

STATE OF MISSOURI )  
                          ) SS.  
COUNTY OF FRANKLIN )

The undersigned, being first duly sworn upon oath and being of legal age, states and certifies as follows:

1. That I am the President of Carriage Courts Homeowners' Association, Plat 1, and of Carriage Courts Homeowners' Association, Plat 2, and of Carriage Courts Homeowners' Association, Plat 3.

2. That the owners of at least two-thirds of each of the abovementioned Carriage Courts Homeowners' Associations (Plats 1, 2 and 3) voted to rescind the original Declarations of each of said homeowners' associations and adopted the foregoing "Merger and Restatement of Declaration of the Carriage Courts Condominium" and "Bylaws of Carriage Courts Condominium" at the annual joint meeting of the Carriage Courts Homeowners' Associations, Plats 1, 2 and 3, held on February 25, 1992.

CARRIAGE COURTS HOMEOWNERS'  
ASSOCIATION, PLAT 1

BY:   
Douglas E. Hazel, President

CARRIAGE COURTS HOMEOWNERS'  
ASSOCIATION, PLAT 2

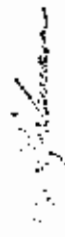
BY:   
Douglas E. Hazel, President

CARRIAGE COURTS HOMEOWNERS'  
ASSOCIATION, PLAT 3

BY:   
Douglas E. Hazel, President

STATE OF MISSOURI )  
COUNTY OF FRANKLIN )

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RECORDER

STATE OF MISSOURI )  
                          ) SS.  
COUNTY OF FRANKLIN )

On this 25<sup>th</sup> day of February, 1992, before me appeared Douglas E. Hazel, to me personally known, who, being by me duly sworn, did say that he is the President of Carriage Courts Homeowners' Associations, Plats 1, 2 and 3, unincorporated associations, and that said instrument was signed and sealed in behalf of said unincorporated associates, by authority of each of their Board of Directors; and said Douglas E. Hazel acknowledged said instrument to be the free act and deed of said unincorporated associations.

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

Connie J. Martini  
Notary Public

CONNIE F. MARTIN  
Notary Public, State of Missouri  
My Commission Expires July 5, 1996  
Franklin County

\*\*\*\*\*

STATE OF MISSOURI, County of Franklin, ss.:

I, Sharon L. Birkman, Recorder of Deeds within and for said County, do hereby certify that the foregoing instrument was filed for record on \_\_\_\_\_, 1992, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and duly recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, on said date.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in Union, Missouri.

\_\_\_\_\_  
Recorder of Deeds

By \_\_\_\_\_ Deputy

The land comprising Carriage Courts Plats 1, 2, and 3, in the City of Washington, more fully described as follows:

\*\*\*\* Beginning at the Northwest corner of Lot 31 of Quail Run Subdivision Plat 1, in the City of Washington, a plat of which is recorded in Plat Book 1 Page 83 of the Franklin County Records, thence with the West line of said subdivision South 01 degree 45 minutes East 360 feet to a point, thence South 88 degrees 15 minutes West 185 feet to a point, thence South 01 degree 45 minutes East 273.21 feet to a point, thence South 70 degrees 09 minutes West 161.9 feet to a point, thence North 19 degrees 51 minutes West 40.0 feet to a point, thence South 70 degrees 09 minutes West 745.34 feet to a point, thence North 0 degrees 56 minutes West 68.34 feet to a point, thence South 89 degrees 34 minutes East 15.57 feet to a point, thence North 0 degrees 43 minutes West 509.09 feet to a point, thence North 88 degrees 15 minutes East 344.19 feet to a point to the West line of Marbach Drive, thence along the West line of Marbach Drive North 1 degree 45 minutes West 310 feet, more or less, to the Northeastern corner of Fourteenth Subdivision Lot 1, thence East along the South line of Fourteenth Street North 88 degrees 15 minutes East 700 feet, more or less to the point of beginning

(Includes lands shown in Plat Book M Page 675, Plat Book M Page 876, Plat Book M Pages 891, 892, and 893, Plat Book M Pages 980, 981, and 982, Plat Book N Pages 250, 251, and Plat Book N Page 302 and Plat Book O Page 42 of the Franklin County Records)

**THE MERGER AND RESTATEMENT OF DECLARATION  
OF THE CARRIAGE COURTS CONDOMINIUM**

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MERGER AND RESTATEMENT OF  
 CONDOMINIUM DECLARATION  
 FOR  
 CARRIAGE COURTS HOMEOWNERS ASSOCIATION

THE STATE OF MISSOURI )  
 ) KNOW ALL MEN BY THESE PRESENTS;  
 COUNTY OF FRANKLIN )

THIS MERGER AND RESTATEMENT OF CONDOMINIUM DECLARATION (the "Declaration") is made and entered into this 25<sup>th</sup> day of February, 1992, by and between CARRIAGE COURTS CONDOMINIUM, PLAT 1 HOMEOWNERS ASSOCIATION, an unincorporated association (the "Prior Association"), and CARRIAGE COURTS CONDOMINIUM, PLAT 2 HOMEOWNERS ASSOCIATION, an unincorporated association (the "Merging Association"), and CARRIAGE COURTS CONDOMINIUM, PLAT 3 HOMEOWNERS ASSOCIATION, an unincorporated association (the "Second Merging Association").

RECITALS

A. The Merging Association represents the "Unit Owners" (defined herein) under that certain document titled "Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership and By-laws for Carriage Courts, Plat 2" (the "Merging Association Declaration"), filed for record with the Recorder of Deeds for Franklin County, Missouri, at Page 59 of Book 374, which established Carriage Courts, Plat 2 as a condominium; The Second Merging Association represents the "Unit Owners" (defined herein) under that certain document titled "Declaration For Condominium Ownership Of Premises Located In Franklin County, Missouri, To Be Known As Carriage Court Condominium, Plat 3 Per Plat Of Record In Plat Book N, Pages 250 & 251" (the "Second Merging Association Declaration"), filed for record with the Recorder of Deeds for Franklin County, Missouri, at Page 889 of Book 462, which established Carriage Courts, Plat 3 as a condominium; and the Prior Association represents the "Unit Owners" under that certain document titled "Declaration of Covenants, Conditions, and Restrictions Establishing a Plan of Condominium Ownership and Bylaws for Carriage Courts, Plat 1" (the "Prior Association Declaration"), filed for record with the Recorder of Deeds for Franklin County, Missouri, at Page \_\_\_\_\_ of Book \_\_\_\_\_, which established Carriage Courts, Plat 1 as a condominium. These Declarations may have been amended from time to time.

