fixtures located within such boundary lines and serving only such Unit, and their water and waste connections, (4) all items of kitchen

equipment located within such boundary lines and serving only such Unit, and such equipment's water, waste and electrical connections, (5) heat pumps, exhaust fans and the grilles, registers, ventilation ducts, and related fixtures, and screens and storm windows, which serve only such Unit, whether or not any of the foregoing is located in any portion of the Common Elements, (6) lighting devices (including by way of illustration and not limitation, lamps and bulbs which are surface mounted on, recessed in or suspended from, ceilings, walls and partitions within or around the perimeter of such Unit) serving only such Unit, whether or not such lighting devices are themselves located entirely within the boundary lines of such Unit, (7) outlets, wires, cables, conduits, circuits and related equipment transmitting electricity for lighting and power or transmitting electrical impulses and signals (including, but not limited to, impulses and signals for telephone, telegraph and television transmission, except to the extent otherwise specifically provided herein) which serve only such Unit and which are located entirely within the boundary lines of such Unit, (8) surface mounted and recessed medicine cabinets including, by way of illustration and not limitation, all associated lighting fixtures and accessories, and (9) refrigerators, ranges, dishwashers and other appliances and the portions of their water, waste, electrical and exhaust connections located within such boundary lines and serving only such Unit.

(c) Each Unit's identifying number is shown on the Plans and on Exhibit B.

Section 3.2 Relocation of Unit Boundaries. Relocation of boundaries between Units will be permitted subject to compliance with the provisions therefor in Section 448.2-112 of the Act and subject to compliance with any conditions, restrictions or requirements imposed by the Executive Board. The cost for preparation and recordation of any documents required for the relocation of boundaries between Units shall be chargeable to the Units involved as a Special Assessment.

Section 3.3 Maintenance Responsibilities.

(a) The Association, through the Executive Board, shall be responsible for maintenance, repair and replacement of the Common Elements including, but not limited to the Limited Common Elements and the following:

(i) maintenance, repair and replacement of the drainage system for the Property;

(ii) maintenance, repair and replacement of the driveways and parking areas to be constructed by or on behalf of Declarant and depicted on the Plans; such maintenance to include, but shall not be limited to, snow removal;

(iii) maintenance, repair and replacement of the paved areas and walkways to be constructed or installed by or on behalf of Declarant, and depicted on the Plans; and

(iv) care and replacement of the trees, shrubbery, and other plantings already existing on the Property or planted by or on behalf of the Declarant.

(b) Each Unit owner is responsible for maintenance, repair and replacement of his Unit. Each Unit owner shall afford to the Association and other Unit owners, and to their agents and employees, access through his Unit reasonably necessary for the maintenance, repair and replacement of the Common Elements.

(c) Electric, gas, telephone, cable television, sewer and water utility service, and sprinkler system will be separately metered and each Unit owner will be responsible for the cost of such services furnished to his Unit.

Article 4

DESCRIPTION AND ALLOCATION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 4.1 Description of Common Elements. Common Elements shall mean those portions of the Buildings defined as such pursuant to Sections 448.1-103(4) and 448.2-102(1) of the Act, except as provided otherwise herein, or as identified and designated as Common Elements in the Plans, including, but not limited to, the following:

(a) the drainage system for the Property;

(b) the driveways and parking areas to be constructed by or on behalf of Declarant and depicted on the Plans;

(c) paved areas and walkways to be constructed or installed by or on behalf of Declarant and depicted on the Plans;

(d) the trees, shrubbery and other plantings already existing on the Property or planted by or on behalf of the Declarant.

Section 4.2 Description of Limited Common Elements. Limited Common Elements shall mean those portions of the Buildings defined as such pursuant to Sections 448.2-102(2) and (4) of the Act or as identified and designated as Limited Common Elements on the Plans, or by Section 4.3 hereof. Those portions of the Limited Common Elements serving only the Unit above, below or adjacent to such Limited Common Element, as the case may be, are Limited Common Elements allocated only to the Unit which they serve. The Limited Common Elements designed to serve, or designated for, a specific Unit, are hereby allocated solely and exclusively to such Unit, and shall be used solely by the Unit Owner of such Unit, and the occupants of such Unit, and the tenants, guests, designees and invitees of the Owners or occupants of such Unit, to the exclusion of all of the Owners of other Units and their tenants, guests, and invitees.

Section 4.3 Specified Limited Common Elements. The following portions of the Buildings or the Property are hereby designated as Limited Common Elements: shutters, awnings, window boxes, doorsteps, stoops, balconies, porches, decks, lawns, and patios, if any,

which are not part of the Unit but which are adjacent to and serve only such Unit. Also designated as Limited Common Elements are those lawns which are adjacent to and serve only such Unit.

Section 4.4 Locations of Common and Limited Common Elements. The locations of the Common Elements and Limited Common Elements are shown on the Plans. Pursuant to Section 448.2-102(4) of the Act, a shutter, awning, window box, doorstep, stoop, balcony, porch, deck, lawn, or patio, if any, shown adjacent to a Unit is a Limited Common Element appurtenant to that Unit.

Section 4.5 Reserved Common Elements. The Executive Board shall have the power in its discretion from time to time to grant revocable licenses in designated Common Elements to the Association or to any Unit owners and to establish a reasonable charge to such Unit owners for the use and maintenance thereof. Such designation by the Executive Board shall not be construed as a sale or disposition of the Common Elements.

Section 4.6 Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period. Such rights do not include rights to add or remove real estate not deemed to be fixtures.

Section 4.7 Allocation of Parking Spaces. The Declarant reserves the right, until the construction, marketing and sale of all Units is completed, including any future Units which may be added to the Condominium pursuant to Article 15 of this Declaration, to allocate to particular Units as Limited Common Elements the parking spaces shown on the Plans. Such right shall be deemed a Development Right and shall be subject to the terms and conditions set forth in the said Article 15 of this Declaration. After the expiration of such Development Right pursuant to Article 15 of this Declaration, the Executive Board shall have the power in its discretion from time to time to so allocate those parking spaces.