B. Carriage Courts Plats 1, 2 and 3 being located adjacent to one another, the Prior Association, the Merging Association, and the Second Merging Association, pursuant to the vote of their respective members as required by the Missouri Uniform Condominium Act (the "Act") and by the terms of the Merging Association Declaration, and the Second Merging Association Declaration and the Prior Association Declaration, in order to promote efficiency and

uniformity of management, desire to merge the condominiums created by the Prior Association Declaration, the Merging Association Declaration, and the Second Merging Association Declaration into a single condominium, subject to this Declaration and to be known as "Carriage Courts Condominium."

C. The parties hereby acknowledge that, pursuant to the Prior Association Declaration, the Merging Association Declaration, and the Second Merging Association Declaration, Bear Construction, Inc., a Missouri corporation, declarant therein ("Declarant"), retained certain rights and privileges, including the right to amend the Prior Association Declaration, the Merging Association Declaration, and the Second Merging Association Declaration by the addition of further "Units" (defined herein) to the condominium created thereby (the "Declarant Rights"). Said Declarant Rights have lapsed and have become void and of no force or effect according to the provisions of Section 448.3-104 of the Act.

D. The parties hereto, as a result of the approval of the requisite number of the owners who are members of the Prior Association, the Merging Association, and the Second Merging Association, hereby rescind the Merging Association Declaration, the Second Merging Declaration, and the Prior Association Declaration, including all amendments thereto, including but not limited to any provision for retained rights of the Declarant, except as specifically retained herein, and do adopt this Declaration, to merge the Prior Association, the Merging Association, and the Second Merging Association, and to set forth their understandings with respect to the foregoing.

THEREFORE, the parties do hereby submit the real property currently governed by the Prior Association Declaration and the Merging Association Declaration, and the Second Merging Association Declaration, described in "Exhibit A" attached hereto and incorporated herein by this reference, and all improvements thereon currently existing and to be constructed in the future, to the provisions of the Uniform Condominium Act of the State of Missouri, R.S.Mo. Section 448.1-101 et seq. and to this Declaration, and do hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land and shall be a burden and a benefit to the Prior Association, the Merging Association, and the Second Merging Association, their respective successors and assigns and to any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, personal representatives, devisees and assigns.



ARTICLE I  
DEFINITIONS AND TERMS

1.1 DEFINITIONS OF TERMS. As used in this Agreement, the following terms shall have the following meanings unless the context shall expressly provide otherwise:

a. "Board" or "Executive Board" shall refer to the Executive Board of the Association.

b. "Common Assessment" means the charge against each Unit Owner and his or her Unit, representing a portion of the total costs to the Association of maintaining, improving, repairing, replacing, managing and operating the Property, which are to be paid by each Unit Owner of the Association in the proportion that the square footage of his Unit bears to the total square footage of all Units, as provided herein. This shall also include charges assessed against each Unit Owner to maintain a reserve for replacement funds and to cover costs incurred by the Association to participate in any condemnation suit, as provided in Paragraph 6.3 hereof.

c. "Common Elements" or "Common Areas" means and includes all of the Property described in "Exhibit A", and all of the improvements thereto and thereon located, excepting all Units. The terms "Common Elements" and "Common Areas" as used herein shall consist of the General Common Elements and the Limited Common Elements.

d. "Common Expenses" means and includes, unless otherwise stated elsewhere in this Agreement:

(1) All sums lawfully assessed against the Common Elements by the managing agent or the Executive Board;

(2) All expenses of administration and management, maintenance, operation, repair or replacement of and addition to the Common Elements (including unpaid special assessments);

(3) Expenses agreed upon as Common Expenses by the Unit Owners; and

(4) Expenses declared to be Common Expenses by this Declaration or by the By-Laws.

e. "Condominium" means the Carriage Courts Condominium governed by this Declaration.

f. "Condominium Owners Association" or "Association" means THE CARRIAGE COURTS CONDOMINIUM ASSOCIATION, INC., a Missouri non-profit corporation, the By-Laws of which shall govern the administration of the Property and the membership of which shall be

composed of all the Owners of the Condominium Units according to such By-Laws. The Carriage Courts Condominium Association, Inc. shall be the successor in interest for all purposes to the Prior Association and the Merging Association, and the Second Merging Association.

g. "Condominium Unit" shall mean an individual Unit together with the interest in the Common Elements (General or Limited) appurtenant to such Unit.

h. "Declaration" shall mean this Merger and Restatement of Condominium Declaration instrument.

i. "General Common Elements" means a part of the Common Elements and includes:

(1) The Property described in paragraph (c) of this Section 1.1;

(2) The foundations, bearing walls and columns, roofs, halls, lobbies, stairways and entrances and exits or communicationways;

(3) The basements, roofs, yards and gardens, and the parking areas as otherwise herein provided or stipulated;

(4) All premises, if any, for the lodging of janitors or persons in charge of the buildings and improvements, except as otherwise herein provided or stipulated;

(5) All compartments or installations of central services, such as power, light, gas, cold and hot water, refrigeration, central air conditioning and central heating reservoirs, water tanks and pumps, and the like;

(6) All elevators and shafts, central garbage incinerators and, in general, all devices or installations existing for common use; and

(7) All other elements of the buildings and Property desirable or reasonable for common use or necessary to the existence, upkeep and safety of the Condominium established by this Declaration.

General Common Elements shall not include the Units or the Limited Common Elements.

j. "Lienholder" and "First Mortgagee" shall mean the holder of a first mortgage lien or first deed of trust lien on any Unit in the Condominium Project.

k. "Limited Common Elements" means and includes those Common Elements which are reserved for the exclusive use of an individual Owner of a Unit, which may include:

(1) All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, unfinished flooring and any other materials constituting any part of the unfinished surfaces of the walls, floors and ceilings which form the boundaries of each unit.

(2) Any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture lying partially within and partially outside the designated boundaries of a Unit, to the extent the same serves only that Unit.

(3) Any shutters, awnings, window boxes, doorsteps, stoops, decks and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside such Unit's boundaries as defined in Paragraph 1.1 s. hereof.

(4) Any carport or parking area designated by the Association for use by the Owner or Occupant of a Unit.