Article 5

ALLOCATION OF PERCENTAGE INTERESTS, COMMON EXPENSES AND VOTING RIGHTS

Section 5.1 Percentage Interests. Attached as Exhibit B hereto is a list of all Units by their Identifying Number and the Percentage Interest appurtenant to each Unit, determined by dividing the number one by the number of Units, giving each such Unit an equal Percentage Interest.

Section 5.2 Common Expenses. The liability of each Unit for the Common Expenses of the Condominium shall be the same percentage share as the Percentage Interest set forth on Exhibit B, and as such shall initially be 20% per Unit.

Section 5.3 Allocation of Unit Owner's Voting Rights. Each Unit owner shall be entitled to one (1) vote for each Unit owned by him to permit equality among Units.

Article 6 EASEMENTS

Section 6.1 Additional Easements. In addition to the easements provided for by the Act, the following easements are hereby created:

(a) All Units shall be subject to an easement in favor of the Declarant pursuant to Sections 448.2-115 and 448.2-116 of the Act. The Declarant reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices for this and other projects or customer service offices; and the Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Prior to assignment as Limited Common Elements, the Declarant shall have the right to restrict the use of certain Common Element parking areas for sales purposes and to use such areas for sales purposes. This easement shall continue until the Declarant has conveyed all Units in the Condominium to Unit owners other than the Declarant.

(b) The Units and Common Elements shall be, and hereby are, made subject to easements in favor of the Declarant, other Unit owners, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section 6.1(b) shall include, without limitation, rights of the Declarant, any Unit owner or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, and equipment and ducts and vents over, under, through along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 6.1(b), any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant or so as not to materially interfere with the use or occupancy of the Unit by its occupants. With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements, the Executive Board shall have the right and power to dedicate and convey title to the same to any private or public utility company. The Executive Board shall also have the right and power to convey permits, licenses and easements over the Common Elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment to any private or public utility company. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the Common Elements for the building and maintenance of roads and for other purposes necessary for the proper operation of the Condominium.

(c) The Declarant reserves for as long as it is entitled to exercise any Development Right an easement on, over and under those portions of the Common Elements not located within a Building for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 6.1(c) expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary. The Declarant or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

(d) The Common Elements (other than the Limited Common elements) shall be, and hereby are made, subject to an easement in favor of the Unit owners and their invitees, employees, tenants and servants, the Association and the agents and employees of the Association for access, egress and ingress over, through and across each portion thereof, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe; provided that nothing contained herein shall create any access easement in favor of Unit owners with respect to such portions of the Common Elements which are not needed in order to gain access to one or more Units and as to which the Executive Board may from time to time determine it to be necessary or desirable to limit or control access by Unit owners or the occupants of Units, or both, including, by way of illustration and not limitation, machinery and equipment rooms, and any management agent's office, provided, however, that every Unit owner shall have an unrestricted right of ingress and egress to his Unit.

(e) The Common Elements and Units are subject to an easement in favor of the Declarant for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements.

(f) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements (including, but not limited to, the Limited Common Elements).

(g) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to the following easements in favor of the Units benefitted:

(1) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are part of or exclusively serve a single Unit and which pass across or through a portion of the Common Elements;

(2) For the installation, repair, maintenance, use, removal and/or replacement of overhead lighting fixtures, electrical receptacles and the like which are located in a portion of the ceiling,

wall or floor adjacent to a Unit which is a part of the Common Elements; provided that the installation, repair, maintenance, use, removal or replacement of such fixtures, receptacles and the like does not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken the Buildings;

(3) For driving and removing nails, screws, bolts and the like into the Unit-side surface of walls, ceilings and floors which are part of the Common Elements; provided that such action will not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken the Buildings; and

(4) For the maintenance or the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Element or Limited Common Element on the date this Declaration is recorded or any amendment hereof is recorded.

(h) To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building in which it is located, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in that particular Building, the Common Elements and the Limited Common Elements.

(i) The Units and the Limited Common Elements are hereby made subject to the following easements:

(1) In favor of the Association and its agents, employees and independent contractors, (i) for inspection of the Units and Limited Common Elements in order to verify the performance by Unit owners of all items of maintenance and repair for which they are responsible, (ii) for inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements or both, (iii) for correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements, the Limited Common Elements and/or the Units, (iv) for any of the purposes set forth in Section 6.1(j) or Section 6.1(k) hereof, and (v) to do any other work reasonably necessary for the proper maintenance of the Condominium, it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with a Unit Owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 6.1(i)(1) and the following Section 6.1(i)(2) or both;

(2) In favor of the Unit owner benefitted thereby and the Association and its agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, electrical, telephone, telegraph or other communication systems and all other utility lines and conduits which are part of the Common Elements and which pass across or through a portion of one or more Units.

(j) Whenever in this Declaration and the Plans a boundary line of a Unit is described as being the Unit-side surface of the concrete slab constituting the basement floor or the bottom floor of the lowest story of the Unit, it is intended thereby, and it is hereby declared, that the owner of such Unit shall have an easement for the purpose of affixing and removing carpeting, parquet flooring and other floor coverings; and otherwise decorating, cleaning and maintaining such surface, all at the cost and expense of the owner of such Unit; it being understood and agreed that the Association acting by its Executive Board on behalf of all Unit owners, shall, at all times while this Declaration is in effect, retain the right and duty to maintain, repair and/or replace such concrete slab of which said surfaces are a part, notwithstanding the fact that such maintenance, cleaning, repair or replacement may temporarily adversely affect the Unit owner's aforesaid easement and right to use the said Unit-side surface of such concrete slab.

(k) Wherever in this Declaration and the Plans a boundary line of a Unit is described as being the Unit-side surface of a designated portion of the Property, it is intended thereby, and it is hereby declared, that the owner of such Unit shall have an easement for the purpose of decorating such surfaces and affixing thereto and removing therefrom paint, wallpaper, other decorative material, pictures, mirrors, wall systems and decorative articles, and (with respect to all such portions of the Property) cleaning and maintaining such surfaces, all at the cost and expense of the owner of such Unit; except in the event of maintenance, repair or replacement occasioned by a loss insured against by the policy or policies of insurance maintained by the Association pursuant to Article 9 hereof. It is understood and agreed that the Association, acting by its Executive Board on behalf of all Unit owners, shall, at all times while this Declaration is in effect, retain the right and duty to maintain, repair and/or replace the portions of the Property of which said surfaces are a part, notwithstanding the fact that such maintenance, cleaning, repair or replacement may temporarily adversely affect the unit owner's aforesaid easement and right to use the Unit-side surface of such portion of the Property.

(l) If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results either in the Common Elements encroaching on any Unit, or in any Unit encroaching on the Common Elements or on any other Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

(m) All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, including by way of illustration but not limitation the Units and the Common Elements, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

Section 6.2 Reservation of Easement Rights. Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under Article 15 of this Declaration, the Declarant reserves the right to grant to any third party any license or easement in, on, over or through the Property, in addition to and not in limitation of those set forth above, which license or easement is determined by the Declarant, in its reasonable

judgment, to be necessary for the development or improvement of the Property. Any such license or easement granted hereunder may be recorded by the Declarant at its sole cost and expense. The Association, at the request of the Declarant, shall execute and deliver in recordable form any instrument or document necessary or appropriate to confirm the grant of such license or easement.

Article 7

RESTRICTIONS ON USE, SALE AND LEASE OF UNITS

Section 7.1 Use. The following restrictions shall apply to the use of the Condominium:

(a) The Units (with the exception of any such Units during the time period when they are being used by the Declarant as a sample, model or sales office) are restricted to residential use. The Units may not be used for any other purposes by the Unit owner or any future Unit owner. No present or future owner of any Unit shall permit his Unit to be used or occupied for any purpose other than as a single family residence. At no time shall the Unit be used as a place of business which would invite regular customer traffic or alter the character of the Unit as a single-family residence. Examples of businesses which are not allowed, include, but are not limited to, day cares, pet care, barbershop or beauty salon, or retail operation. This is not intended to prevent the occupant from operating a business from the Unit which does not involve high customer or client traffic, or otherwise change the character of the Unit.

(b) No Unit owner may obstruct the Common Elements in any way. No Unit owner may store anything in or on the Common Elements without the prior written consent of the Executive Board.

(c) No Unit owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. The Property is to be maintained in a clean and sanitary condition, and no Unit owner may place any garbage, trash or rubbish anywhere in the Property other than in his own Unit and in or on such parts of the Common Elements as may be designated for such purpose by the Executive Board.

(d) No Unit shall be used, occupied or kept in a manner which in any way increases the fire insurance premiums for the property without the prior written permission of the Executive Board.

(e) Except for a single small non-illuminated name sign or sign indicating the Unit address on the door to his Unit, no owner of any Unit (other than the Declarant in connection with its marketing and sale of the Units) may erect any sign on or in his Unit or any Limited Common Element which is visible from outside his Unit or from the Common Elements, without in each instance having obtained the prior written permission of the Executive Board. This provision is not intended to prevent the Executive Board from maintaining on the Common Elements a register of Unit occupants, or owners, or both.

(f) With the prior written consent of the Executive Board, domestic animal life (including by way of illustration and not limitation dogs, cats, hamsters, birds, reptiles, amphibians and fish) may be kept by a Unit owner as household pets in his Unit, provided that such animals: (1) are not kept for any commercial purposes; (2) are kept in strict accordance with any Rules and Regulations relating to household pets from time to time adopted or approved by the Executive Board; (3) do not, in the judgment of the Executive Board, constitute a nuisance to others; and (4) are kept in compliance with local leash laws and animal health laws. In the event pets are kept in a Unit, they must be kept inside or on a leash at all times if outside the Unit.

(g) The Executive Board may from time to time promulgate reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit owners by the Association promptly after the adoption of such Rules and Regulations and any amendments thereto.

(h) The owner of a Unit shall be responsible for maintaining such Unit in good order and repair, at the expense of such owner, including (but not limited to) cleaning and replacing glass panes in any window serving such Unit.

(i) The owner of a Unit shall be responsible for the cleanliness of any Limited Common Element serving such Unit, at the expense of such Unit owner.

(j) The owner of a Unit shall not alter in any way any portion of his Unit which is part of the exterior facade of the Building in which it is located, including by way of example but not by way of limitation exterior doors, without the prior written consent of the Executive Board.

(k) The owner of a Unit shall not build or place any structures outside of the Unit or on any of the Limited Common Elements, including by way of example, but not limited to, fences or storage sheds, without the prior written consent of the Executive Board.

Section 7.2. Sale and Lease of Units.

(a) A Unit owner, including but not limited to the Declarant, may sell or lease his Unit at any time and from time to time provided that:

(1) All tenancies must be in writing and shall be for a term of not less than 30 days and

(2) Each approved tenant and lease shall be subject to and be bound by all of the covenants, restrictions and conditions set forth in the Condominium Documents.

(b) This Section 7.2 shall not be deemed or construed to impair a Mortgagee's right to foreclose, accept a deed in lieu of foreclosure or sell or lease a Unit so acquired by the Mortgagee.

Article 8

RIGHTS OF MORTGAGEES, INSURERS AND GUARANTORS

Section 8.1 Subject to Declaration. Whether or not it expressly so states, any mortgage which constitutes a lien against a Unit and an obligation secured thereby shall provide generally that the mortgage and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act, the Declaration, the Plans and any Rules and Regulations.

Section 8.2 Rights of Eligible Mortgage Holders.

(a) The Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions:

- (1) The termination of the Condominium pursuant to Section 448.2-118 of the Act;
- (2) A change in the allocated interest of a Unit, a change in the boundaries of a Unit or a subdivision of a Unit;
- (3) The merger or consolidation of the Condominium with another condominium;
- (4) The conveyance or subjection to a security interest of any portion of the Common Elements;
- (5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under Section 448.3-113.1 of the Act for purposes other than the repair or restoration of the damaged property;
- (6) The adoption of any proposed budget by the Executive Board and of the date of the scheduled Unit owners meeting to consider ratification thereof. A summary of the proposed budget shall accompany this notice; and
- (7) Any default in the performance or payment by a Unit owner of any obligations under the Declaration, including, without limitation, default in the payment of Common Expense liabilities.