Limited Common Elements shall not include the Units or the General Common Elements.

l. "Majority of Unit Owners" means those Owners with fifty-one percent (51%) of the votes entitled to be cast.

m. "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

n. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof, who owns, of record, title to one (1) or more Condominium Units.

o. "Plat", "Survey Map", "Map", and "Plans" mean or include the engineering survey of land, locating therein all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of, or all of, the improvements, which were filed as exhibits to the Prior Association Declaration, the Merging Association Declaration, and the Second Merging Association Declaration and the amendments thereof which have been filed from time to time. Such terms do not include the allocation of Common Elements contained in said Declarations and amendments thereto.

p. "Premises", "Project" or "Property" means and includes the land, the buildings, and all improvements and structures thereon and all rights, easements and appurtenances belonging thereto which currently comprise Carriage Courts Condominium Plats 1, 2 and 3.

g. "Special Assessments". In addition to the common assessments described above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying, in whole or in part:

(1) The cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; or

(2) The expense of any other contingencies or unbudgeted costs;

provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Any amounts assessed pursuant hereto shall be assessed to Unit Owners in proportion that the square footage of each Unit bears to the total square footage of all Units in the Association. The Association, after due notice and hearing, shall also have the authority to establish and fix a special assessment upon any Unit to secure the liability of the Owner of such Unit to the Association for any breach by such Owner of any of the provisions of this Declaration, which breach shall require an expenditure by the Association for repair or remedy. Special assessments may be billed or collected on a monthly basis. The above mentioned liability of any Owner is to be established as set forth in this Declaration.

r. "Unit" shall mean the elements of an individual Condominium Unit which are not owned in common with the Owners of the other Condominium Units in the Project as shown on the Maps and each Unit shall include the air space assigned thereto. Each Unit shall consist of the following portions of the building in which it is located: (i) Horizontal Boundaries - the horizontal undersurface of the finished ceiling of each Unit and the horizontal undecorated surface of the floor of each Unit; (ii) Vertical Boundaries - the interior surface of the undecorated finished walls or glass bounding the Unit extended to the intersection of each other and with the upper and lower boundaries, including any and all walls, partitions and dividers wholly within the Unit (but excluding any pipes, ducts, wires, cables or conduits within such ceilings, floors, walls, partitions, dividers or within such airspace which serve more than one unit), and the space includes both the portions of the building located within the Unit and the air space so encompassed, excepting the Common Elements. In interpreting deeds, mortgages, deeds of trust and other instruments, the existing physical boundaries of a Unit reconstructed in substantial accordance with the original Plat and Plans thereof shall be conclusively presumed to be its boundaries regardless of settling, rising or lateral movement of any building and regardless of variances between boundaries shown on the Plat and those of any building. The individual ownership of each Unit space herein defined shall further include the interior

construction, partitions, appliances, fixtures, utilities and improvements which are intended to exclusively serve such Unit space, such as, but not limited to interior room walls, floors, ceilings and doors; floor coverings or finish; closets; cabinets; shelving; individual bathroom and kitchen fixtures, plumbing and appliances; individual lighting and electrical fixtures and other separate items or chattels belonging exclusively to such Unit, any of which may be removed, replaced, disposed of or otherwise treated without affecting any other Unit space or ownership, use or enjoyment thereof. None of the land in this Project on which any Unit space or porch space is located shall be separately owned, as all land in this Project shall constitute part of the "Common Elements" of the Property as herein defined, and shall be owned in common by the Owners of the Units in this Condominium Project. It is intended the term "Unit", as used in this Declaration, shall have the same meaning as the term "Unit" as used in the Act.

**ARTICLE II**  
**CONDOMINIUM UNIT DESIGNATIONS AND DESCRIPTIONS**

2.1 **MAP.** The Map as adopted in the Prior Association Declaration and the Merging Association Declaration, and the Second Merging Association Declaration, as amended from time to time, shall be deemed a part of this Declaration.

2.2 **DESIGNATION OF UNITS.** The Property is currently divided into fifty-four (54) separately designated Units contained within twelve (12) buildings (the "Buildings"). Each Unit is identified by number on the Map. The remaining portion of the Premises, referred to as the Common Elements, shall be owned in common by the Owners. The Owners of each Unit shall own an undivided interest in said Common Elements. The fraction thereof for each Unit shall be one (1) divided by the number of Condominium Units in existence from time to time. The ownership of Common Element interests as denoted in the Prior Association Declaration, the Merging Association Declaration, and the Second Merging Association Declaration is hereby deleted.

2.3 **LIMITED COMMON ELEMENTS.** Portions of the Common Elements are set aside and reserved for the exclusive use of the individual Owners, such areas being Limited Common Elements. Limited Common elements shall be used in connection with the particular Unit, to the exclusion of the use thereof by the other Owners, except by invitation.

2.4 **REGULATION OF COMMON AREAS.** Portions of the Common Areas are intended as recreation areas, and are improved with green areas and other facilities. Reasonable regulation governing the use of such facilities by Owners and by their guests and invites shall be promulgated by the Executive Board of the Association. Each Owner shall be required to strictly comply with said rules and

regulations, and shall be responsible to the Association for the compliance therewith by the members of their respective families, relatives, guests or invites, both minor and adult.

2.5 INSEPARABLE UNITS. Each Unit and its corresponding pro-rata interest in and to the Common Elements appurtenant thereto shall be inseparable and may not be conveyed, leased or encumbered separately, and shall at all times remain indivisible..

2.6 DESCRIPTIONS. Every deed, lease, mortgage, trust deed or other instrument may legally describe a Condominium Unit by its identifying Unit number as shown on the Map, followed by the words CARRIAGE COURTS CONDOMINIUM and by reference to the recording date for this Declaration. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the Common Elements.

2.7 ENCROACHMENTS. If any portion of the Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion or portions of a Unit or Units encroach upon the Common Elements, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. A valid easement also exists to that portion of the General Common Elements and of the Limited Common Elements occupied by any part of the Owner's Unit not contained within the physical boundaries of such Unit, including, but not limited to, space occupied by heating and air conditioning equipment, utility lines and similar equipment which serves only one (1) Unit. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or the individual Units.

2.8 GOVERNMENTAL ASSESSMENT. The Association shall give written notice to the Assessor's Office of the continuation of condominium ownership of this Property following the merger accomplished herein, as is provided by law, so that each Unit and its percentage or fraction of undivided interest in the Common Elements shall be deemed a separate parcel and subject to separate assessment and taxation.

2.9 USE AND OCCUPANCY RESTRICTIONS.

a. Subject to the provisions of this Declaration and By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed. Each Unit or any two (2) or more adjoining Units used together shall be used for residential purposes or such other uses permitted by this Declaration, and for no other purposes. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from:

- (1) Maintaining his personal professional library;
- (2) Keeping his personal business or professional records or accounts; or
- (3) Handling his personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

b. That part of the Common Elements separating and located between and exclusively serving two (2) or more adjacent Units used together (including, without limitation, portions of any hallway and any walls) may be altered with written consent of the Executive Board, as provided in Paragraph 3.8 herein, to afford ingress to and egress from such Units and to afford privacy to the Occupants of such Units when using such Common Elements, and that part of the Common Elements so altered may be used by the Unit Owner or Owners of such Units as a licensee pursuant to a license agreement with the Association, provided:

- (1) The expenses of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations;

- (2) Such Unit Owner or Owners shall pay in full the expense of restoring such Common Elements to their condition prior to such alteration in the event such Units shall cease to be used together, as aforesaid; and

- (3) Such alteration shall not impair the Buildings' structural integrity or mechanical systems or lessen the support of any portion of the Buildings, and such alteration shall not interfere with use and enjoyment of the Common Elements (other than the aforesaid part of the Common Elements separating such adjacent Units), including, without limitation, reasonable access and ingress to and egress from the other Units in the hallway affected by such alteration.