(b) In the event of any proposed actions described in subsection (a), paragraph (1), (2), (3), (4), or (5) hereinabove, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Unit owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit owner for such action by delivering written notice to the Association with a copy to the Unit owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the Unit owner from exercising such right. In

the event of any default described in subsection (a), paragraph (7), the Eligible Mortgage Holder shall have the right, but not the obligation, to cure such default.

(c) In addition, an Eligible Mortgage Holder or its representative shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in subsection (a), paragraphs (1) through (6).

Section 8.3 Rights of Mortgage Holders, Insurers or Guarantors.

(a) The Association shall send timely prior written notice of the following matters by prepaid United States mail to holders, insurers and guarantors of the mortgage on any Unit:

(1) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the mortgage;

(2) Any sixty (60)-day delinquency in the payment of Monthly Assessments or other charges owed by the owner of any Unit on which it holds the mortgage;

(3) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(4) Any proposed action that requires the consent of fifty-one percent (51%) of the Eligible Mortgage Holders.

(b) To receive such notice, the mortgage holder, insurer or guarantor shall send a written request therefor to the Association, stating its name and address and the unit number or address of the unit on which it holds, insures or guarantees the mortgage.

Section 8.4 Liability for Use and Charges. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in a mortgage for foreclosure of such mortgage or a deed in lieu of foreclosure shall not be liable for such Unit owner's unpaid assessments or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee, except to the extent otherwise provided for in the Act and except to the extent that such Mortgagee is liable as a Unit owner for the payment of such unpaid assessment or charge that is assessed against the Mortgagee as a result of all Unit owners being reassessed for the aggregate amount of such deficiency.

Section 8.5 Condemnation Rights. No provision of this Declaration shall give a Unit owner, or any other party, priority over any rights of the Mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Unit owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or Common Elements.

Section 8.6 Books and Records. Any Mortgagee shall have the right, exercisable by written notice to the Executive Board, to examine the books and records of the Association and

to require that it be provided with a copy of each annual report of the Association and other financial data of the Association reasonably requested by such Mortgagee.

Article 9 INSURANCE

Section 9.1 Types and Amounts. The Association shall maintain as a Common Expense and to the extent reasonably available, the following types and amounts of insurance:

(a) Property insurance insuring against all risks of direct physical loss normally covered by the standard extended coverage endorsement and commonly insured against, including those covered by the standard "all risk" endorsement, or such other fire and casualty insurance as the Executive Board may determine provides equal or greater protection for the Unit owners and their Mortgagees, if any, in each case complying with the applicable requirements of Section 9.2 hereof. The insurance maintained by the Association shall cover the Property, including but not limited to, all Common Elements and Limited Common Elements, the Units and all improvements, fixtures and appliances contained within the Unit as of the date of settlement on the Unit by the Declarant or the value thereof, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by a Unit owner and all other personal property of the Unit owner. The amount of any such hazard insurance obtained pursuant to this paragraph (a) shall be equal to one hundred percent (100%) of the current replacement cost of the Condominium, including the individual Units, at the time the insurance is purchased and at each renewal date without deduction for depreciation, exclusive of land, foundations, excavation and other items normally excluded from coverage. Such hazard insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed the lesser of \$10,000 or one percent (1%) of the policy face amount. Funds to cover this deductible amount shall be included in the Association's reserve fund. The named insured under the policy shall be "**Cherry Hill Townhouses Unit Owners Association**", for the use and benefit of the individual owners", or a specified authorized representative of the Association, including but not limited to any Insurance Trustee, and the Association or its representative, as the case may be, shall be designated to represent the Unit owners in any proceedings, negotiations or settlements under such policy. The "loss payable" clause of such policy shall show the Association or the Insurance Trustee, if any, as a trustee for each Unit owner and each Mortgagee of a Unit. Such policy shall also contain the standard mortgage clause in accordance with Section 9.2(f) of this Declaration, naming each Mortgagee of a Unit, its successors and assigns. If the Executive Board fails within sixty (60) days after the date of an insured loss to initiate a claim for damages recoverable under the policy or policies obtained pursuant to this paragraph (a), any Mortgagee may initiate such a claim on behalf of the Association.

(b) Comprehensive Liability Insurance, including medical payments insurance, complying with the requirements of Section 9.2 hereof, insuring the Unit owners, in their capacity as Unit owners and Association members and any managing agent retained by the Association, against any liability to the public or to other Unit owners, their tenants or invitees, relating in any way to

the ownership and/or use of the Common Elements, public ways and any other areas under the supervision of the Association and any part thereof. Such insurance policy shall contain a "severability of interest endorsement" or equivalent coverage which precludes the insurer from denying the claim of a Unit owner because of the negligent acts of the Association or another Unit owner. Such insurance shall include coverage for bodily injury and property damage that results from the operation, maintenance or use of the Common Elements, any liability resulting from lawsuits related to employment contracts in which the Association is a party, water damage liability, liability for nonowned and hired automobiles, liability for property of others, and such other risks as are customarily covered in similar projects. The amount of such liability insurance shall be at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Executive Board and may be changed in its discretion provided that such policies shall continue to comply with the requirements of this Section and Section 9.2 hereof.

(c) Such worker's compensation insurance as applicable laws may require.

Section 9.2 Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

(a) All policies shall be written with a company authorized to do business in the State of Missouri and, for the hazard insurance policy described in Section 9.1(a) hereof, such company must hold a general policy holder's rating of at least "A" by Best's Insurance Reports, or by an equivalent rating bureau should Best's Insurance Reports cease to be issued.

(b) Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Executive Board or its authorized representative.

(c) In addition to the Unit Owner's Insurance required under Section 9.6, each Unit owner may obtain additional insurance at his own expense; provided, however, that: (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this Declaration; and (2) no Unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(d) Any Unit owner who obtains individual insurance policies covering any portion of the Property other than personal property belonging to such owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance.

(e) With respect to the insurance policies described in subsection (a) and (b) of Section 9.1 issued to the Association and covering all or any part of the Property, the Association shall cause such policies to provide that:

(1) Each Unit owner is an insured person under such policies with respect to liability arising out of his ownership of an undivided interest in the Common Elements or membership in the Association;

(2) The insurer waives its right to subrogation under the policy against any Unit owner or members of his household;

(3) No act or omission by any Unit owner, unless acting within the scope of his authority on behalf of the Association, will void such policies or be a condition to recovery under such policies or prejudice the coverage under such policies in any way;

(4) If at the time of a loss under such policies there is other insurance in the name of a Unit owner covering the same risk covered by the policy, the Association's policy provides primary insurance;

(5) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Unit owner;

(6) The insurer shall be relieved from no liability for loss occurring while the hazard to the Property is increased, whether or not within the knowledge or control of the Executive Board, or because of any breach of warranty or condition or any other act or neglect by the Executive Board or any Unit owner or any other person under either of them;

(7) Such policies may not be cancelled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least ten (10) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Unit owners, each holder of a first mortgage on a Unit, and every other party in interest who shall have requested such notice of the insurer;

(8) The insurer will recognize any Insurance Trust Agreement entered into by the Association.

(f) With respect to the property insurance policy described in subsection (a) of Section 9.1, such policy shall contain a standard mortgagee clause which shall:

(1) In the case of mortgages held, insured or guaranteed by the Federal National Mortgage Association, name as Mortgagee either that institution or the appropriate servicer of the mortgage, its successors and assigns;

(2) Provide that any reference to a Mortgagee in such policy shall mean and include all holders of mortgages of any Unit in their respective order and preference, whether or not named therein;

(3) Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Board of Directors or Unit owners or any persons under any of them;

(4) Waive any provision invalidating such Mortgagee clauses by reason of the failure of any Mortgagee to notify the insurer of any hazardous use or vacancy, and requirement that the Mortgagee pay any premium thereon, and any contribution clause; and

(5) Provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable in accordance with subsection (a) of Section 9.1.

(g) With respect to the property insurance policy described in subsection (a) of Section 9.1, such policy shall contain the following endorsements:

(1) Agreed Amount and Inflation Guard Endorsement, when it can be obtained.

(2) Construction Code Endorsements, if there is a construction code provision that requires changes to undamaged portions of the Buildings even when only part of the Condominium is destroyed by an insured hazard.

(3) Steam Boiler and Machinery Coverage Endorsement, if applicable, which provides that the insurer's minimum liability per accident at least equals the lesser of \$2 million or the insurable value of the Building or Buildings housing the boiler or machinery.

Section 9.3 Insurance Trustee and Power of Attorney. Notwithstanding any of the provisions and requirements of this Article relating to property or liability insurance, the Executive Board may designate as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (hereinafter referred to as the "Insurance Trustee"), who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance.

Section 9.4 Repair of Damage or Destruction to Condominium. The repair or replacement of any damaged or destroyed portion of the Condominium shall be done in accordance with and governed by the provisions of Sections 448.3-113.5 and 113.8 of the Act.

Section 9.5 Additional Insurance. Nothing in this Declaration shall be construed to limit the authority of the Executive Board to obtain additional insurance which it deems advisable. The Executive Board has the authority to add coverages, endorsements, riders, increase liability limits or buy policies of different kinds as it deems in the best interest of the Association. The Executive Board's authority to purchase insurance of additional types includes but is not limited to the following:

(a) Insurance to satisfy the indemnification obligation of the Association and all Unit owners set out in Section 10.2 hereof, if and to the extent available, including but not limited to insurance coverage commonly referred to as "Directors and Officers Insurance."

(b) If at any time it is determined that all or any part of the Property lies within a special flood hazard area, a master or blanket policy of flood insurance covering the Property, including but not limited to, all Common Elements and Limited Common Elements, the Units and all improvements, fixtures and appliances contained within the Unit as of the date of settlement on the Unit or the value thereof, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by a Unit owner and all other personal property of the Unit owner. The amount of any such flood insurance obtained pursuant to this paragraph (e) shall be equal to the lesser of one hundred percent (100%) of the insurable value of the property insured or the maximum coverage available under the appropriate National Flood Insurance Administration program. Such flood insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed the lesser of \$5,000 or one percent (1%) of the policy face amount. Funds to cover this amount shall be included in the Association reserve fund.

(c) Blanket fidelity bonds naming the Association as obligee and covering any person who handles or is responsible for funds held or administered by the Association, regardless of whether such person receives compensation for such services. In the event that the Association employs a professional experienced managing agent in accordance with Article 13 of this Declaration, such management agent shall maintain a fidelity bond covering itself, naming the Association as an additional obligee and including the same provisions required by this Article 9 for fidelity bonds maintained by the Association. The fidelity bond maintained by the Association or the management agent, as the case may be, shall cover the maximum funds that will be in the custody of the Association or the management agent, as the case may be, at any time while such bond is in force; provided however, that such fidelity bond coverage must at least equal the sum of three months' Common Expense Assessments for all Units in the Condominium, plus the Association's reserve fund. Such fidelity bonds may not be cancelled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least ten (10) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Unit owners, each holder of a first mortgage on a Unit, each servicer of a mortgage held, insured or guaranteed by the Federal National Mortgage Association and covering any Unit, and every other party in interest who shall have requested such notice of the insurer.

Section 9.6 Unit Owner's Insurance. Every Unit Owner shall obtain and maintain at all times replacement cost insurance covering the structural portions of their respective Unit, including Limited Common Elements assigned to such Unit, to the extent not insured by policies maintained by the Association, every Unit Owner shall be obligated to obtain and maintain at all times insurance covering consequential damages to any other Unit or the Common Elements due to occurrences originating within the Unit Owner's Unit caused by the negligence of the Unit

Owner, the failure of the Unit Owner to maintain the Unit, or any other casualty within the Unit that causes damages to the other Units or Common Elements. No less often than annually, or within ten (10) days of receipt of a request therefore from the Board of Directors, Unit Owners shall file a copy of each individual policy or policies covering his, her or their Unit, with the Board of Directors. Such Unit Owner(s) shall name the Cherry Hill Townhouses Unit Owners Association as an “additional interest” on any such policy, and shall promptly notify the Board of Directors, in writing, in the event such policy is cancelled.