c. The General Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, customers, invites and licensees for access, ingress to and egress from the respective Units and for other purposes incidental to use of the units; provided, however, receiving rooms and any other areas designed for specific use shall be used for the purposes approved by the Executive Board.

d. The use, maintenance and operation of the General Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and may be subject to lease, concession or easement, presently in existence or entered into by the Executive Board at some future time.



e. There shall be no restriction upon any Unit Owner's right of ingress and egress to his or her Unit which right shall be perpetual and appurtenant to the condominium Unit ownership.

f. Without limiting the generality of the foregoing provisions of this Paragraph 2.9, use of the Property by the Unit Owners shall be subject to the following restrictions:

(1) Nothing shall be stored in the General Common Elements without prior consent of the Executive Board;

(2) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property without the prior written consent of the Executive Board. No Unit Owner shall permit anything to be done or kept in his or her Unit or the Common Elements which will result in the cancellation of insurance on any Unit, or any part of the Common Elements, or which will be in violation of any law;

(3) No waste shall be committed in or on the Common Elements;

(4) No sign of any kind, including but not limited to "For Sale" signs, shall be displayed to the public view on or from any Unit or Common Elements without the prior written consent of the Executive Board or the written consent of the managing agent acting in accord with the Executive Board's direction;

(5) No noxious or offensive activity shall be carried on, in or upon the Common Elements, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any other Unit Owner. No loud noises or noxious odors shall be permitted on the Property or in any Unit, and the Executive Board shall have the right to determine in accordance with the By-Laws if any such noise, odor or activity constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smokey vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television or radio reception of any Unit Owner in the Property, shall be located, used or placed on any portion of the Property or exposed to the view of other Unit Owners without the prior written approval of the Executive Board;

(6) Except as expressly provided hereinabove, nothing shall be altered or constructed in or removed from the Common



Elements, except upon the written consent of the Executive Board;

(7) No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be permitted on the Property at any time temporarily or permanently, except with the prior written consent of the Executive Board; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the Buildings or any portion thereof;

(8) No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Unit or the Common Elements, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its Occupants. There shall be no exterior fires whatsoever except barbecue fires contained within receptacles designed in such a manner that no fire hazard is created. No clothing or household fabrics shall be hung, dried or aired in such a way in the Property as to be visible to other Property and no lumber, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property, except within an enclosed structure or if appropriately screened from view;

(9) No Unit Owner or Occupant shall park, store or keep any vehicle, except wholly within the parking space designated therefor, and any inoperable vehicle shall not be stored in a parking space within the Common Elements in general. No Unit Owner or Occupant shall park, store or keep within or adjoining the Property any large commercial-type vehicle (dump truck, cement-mixer truck, oil or gas truck, delivery truck and any other vehicle equipment, mobile or otherwise, deemed to be a nuisance by the Executive Board), or any recreational vehicle (camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle) deemed to be a nuisance by the Executive Board. No Unit Owner or Occupant shall conduct major repairs or major restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Common elements. Parking spaces shall be used for parking purposes only;

(10) Except within individual Units, no planting, transplanting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Property, except as approved by the Executive Board;

(11) Motorcycles, motorbikes, motor scooters or other similar vehicles shall not be operated within the Property except for the purpose of transportation directly from a parking space to a point outside the Property, or from a point outside the Property directly to a parking space;

(12) No animals, livestock, reptiles or poultry or any kind shall be raised, bred or kept in any Unit or the Common Elements; provided, however, that dogs, cats, fish, birds and other household pets may be kept in Units subject to the rules and regulations adopted by the Association, provided they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than one (1) pet per household; provided, however, the Association may determine a reasonable number in any instance to be more or less, and the Association may limit the size and weight of any household pets allowed. The Association, acting through the Executive Board, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Executive Board, a nuisance to any other Unit Owner. Animals belonging to Unit Owners, Occupants or their licensees, tenants or invites within the Property must be kept either within the Unit, or, if the animal is taken outside, on a leash being held by a person capable of controlling the animal. Should any animal belonging to a Unit Owner be found unattended and not being held on a leash by a person capable of controlling the animal, such animal may be removed by the Association or its managing agent, to a pound under jurisdiction of the local municipality in which the Property is situated and subject to the laws and rules governing said pound, or to a comparable animal shelter. Furthermore, any Unit Owner shall be absolutely liable to each and all remaining Unit Owners, their families, guests, tenants and invites, for any unreasonable noise or any damage to person or property caused by any animals brought or kept upon the Property by a Unit Owner or members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Unit Owner to clean up after such animals which have used any portion of the Common Elements;

(13) With the exception of a Mortgagee in possession of a Unit following a default in a mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for hotel or transient purposes, or for a period of less than six (6) months. No Unit Owner shall be permitted to lease less than the entire Unit or to subdivide a Unit. Every lease shall be in writing, and a copy of such lease, as and when executed, shall be furnished to the Executive Board. Every such lease shall provide that the lessee shall be bound by and subject to all of the obligations and restrictions

under the Declaration and By-Laws, and Rules and Regulations, and failure to do so shall be a default thereunder. The Unit Owner making such lease shall not be relieved thereby from any of said obligations. The Unit Owner is obligated to give the Rules and Regulations to each tenant; and

g. The Association and any aggrieved Unit Owner shall have an appropriate right of action against Unit Owners for failure to comply with the provisions of this Declaration or the By-Laws or with the decisions of the Association made pursuant thereto. Unit Owners shall have a similar right of action against the Association in the event of failure to comply with this Declaration or the By-Laws.

### ARTICLE III RIGHTS AND OBLIGATIONS OF OWNERSHIP

3.1 OWNERSHIP. Ownership of a Unit will by fee simple estate and may be held and owned by any person, firm, corporation or other entity singularly, as joint tenants, as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Missouri. Such ownership, and all rights emanating from such ownership of the Units and the Common Area shall, in all respects, be subject to the provisions of this Declaration and the Bylaws, as the same may be amended or modified from time to time.

3.2 PARTITION. The Common Elements (both General and Limited) shall be owned in common by all of the Owners of the Condominium Units and shall remain undivided, and no Owner shall bring any action for partition or division of the Common Elements other than that as specifically provided for hereinafter in Paragraph 6.2, "Judicial Partition". Nothing contained herein shall be construed as a limitation of the right of partition of a Condominium Unit between the Owners thereof, but such partition shall not affect any other Condominium Unit. Such partition shall not be a partition in kind.

3.3 EXCLUSIVENESS OF OWNERSHIP: Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner may use the Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

3.4 RESIDENTIAL DWELLING. Each Condominium Unit shall be occupied and used or leased by the owner only as and for a residential dwelling for the Owner, his family, his social guests or his tenants.

3.5. MECHANICS' AND MATERIALMEN'S LIENS. No labor performed or materials furnished and incorporated in a Unit, notwithstanding the consent or request of the Owner, his agent, contractor or

subcontractor, shall be the basis for filing of a lien against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the Unit of any other Owner against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request.

3.6 RIGHT OF ENTRY. The association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom or at any time for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units.

3.7 OWNER MAINTENANCE. An Owner shall maintain and keep in repair the interior of his or her own Unit, including the fixtures thereof and Limited Common Elements which are appurtenant to such Owner's Unit. All fixtures, equipment, utility lines, pipes, wires, conduits or systems which are Limited Common Elements and which are installed within the Unit, commencing at a point where such utilities enter the Unit, shall be maintained and kept in repair by the Owner thereof; and an Owner shall be obliged to promptly repair and replace any broken or cracked glass in windows and doors.

3.8 ALTERATION. An Owner shall do no act nor any work that will impair the structural soundness and integrity of the mechanical systems, or the support of any portion of the Buildings or impair any easement or hereditament. No Owner shall in any way alter, modify, add to or otherwise perform any work whatever upon any of the Common Elements, Limited or General, or the exterior of such Owner's Unit, without the prior written consent and approval of the Executive Board. Any such alteration or modification shall be in harmony with the external design and location of the surrounding structures and topography, and shall not be considered until submission to the Association of complete plans and specifications showing the nature, kind, shape, size, materials, color and location for all proposed work. The Executive Board shall have the obligation to answer within thirty (30) days after receipt of notice of the proposed alteration accompanied by the plans and specifications therefor. Failure to so answer within the stipulated time shall mean that there is no objection to the proposed alteration or modification.

3.9 RESTRICTION OF OWNERSHIP. As a restriction of the ownership provisions set forth in Paragraph 1.1s, "Unit", an Owner shall not be deemed to own the unfinished surfaces of the perimeter walls, floors, ceilings, and roofs surrounding his Unit, nor shall such Owner be deemed to own the utilities running through his Unit which are utilized for, or serve, more than one (1) Unit, except as

a tenant in common with the other Owners. An Owner shall be deemed to own and shall maintain the inner, finished surfaces of the perimeter and interior walls, floors and ceilings, doors, windows and other such elements consisting of paint, wallpaper and other such finishing material.

3.10 LIABILITY FOR NEGLIGENT ACTS. In the event the need for maintenance or repair is caused through the willful and negligent act of an Owner, his family, guests invitees or tenants, and is not covered or paid for by insurance either on such Unit or the Common Elements, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Unit is subject, pursuant to Article V hereof.

3.11 SUBJECT TO DECLARATION AND BY-LAWS. Each Owner shall comply strictly with the provisions of this Declaration, the By-Laws and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief, or both, maintainable by the Association on behalf of the Owners or, to the extent permitted by law, by an aggrieved Owner.

#### ARTICLE IV MANAGEMENT AND ADMINISTRATION

4.1 BY-LAWS. The administration of this Condominium Property shall be governed by the By-Laws of THE CARRIAGE COURTS CONDOMINIUM ASSOCIATION, INC., a non-profit corporation, referred to herein as the "Association". A copy of such Bylaws is attached hereto as "Exhibit B" and incorporated by reference. An Owner of a Condominium Unit, upon becoming an Owner, shall be a Member of the Association and shall remain a Member for the period of his ownership. The Association shall be managed by an Executive Board, duly appointed or elected, pursuant to the terms and conditions of the By-Laws. In addition, the Association may enter into a management agreement upon the terms and conditions established in the By-Laws, and said management agreement shall be consistent with this Declaration.

4.2 SPECIFIC POWER TO RESTRICT USE AND ENJOYMENT. Every Owner shall have a beneficial interest of use and enjoyment in the Common Elements subject to the following rights of the Association.

a. The right of the Association, acting through the Executive Board, to publish rules and regulations governing the use of the Common Areas and the improvements and facilities located thereon, and to establish and enforce penalties, including but not limited to monetary fines, for infractions thereof;

b. The right of the Association, upon approval by eighty percent (80%) of the persons entitled to cast votes in the Association, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said Property; providing, however, that the rights of any such mortgagee in such Property shall be subordinate to the rights of the Owners hereunder, and in no event shall any such mortgagee have the right to terminate the Condominium established by this Declaration;

c. The right and duty of the Association to suspend (1) the voting rights of an Owner (except in the case of amendment of this Declaration, termination of the Condominium established hereby, merger or consolidation of THE CARRIAGE COURTS CONDOMINIUM with any other condominium(s), or removal of a member of the Executive Board), and (2) the right to the use of the recreational facilities by an Owner, for any period during which any assessment against the Owner's Condominium Unit remains unpaid;

d. The right of the Association to dedicate or transfer all or any part of the General Common Elements for utility easements to any public agency, authority or utility for the purposes, and subject to the conditions, of such agency, authority or utility. No such dedication or transfer shall be effective unless approved by two-thirds (2/3) vote of a quorum of Unit Owners present at a meeting of the Association specifically called for the purpose of approving any such dedication or transfer, and unless an instrument signed by the Executive Board reflecting such vote of the Owners agreeing to such dedication or transfer and has been duly recorded in the Office of the Recorder of Deeds of Franklin County, Missouri;

e. The right of the Association to adopt, implement and maintain a private security system for the Premises consistent with applicable laws;

f. The right of the Association to establish rules and regulations governing traffic within the General Common Elements, and to establish sanctions for any violation or violations of such rules and regulations;

g. The right of the Association to regulate noises within the Premises, including, without limitation, the right of the Association to require mufflers on engines and to prohibit the use of devices producing excessive noise; and

h. The right of the Association to control the visual attractiveness of the Property, including, without limitation, the right to require Owners to eliminate objects which are visible from the Common Area and which, in the Association's judgment, detract from the visual attractiveness of the Property.



**4.3 MEMBERSHIP, VOTING, QUORUM, PROXIES.**

a. Membership. Any person on becoming an Owner of a Condominium Unit shall automatically become a Member of the Association. Such membership shall terminate without any formal Association action whenever such person ceases to own a Condominium Unit. But such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with THE CARRIAGE COURTS CONDOMINIUM during the period of such ownership and membership of the Association, or impair any rights or remedies which the Executive Board of the Association or others may have against such former Owner and Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Executive Board may, if it so elects, issue one (1) membership card to the Owner(s) of the Condominium Unit. Such membership card shall be surrendered to the Secretary whenever ownership of the Condominium Unit designated thereon shall terminate.

b. Voting. Unit ownership shall entitle the Owner(s) to cast one (1) vote per Unit in the affairs of the Association. Voting shall not be split among more than one (1) Unit Owner. The present number of votes that can be cast by the Unit Owners is fifty-four (54).

c. Quorum. The presence at the beginning of any meeting of the Association of twenty percent (20%) of the Unit Owners shall constitute a quorum. Except as may be otherwise provided herein, a quorum is deemed present throughout any meeting of the Association if persons entitle to cast twenty percent (20%) of the votes which may be cast for election of the Executive Board are present in person or by proxy at the beginning of the meeting.

d. Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary before the appointed time of each meeting. Unless a proxy specifies a shorter time period, it shall be deemed valid for one year. Proxies may only be revoked by a writing filed with the Secretary, such revocation being effective upon actual receipt of the same by the Secretary. A proxy is void if it is not dated or purports to be revocable without notice.