Article 10 LIMITATION OF LIABILITY

Section 10.1 Limited Liability of the Executive Board. The Executive Board, and its members in their capacity as members, officers and employees:

(a) Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

(b) Shall not be liable to the Unit owners as a result of the performance of the Executive Board members' duties for any mistakes of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

(c) Shall have no personal liability in contract to a Unit owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

(d) Shall not be liable to a Unit owner, or such Unit owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Unit owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

(e) Shall have no personal liability in tort to a Unit owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

(f) Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the

Executive Board members' own willful misconduct or gross negligence.

Section 10.2 Indemnification. Each member of the Executive Board in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties or any other standard imposed by the Act; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Unit owners set forth in this Section 10.2. shall be paid by the Association on behalf of the Unit owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit owners or otherwise.

Section 10.3 Joint and Several Liability of Unit Owners and Lessees. Each Unit owner shall be jointly and severally liable with any tenants of the Unit owned by such Unit owner for all liabilities arising out of the ownership, occupancy, use, misuse or condition of such Unit or any portion of the Common Elements or Limited Common Elements.

Section 10.4 Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit owners and the holders of any mortgages and such complaints shall be defended by the Association. The Unit owners and the holders of mortgages shall have no right to participate other than through the Association in such defense. Complaints of a nature specified in Section 10.3. hereof against one or more but less than all Unit owners shall be defended by such Unit owners who are defendants themselves and such Unit owners shall promptly give written notice of the institution of any such suit to the Association and to the holders of any mortgages encumbering such units.

Section 10.5 Storage; Disclaimer of Bailee Liability. Neither the Executive Board, the Association nor any Unit owner or the declarant shall be considered a bailee of any personal property stored on the Common Elements (including property located in storage areas on the Common Elements, including the Limited Common Elements), whether or not exclusive possession of the particular area is given to a Unit owner for storage purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

Article 11

UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN

Section 11.1 Applicability of Condominium Documents. Each present and future owner, tenant, occupant and Mortgagee of a Unit shall be subject to and shall comply with the provisions of the Act, and with the covenants, conditions and restrictions as set forth in the Condominium Documents and the deed to such Unit; provided that nothing contained herein shall impose upon any tenant or Mortgagee of a Unit any obligation which the Act or one or more of such documents, or both, make applicable only to Unit owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit, or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the Act and the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit are accepted and ratified by such grantee, Mortgagee or tenant. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. The Association and any aggrieved Unit Owner shall have a right of action against Unit owners who fail to comply with the provisions of the Condominium Documents or with decisions made by the Association or the Executive Board. Aggrieved Unit owners shall have similar rights of action against the Association.

Section 11.2 Eminent Domain. Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Unit owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, provided, however, that the Association shall officially represent the Unit owners in such proceedings. In any proceedings for the determination of damages, such damage shall be determined for such taking, injury or destruction as a whole and not for each Unit owner's interest therein and any award for such damage shall be payable to the Association for the benefit of the Unit owners and of the Mortgagees of the Units.

Article 12

EXECUTIVE BOARD OF THE ASSOCIATION

Section 12.1 Members.

(a) The initial Executive Board shall consist of three (3) members. The members of the initial Executive Board shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. The Declarant-appointed members of the Executive Board shall be replaced with Unit owners other than the Declarant in accordance with the provisions of paragraph (b) of this Section 12.1.

(b) Not later than the earlier of (i) sixty (60) days after the conveyance of five (5) Units to Unit owners other than the Declarant or (ii) three (3) years following conveyance of the first Unit

to a Unit owner other than the Declarant, all members of the Executive Board appointed by the Declarant shall resign and the Unit owners (including the Declarant to the extent of any Units owned by the Declarant at that time) shall elect new members of the Executive Board in accordance with the Bylaws.

(c) The Executive Board shall possess all of the duties and powers granted to the Executive Board by the Act.

Section 12.2 Disputes. In the event of any dispute or disagreement between any Unit owners relating to the Property, or any questions of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Unit owners. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Section 12.2. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

Section 12.3 Abating and Enjoining Violations by Unit Owners. The violation of any Rules and Regulations adopted by the Executive Board, the breach of any provision contained in the Bylaws or the breach of any provision of this Declaration or the Act by any tenant of such Unit owner, shall give the Executive Board the right, in addition to any other rights to which it may be entitled, to enjoin, abate or remedy by appropriate legal proceedings, either by law or in equity, the continuance of any such breach.

Article 13 MANAGEMENT

The Association shall have the right to employ a professional experienced managing agent who shall oversee the daily operation of the Condominium in accordance with the provisions of the Act and the Condominium Documents; provided, however, that no agreement for such professional management of the Condominium may exceed a term of three (3) years but may be renewed upon consent of the Association. Such agreement shall be cancellable by either party without cause and without a termination fee upon not less than sixty (60) days nor more than ninety (90) days written notice and shall be cancellable by the Executive Board with cause upon not less than thirty (30) days written notice. Any agreement for professional management negotiated by the Declarant shall meet the requirements of this Article 13 for such agreements negotiated by the Association and shall not exceed one (1) year, but may be renewed upon consent of the Association.

Article 14 ASSESSMENTS; LIABILITY OF UNIT OWNERS

Section 14.1 Power to Assess. The Association, acting through the Executive Board in accordance with the Bylaws, shall have the power to fix and determine, from time to time, the sums necessary and adequate to provide for the Common Expenses, including, but not limited to,

such amounts as are necessary for the maintenance, repair and replacement of the Common Elements as set forth in Section 3.3(a) hereof, such amounts as are necessary for uncollectible assessments, budget deficits, such reserves as are hereinafter described and such additional reserves as the Executive Board shall deem necessary or prudent, and such other expenses as are specifically provided for in the Act, this Declaration or the Bylaws. The Association shall establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements and Limited Common Elements for which the Association is responsible which are anticipated to require replacement, repair or maintenance on a periodic basis, and to cover any deductible amount for insurance policies maintained by the Association. The reserve fund shall be funded by monthly payments as a part of the Common Expenses.

Section 14.2 Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including by way of illustration and not limitation, any Unit owner's non-payment of his assessment or municipal assessments not yet assessed), the Executive Board shall have the power, at any time it deems necessary and proper, to levy one or more Special Assessments against each Unit owner. Special Assessments shall be due and payable in the manner and on the date set forth in the notice thereof.