**4.4 INSURANCE.**

a. The Association shall obtain and maintain at all times insurance of the type and kind provided hereinafter, including coverage for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to the Buildings, General Common and Limited Common Elements, fixtures, equipment and personal property, similar in

construction, design and use, issued by responsible insurance companies authorized to do business in the State of Missouri. The insurance shall be carried in blanket policy form and shall be issued in the name of the Association and for the use and benefit of the individual Owners. The policy shall be in the amount of the full replacement value of the Project, exclusive of land, foundation, excavation and other terms normally excluded from coverage. The loss payable clause shall be in favor of the Association as trustee for each Unit Owner. The policy shall insure against loss or damage by fire, vandalism, malicious mischief, earthquake or such other hazards as are covered under standard extended coverage provisions. Further, the policy shall insure against such other hazards customarily covered with respect to projects similar in construction, location and use and for such amounts as the Executive Board may deem advisable. Policies must provide a Special Condominium Endorsement including the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Unit Owners individually; that the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of all Owners collectively; and that the policy is primary in the event the Unit Owner has other insurance covering the same loss. Each Owner irrevocably designates the Association, as Attorney in Fact with durable power of attorney, to administer and distribute such proceeds as is elsewhere provided in this Declaration. Such insurance policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice to the Association. The Executive Board shall, upon request of any Unit Owner, request the insurer to furnish a certified copy of each blanket policy and a separate certificate identifying the interest of the Unit Owner.

b. The Association shall keep a comprehensive policy or policies of public liability insurance, including medical payments insurance, covering the Common elements, public ways and commercial spaces of the Project, and such policy or policies shall include a "Severability of Interest Endorsement" or equivalent coverage which will preclude the insurer from denying the claim of a Unit Owner because of negligent acts by the Association, its Executive Board or a Unit Owner. Such policy or policies shall be in a base amount of not less than One Hundred Thousand Dollars (\$100,000.00) per person, One Million Dollars (\$1,000,000.00) per accident and Fifty Thousand Dollars (\$50,000.00) property damage plus such other insurance as the Executive Board in its discretion may deem reasonable or necessary; and the policy shall include water damage liability, liability for non-owned and hired automobiles, liability for property of others, liability arising out of lawsuits relating to employment contracts of the Association, and such other coverage as is customarily deemed necessary with respect to projects similar in nature. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' written notice to the Association.



c. The Association shall keep a policy or policies of (1) liability insurance insuring the Executive Board, Officers and employees of the Association against any claims, losses, liabilities, damages or causes of action arising out of, or in connection with, or resulting from any act done or omission to act by any such person or entities, (2) workmen's compensation as required under the laws of the State of Missouri, (3) employee dishonesty, and (4) such other insurance as deemed reasonable and necessary in order to protect the Project, the Unit Owners and the Association.

d. The Association shall be responsible for obtaining insurance upon the units as set out above, including all fixtures, installations or additions thereto contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings of such Units, as initially installed or replacements thereof. The Association shall not be responsible for procurement or maintenance of any insurance covering the liability of any Unit Owner not caused by or connected with the Association's operation or maintenance of the Project. Each Unit Owner may obtain additional insurance at his own expense for his own benefit. Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner and casualty and public liability insurance coverage within each Unit are specifically made the responsibility of each Unit Owner.

e. Any insurance obtained by the Association or a Unit Owner shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Unit Owners, the Association or their respective servants, agents or guests.

f. All insurance policies required by this Article IV shall also comply with the provisions of the By-Law regarding insurance.

#### ARTICLE V MAINTENANCE ASSESSMENTS

5.1 ASSESSMENTS FOR COMMON EXPENSES. All Owners shall be obligated to pay the estimated assessments imposed by the Association to meet the Common Expenses. Assessments for the estimated Common Expenses shall be due quarterly in advance on or before the first (1st) day of each calendar quarter. Failure to pay by the fifteenth (15th) day of each calendar quarter shall require the imposition and assessment of a late charge of not less than twenty-five dollars (\$25.00) per month and interest of one and one-half percent (1½%) per month. The Association, by and through the Executive Board, may require that such assessments be paid monthly, rather than quarterly.

5.2 PURPOSE OF ASSESSMENTS. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the residents in the Property, and in particular for the improvement, maintenance and preservation of the Property, the services and the facilities devoted to said purposes that are related to the use and enjoyment of both the Common Elements and the Units situated upon the Property. Such assessments may also include amounts to be deposited into an emergency working capital fund. Such uses may include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief and liability insurance for the condominium Units; management costs, taxes (exclusive of real estate taxes assessed against individual Unit Owners), legal and accounting fees as may from time to time be authorized by the Association; construction of other facilities; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of, the Property; mowing grass, caring for the grounds and landscaping; caring for the roofs and exterior surfaces of the improvements located on the Property, including the parking areas; garbage pickup; pest control; drive maintenance; outdoor lighting; security service for the Property; water and sewer service furnished to the Property by or through the Association; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur.

5.3 DETERMINATION OF ASSESSMENTS. The assessments (and the schedule of payments of the same, if other than quarterly) shall be determined by the Executive Board based upon an annual budget ratified by the Unit Owners at a meeting held not less than fourteen (14) nor more than thirty (30) days after the mailing by the Executive Board to each Unit Owner of a summary of the budget. Said summary must be mailed within thirty (30) days of the adoption of any proposed budget by the Executive Board. Each budget shall reflect the cash requirements necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements and the establishment of an emergency working capital fund. This determination may include, among other items, taxes (exclusive of real estate taxes assessed against individual Unit Owners), governmental assessments, landscaping and grounds care, Common Area lighting, repairs and renovations, garbage collections, wages and sewer charges, legal and accounting fees, management costs and fees, expenses and liabilities incurred by the operation and maintenance of recreation and administrative facilities, payment of any deficit remaining from a previous period and the creation of a reserve contingency fund. The omission or failure of the Executive Board to fix the assessment for any period shall not be deemed a waiver, modification or a release of the Owners from the obligation to pay.