Section 14.3 Payment of Assessments. Each Unit owner, including the Declarant to the extent it is the owner of any unsold Units, shall pay all assessments levied by the Association. Liability for such assessments shall be determined in accordance with Section 5.3(a) of the Bylaws. Such assessments shall begin accruing at the time of the creation of the Condominium and they shall be due and payable on a monthly basis as designated by the Executive Board, provided, however, that the first Monthly Assessments shall be due on the first day of the month following the closing of the first sale of a Unit to a purchaser other than the Declarant. Assessments that are unpaid for over fifteen (15) days after the due date shall bear interest at the rate of eighteen percent (18%) per annum from the due date until paid. In the sole discretion of the Executive Board, a late charge of \$25.00 per assessment not paid when due may be assessed against the delinquent Unit owner.

Section 14.4 Failure to Fix New Assessments. If the Executive Board shall fail to fix new Monthly Assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Unit owners shall continue to pay the same sums they were paying for such Monthly Assessments during the fiscal year just ended and such sum shall be deemed to be the new Monthly Assessments for the succeeding fiscal year. If the Executive Board shall change the Monthly Assessment at a later date, the difference between the new Monthly Assessment, if greater, and the previous year's Monthly Assessment up to the effective date of the new Monthly Assessment shall be treated as if it were a Special Assessment under Section 14.2. hereof; thereafter each Unit owner shall pay the new Monthly Assessment. In the event the new Monthly Assessment is less than the previous year's Monthly Assessment, in the sole discretion of the Executive Board, the excess either shall be refunded to the Unit owners, credited against future Monthly Assessments or retained by the Association for reserves.

Section 14.5 No Exemption by Waiver. No Unit owner may exempt himself from liability for the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of his Unit or otherwise.

Section 14.6 Personal Liability of Unit Owners. All sums assessed by the Association as a Monthly or Special Assessment shall constitute the personal liability of the owner of the Unit so assessed and also, until fully paid, shall constitute a lien against such Unit pursuant to Section 448.3-116 of the Act. The Association shall take action for failure to pay any assessment or other charges pursuant to Section 448.3-116 of the Act. The delinquent owner shall be obligated to pay (a) all expenses of the Executive Board, including reasonable attorneys' fees, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

Section 14.7 Liability of Purchaser of Unit for Unpaid Assessments. Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall not be personally liable with the grantor thereof for all unpaid assessments for Common Expenses which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, unless such grantee agrees to assume the obligation therefor. A lien against the Unit so purchased for assessments imposed pursuant to this Declaration or the Act shall not be affected by such sale, conveyance or other transfer, however.

Section 14.8 Subordination of Certain Charges. Any Monthly Assessments or any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Section 448.3-102 of the Act shall be subordinate to any first mortgage lien recorded before or after such Monthly Assessments, fee, charge, late charge, fine or interest was due.

Section 14.9 Surplus. The Budget of the Association shall set forth General Common Expenses. Any amounts accumulated from assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserves for future Common Expenses, unless otherwise directed by the Executive Board, in its sole discretion, shall be credited to each Unit owner, such credit to be applied to the next Monthly Assessments of Common Expenses due from said Unit owners under the current fiscal year's budget, and thereafter, until exhausted or retained by the Association for reserves.

Article 15

DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 15.1 Reserved Development Rights. In accordance with and subject to the Condominium Act, the Declarant reserves for itself and for the benefit of its successor and assigns, the right, but not the obligation, until seven (7) years from the date of the recording of this Declaration:

- (a) To add a parcel or parcels of real estate as Property to the Condominium;
- (b) To create up to five (5) additional Units and Limited Common Elements appurtenant to such Units within the Condominium;
- (c) To subdivide Units or convert Units into common elements;
- (d) To withdraw real estate from the Condominium, and to exercise any and all other Development rights as are now allowed or in the future may be allowed by the Act; and
- (e) To exercise any or all of these Development Rights with respect to different parcels of real estate at different times.

Any Unit Owner takes title subject to these Development Rights and further expressly consents to the exercise of those rights by the Declarant and Declarant's successors and assigns. Declarant makes no assurances in regards to the boundaries of the real estate to be developed or the portions thereof, nor in regards to the order in which any portion of any such real estate may be subjected to the exercise of each Development Right. The exercise of any Development right in any portion of the real estate subject to that Development Right does not obligate Declarant to exercise that Development Right in all or any portion of the remainder of said real estate.

Section 15.2 Additional Units and Limited Common Areas.

A. Any additional Units and Limited Common Areas to the Condominium which are created:

(1) May occur in any number of stages and in such order as the Declarant determines, or not at all;

(2) Shall be substantially completed and, upon the recording of an amended Declaration including such Units and Limited Common Areas, shall be fully integrated into the Condominium as if this Declaration had been originally executed and recorded containing the additional Units and Limited Common Areas;

(3) Shall be consistent with the initial Units in terms of the quality of construction, general architectural style and principal materials, provided that the Declarant may substitute construction materials and techniques of equal or better quality; and

(4) Shall be subject to all restrictions in or created by this Declaration affecting the use, quality or alienation of Units.

B. In the event of the addition of Units to the Condominium, if any, the Percentage Interest and Common Expense liability of all Units shall be reallocated so that each Unit shall subject its owner to an equal share of the Common Expenses. Each Unit shall have one (1) vote

in the Association to permit equality among Units. The effective date for the reallocation of the Percentage Interest and Common Expense liability for and of the Common Expense Assessments and of a vote to such additional Units shall be the date of the recording in the office of the Boone County Recorder of Deeds by the Declarant of the amendment to this Declaration creating such Units.

Section 15.3 General Development Rights and Special Declarant Rights and Easements. In addition to the easement rights reserved in Article 6 and the Development Rights reserved in Section 15.1, the Declarant reserves to itself and for the benefit of its successors and assigns the rights and or easements:

(a) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under this Article 15 of this Declaration, an easement in favor of the Declarant and its successors and assigns to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;

(b) Until the construction, marketing and sale of all Units, is completed, including any future Units which may be created and added under Article 15 of this Declaration, an easement in favor of the Declarant and its successors and assigns to use the Common Elements for ingress and egress, for the repair and construction of Units and Common Elements including the movement and temporary storage of construction materials and equipment, and for the installation of signs and lighting for sales and promotional purposes;

(c) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under Article 15 of this Declaration, to subdivide or convert Units into Common Elements, to withdraw real estate from the Condominium and any and all other Development Rights as are now allowed or in the future may be allowed by the Act; and

(d) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under Article 15 of this Declaration, to complete all improvements and construction necessary for completion of the Units, Common Elements, and Limited Common Elements, to exercise the Development Rights set forth herein, to maintain models and sales offices and to exercise the easements as set forth in Article 6 and this Article 15 hereof, to make the Condominium part of a larger condominium, to make the Condominium subject to a master association, to appoint or remove any officer or Executive Board member during any period of Declarant control of the Association and any and all other Special Declarant Rights as are now allowed or in the future may be allowed by the Act.

Section 15.4 Exercise of Rights. The exercise of the Development Rights and Special Declarant Rights reserved herein shall be in accordance with and governed by the provisions of the Act, including without limitation Section 448.2-110 of the Act. To exercise the Development Rights reserved in Article 15 of this Declaration, the Declarant will prepare, execute and record an amendment to this Declaration, which amendment shall assign an identifying number and a

vote in the Association to each new Unit created, reallocate the Percentage Interest and Common Expense liability of all Units, and describe the Limited Common Elements created thereby and designate to which Units those Limited Common Elements are allocated. Further, in accordance with Section 448.2-109.6 of the Act, the Declarant will either record new Plans or record a certificate that the Plans previously recorded conform to the requirements of the Act.

Section 15.5 Amendment. This Article 15 shall not be amended without the written consent of the Declarant duly recorded in the office of the Boone County Recorder of Deeds.

Article 16
ASSIGNABILITY OF DECLARANT'S RIGHTS

The Declarant may assign any or all of its rights or privileges reserved or established by this Declaration or the Act in accordance with the provisions of the Act.

Article 17
AMENDMENT OF DECLARATION

Pursuant to Section 448.2-117 of the Act and except as provided herein for amendments which may be executed by the Declarant, the Association or certain Unit owners, this Declaration may be amended only by vote or agreement of owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. In addition, approval of amendments of a material nature must be obtained from Eligible Mortgage Holders representing at least 51% of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarant, the Association or certain Unit Owners under the Act or this Declaration, would be considered as material:

- (a) voting rights;
- (b) assessments, assessment liens, or subordination of assessment liens;
- (c) reserves for maintenance, repair and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the Common or Limited Common Elements, or rights to their use;
- (f) boundaries of any Unit;
- (g) convertibility of Units into Common Elements or Common Elements into Units;
- (h) expansion or contraction of the Condominium, or the addition, annexation or

withdrawal of property to or from the Condominium;

(i) insurance or fidelity bonds;

(j) leasing of Units;

(k) imposition of any restrictions on a Unit owner's right to sell or transfer his or her Unit;

(l) a decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;

(m) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;

(n) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or

(o) any provisions that expressly benefit holders, insurers or guarantors of mortgages on the Units.

If the amendment is not of such a material nature, such as the correction of a technical error or the clarification of a statement, the approval of an Eligible Mortgage Holder may be assumed when that Eligible Mortgage Holder has failed to submit a response to any written proposal for an amendment within thirty (30) days after the proposal is made.

Article 18 TERMINATION

The Condominium may be terminated only by agreement of the Unit owners of Units to which eighty percent (80%) of the votes in the Association are allocated; provided, however, that if the Condominium is being terminated for reasons other than substantial destruction or condemnation of the Condominium, the termination of the Condominium must also be approved by Eligible Mortgage Holders of Units to which at least sixty-seven percent (67%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders are allocated. Termination of the Condominium will be governed by the provisions of Section 448.2-118 of the Act.

Article 19 GENERAL PROVISIONS

Section 19.1 Headings. The headings used in this Declaration and the table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

Section 19.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletions shall destroy the uniform plan of development and operation of the condominium project which this Declaration is intended to create.

Section 19.3 Applicable Law. This Declaration shall be governed and construed according to the laws of the State of Missouri.

Section 19.4 Interpretation. The provisions of this Declaration shall be liberally construed in order to effect Declarant's desire to create a uniform plan for development and operation of the Condominium and to permit compliance with the requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

Section 19.5 Effective Date. This Declaration shall become effective when it and the Plans have been recorded.

Section 19.6 Notices. All notices and other communications required or permitted to be given under or in connection with this Declaration shall be in writing and shall be deemed given when delivered in person or on the second business day after the day on which mailed by certified mail, return receipt requested, addressed to the address maintained in the register of current addresses established by the Association.

Section 19.7 Exhibits. All exhibits attached to this Declaration are hereby made a part of this Declaration.

Section 19.8 Pronouns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused this DECLARATION to be executed on its behalf as of this ____ day of _____, 20__.

MUZZY BUILDERS, INC.

DOUG MUZZY, President

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this ____ day of _____, 20__ appeared before me DOUG MUZZY, who, being by me first duly sworn, acknowledged that he is the President of MUZZY BUILDERS, INC., that MUZZY BUILDERS, INC. is in good standing under the laws of the State of Missouri, that he is authorized to execute this DECLARATION on behalf of such corporation and that he has signed this instrument as the free act and deed of MUZZY BUILDERS, INC.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Columbia, Missouri on the day and year first above written.

Notary Public

My commission expires: _____

EXHIBIT A

Legal Description:

LOT FOUR D (4D) OF THE VILLAGE OF CHERRY HILL PLAT THREE (3), AS DESCRIBED BY THE PLAT THEREOF RECORDED IN PLAT BOOK 33, PAGE 62, BOONE COUNTY, MISSOURI RECORDS

EXHIBIT B

PERCENTAGE INTERESTS IN COMMON ELEMENTS

Unit	Percentage
1	20%
2	20%
3	20%
4	20%
5	20%

In the event Phase II is completed, the percentage interest in common elements will change accordingly.

EXHIBIT C

[Insert reduced copies of Plans]