**5.4 INITIAL ASSESSMENT AND MAXIMUM MONTHLY ASSESSMENT.**

a. The periodic assessments shall be assessed to each Unit which constitutes a part of the Condominium from time to time that the square footage of the Unit bears to the total square footage of all Units in the Association.

b. As of January 1st of the year immediately following the merger contemplated herein, the Association may adopt a budget which may set the periodic assessments for the next succeeding twelve (12) month period at an amount which shall not exceed one hundred twenty percent (120%) of the combined aggregate periodic assessments allowed by the Prior Association, the Merging Association, and the Second Merging Association for January of the preceding year, subject to ratification of the Unit Owners as provided in paragraph 5.3 above. If the increase of the periodic assessments is required to adequately perform the duties and responsibilities of the Association and pay all expenses thereof, then the Executive Board may call a special meeting of the Owners. By the assent of a two-thirds (2/3) vote of the quorum of Owners, present at such meeting, the periodic assessments may be set at whatever level such Owners approve. The new assessment shall become the basis for limits on future annual increases, using the one hundred twenty percent (120%) formula, as above outlined.

c. The Executive Board shall have authority to lower the periodic assessment, if it deems feasible.

**5.5 SPECIAL ASSESSMENTS FOR IMPROVEMENTS.** In addition to the annual assessments authorized above, the Association may levy at any time in any calendar year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall be approved by a two-thirds (2/3) vote of the quorum of Owners voting in person or by proxy at a meeting duly called for this purpose.

**5.6 ADOPTION AND ADJUSTMENT OF ASSESSMENTS.** The Executive Board shall adopt the budget setting forth the amount of the periodic assessments against each Unit within sixty (60) days after January 1st of each year; provided, however, that the Executive Board shall have a right to adjust the periodic assessments, as long as any such adjustment does not exceed the maximum permitted hereunder, with thirty (30) days' written notice given to each Owner. Written notice of the periodic assessment adjustment shall be sent to every Owner subject thereto. The due date shall be established by the Executive Board, and, unless otherwise provided or unless otherwise agreed by the Association, the Executive Board shall collect the assessments quarterly in accordance with Paragraph 5.1 hereof.

5.7 NO EXEMPTION. No owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use of enjoyment of any of the General or Limited Common Elements or by abandonment of his Unit.

5.8 LIEN FOR ASSESSMENTS.

a. All sums assessed but unpaid by a Unit Owner for his share of Common Expenses chargeable to his respective Condominium Unit, and all other sums of any type or nature due from the Unit Owner to the Association, including interest thereon at the lower of eighteen percent (18%) per annum or the highest amount allowed by law, shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances, except only for:

(1) All real estate taxes and special assessments or charges levied by governmental and taxing authorities;

(2) All liens securing sums due or to become due under any mortgage or deed of trust for the purchase of a Unit filed for record prior to or on the date such costs, charges, expenses and/or assessments become delinquent; and

(3) Liens and encumbrances recorded before the recordation of this Declaration.

b. To evidence such lien the Association may, but shall not be required to, prepare written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Condominium Unit and a description of the Condominium Unit; provided, however, that such notice shall be furnished to any Unit Owner requesting the same with respect to his Unit, within ten (10) days of such request. Such notice shall be signed by one (1) member of the Executive Board and may be recorded in the Office of the Recorder of Deeds of Franklin County, Missouri. Such lien for the Common Expenses shall attach from the date the assessment becomes due. Such lien may be enforced by foreclosure of the defaulting Owner's Condominium Unit by the Association in the same manner as a deed of trust on real estate with a power of sale under Chapter 443, R.S.Mo. Each Owner, by accepting a deed to his Unit, expressly grants to the Association a power of sale, as set forth in said Chapter 443, in connection with the assessment lien. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing of the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to appoint a receiver to collect the same. The Association shall have the power to bid on the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

c. The amount of the Common Expenses and other charges assessed against each Condominium Unit shall also be a debt of the Owner thereof at the time the assessment becomes due. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

d. Any encumbrancer holding a lien on a Condominium Unit may pay any unpaid Common Expense payable with respect to such Unit, and upon such payment, such encumbrancer shall have a lien on such Unit for the amount paid of the same rank as the lien of his encumbrance.

5.9 SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any prior recorded mortgage or mortgages granted or created by the Owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Unit. Sale or transfer of any Unit shall not affect the assessment lien; provided, however, that the sale or transfer of any Condominium Unit pursuant to a foreclosure, a deed in lieu of foreclosure, or assignment in lieu of foreclosure under such purchase money or improvement or assignment in lieu of foreclosure under such purchase money or improvement mortgages or deeds of trust shall extinguish the lien of such assessments as to payments thereof coming due prior to such sale or transfer, except for claims for its pro-rata share of such assessments resulting from a reallocation among all Units, which reallocation, if necessary, will require a readjustment of the common assessment as provided in Paragraph 5.4b. No sale or transfer shall relieve such Condominium Unit, or the Owners thereof, from liability for any assessments thereafter becoming due or from the lien thereof.

5.10 STATEMENT OF ASSESSMENTS. Upon the written request of any Owner or any encumbrancer of a Condominium Unit, the Association, by its Executive Board, shall, within ten (10) days of such request, issue a written statement setting forth the unpaid assessments, if any, with respect to the subject Unit, the amount of the current monthly assessments, the date of such assessment and the due date, credit for advance payments or for prepaid items, including, but not limited to, insurance premiums and such other items as are required by Section 448.4-109 of the Act, which statements shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid assessments which become due prior to the date of making such request shall be subordinate to any lien thereafter granted or held by the person requesting such statement.

Any purchaser, donee or other transferee of a Unit, by deed or other writing (herein "Grantee"), who expressly assumes personal liability for unpaid assessments against the transferor or for the proportionate share of such transferor of the Common Expenses up to

the time of the grant or conveyance, shall be jointly and severally liable with the transferor for such assessments, but in the absence of an express assumption such personal liability shall not exist. In any event, the Grantee shall be entitled to a statement from the Executive Board, setting forth the amount of the current monthly assessment and the date such assessment becomes due, as well as any credit for advanced payments or for prepaid items including, but not limited to, insurance premiums. This statement shall be conclusive upon the Association. Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, the Unit conveyed shall not be subject to a lien for any unpaid assessments against the subject Condominium Unit accruing prior to such ten (10) day period.

#### ARTICLE VI

#### DESTRUCTION OR OBSOLESCENCE OF IMPROVEMENTS

##### 6.1 DESTRUCTION OR OBSOLESCENCE.

a. This Declaration hereby makes mandatory the irrevocable, durable appointment of an attorney in fact to deal with the property upon its destruction, obsolescence or condemnation. Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any Grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Attorney in Fact herein provided. All of the Owners irrevocably constitute and appoint THE CARRIAGE COURTS CONDOMINIUM ASSOCIATION, INC., or its successor non-profit corporation, if same be hereafter organized, their true and lawful Attorney in their name, place and stead, for the purpose of dealing with the Property upon its destruction, obsolescence or condemnation, as hereinafter provided. As Attorney in Fact, the Association, by its authorized officers, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a Condominium Unit Owner which is necessary and appropriate to exercise the powers herein granted.

b. Repair and reconstruction of the improvement(s), as used in the succeeding subparagraphs, means restoring the improvement(s) substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by amendment of the Declaration and the original plans and specifications, unless other action is approved by amendment of the Declaration in accordance with Paragraph 8.1 and by approval of First Mortgagees holding at least fifty-one (51%) of the Mortgages of Units subject to mortgages. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacement, unless the Condominium is terminated or eighty percent (80%) of the owners and



all of the First Mortgagees agree not to rebuild, in accordance with the provisions set forth hereinafter:

(1) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as Attorney in Fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed, unless (a) the Condominium is terminated, (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (c) eighty percent (80%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild ((a) through (c) shall hereinafter be referred to as the "Events of Termination").

(2) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if none of the Events of Termination has occurred, such damage or destruction shall be promptly repaired and reconstructed by the Association, as Attorney in Fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the Owners and their Condominium Units. Such deficiency assessment shall be a common expense assessed pro rata according to each Owner's proportionate interest in and to the Common Elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article V hereof. The lien provided for herein shall be subordinate to any prior recorded mortgage lien, as provided in Paragraph 5.9 of this Declaration. Should the Association choose to foreclose said lien, as provided in Article V, the proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as Attorney in Fact, in the following order:

(a) For payment of taxes and special assessment liens in favor of any governmental assessing entity;

(b) For payment of the balance of prior recorded mortgage liens in the order and extent of their priority;

(c) For payment of unpaid Common Expenses;

(d) For payment of junior liens and encumbrances in the order and extent of their priority; and

(e) The balance remaining, if any, shall be paid to the Condominium Unit Owner.

(3) If the entire Project is not repaired or replaced, the insurance proceeds shall be distributed to all Unit Owners or lienholders, as their interests may appear, in proportion to the Common Element interests of all Units, based upon the proportion that the square footage of each Unit bears to the total square footage of all Units in the Association.

(4) In the event that none of the Events of Termination occurs, all of the Owners shall be bound by the terms and provisions of any plan of reconstruction approved by the Executive Board and conforming to the requirements of Subparagraph 6.1b. above.

(5) The Owners representing an aggregate ownership interest of at least eighty percent (80%) of the Common Elements may agree that the Common Elements of the Property are obsolete and that the same should be renewed or reconstructed. In such instance, the expenses thereof shall be payable by all of the Owners as Common Expenses.

(6) Subject to the provisions of subparagraph 7.11a hereof, the Owners representing an aggregate ownership interest of eighty percent (80%) of the Common Elements may agree that the Common Elements are obsolete and that the Condominium should be terminated and the Project should be sold. In such instance, the Association shall prepare a termination agreement to be executed, in the same manner as a deed, by the requisite number of Unit Owners, which agreement shall specify a date after which the same will be void unless recorded prior to such date. The termination agreement and all ratifications thereof shall be recorded in Franklin County, Missouri and shall be effective only upon recordation. Upon the recording of such termination agreement, the entire Project shall be sold by the Association, as Attorney in Fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Plat and the By-Laws. The sales proceeds shall be apportioned between the Owners as their interests may appear on the basis of each Owner's percentage or fraction of interest in the Common Elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one (1) Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the Unit and the name of the Owner. From each separate account, the Association, as Attorney in Fact, shall use and



disburse the total amount of each of such funds, without contribution from one fund to another, for the same purposes and in the same order as is provided in Subparagraphs b(2)(a) through (e) of Paragraph 6.1 hereof.

6.2 JUDICIAL PARTITION. There shall be no judicial partition of the Common Elements, nor shall any person acquiring any interest in the Project or any part thereof seek any judicial partition, until the happening of the conditions set forth in Paragraph 6.1 hereof in the case of damage or destruction or unless the Condominium has been terminated pursuant to Section 448.2-118 of the Act; provided, however, that if any Condominium Unit shall be owned by two (2) or more co-tenants, as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition between such co-tenants, but such partition shall not affect any other Condominium Unit and such partition shall not be a partition in kind.

6.3 CONDEMNATION.

a. If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association, as Attorney in Fact, and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all Eligible Mortgagees, Insurers, or Guarantors known to the Association to have an interest in any Condominium Unit. The expense of participation in such proceedings by the Association shall be a common expense assessed on a pro rata basis in accordance with each Owner's proportionate interest in the Common Elements. The Association, as Attorney in Fact, is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other person as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. In the event that an action in eminent domain is brought to condemn a portion of the Common Elements (apart from any Condominium Unit), the Association, as Attorney in Fact, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such Property to the condemning authority in lieu of such condemnation proceeding.

b. If a Unit is acquired by eminent domain, or if a part of a Unit is acquired by eminent domain, leaving the unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award shall compensate the Unit Owner for his Unit and its interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's

allocated interests shall be automatically reallocated to the units remaining after the taking, and the Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this subsection shall be thereafter a Common Element.

c. Except as provided in subparagraph b. of this paragraph, if part of a Unit is acquired by eminent domain, the award shall compensate the Unit Owner for the reduction in value of the Unit and its interest in the Common Elements, whether or not any Common Elements are acquired.

d. If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Association. Any portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

ARTICLE VII  
MISCELLANEOUS PROVISIONS

7.1 AMENDMENT. Except as otherwise provided in Section 448.2-117 of the Act, this Declaration shall not be revoked, nor shall any of the provisions herein be amended, unless the Owners representing an aggregate ownership interest of sixty-seven percent (67%) of the Common Elements agree to such revocation or amendment by instruments duly recorded.

7.2 NOTICE. All notices, demands or other notices intended to be served upon an Owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such Owner in care of the Unit number and Building address of such Owner. All notices, demands or other notices intended to be served upon the Executive Board of the Association or the Association, shall be sent by ordinary or certified mail, postage prepaid, to the CARRIAGE COURTS CONDOMINIUM ASSOCIATION, INC., Attn: Secretary, P. O. Box 29, Washington, MO 63090, until such address is changed by a notice of address change duly recorded in the Department of Records, Franklin County, Missouri.

7.3 CONFLICT BETWEEN DECLARATION AND BY-LAWS. Whenever the application of the provisions of this Declaration conflict with the application of any provision of the By-Laws adopted by the Association, the provisions or application of this Declaration shall prevail.

7.4 INVALIDATION OF PARTS. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or

the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

7.5 OMISSIONS. In the event of the omissions from this Declaration of any word, sentence, clause, provision or stipulation which shall be necessary for the accomplishment of the intent and purposes hereof, or any part hereof, then such omitted matter shall be supplied by inference and/or by reference to the Act.

7.6 MISSOURI UNIFORM CONDOMINIUM ACT. The provisions of this Declaration shall be in addition and supplemental to the Uniform Condominium Act of the State of Missouri and to all other provisions of law.

7.7 NUMBER AND GENDER. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

7.8 RECISSION. Except as specifically retained herein, all terms, provisions and exhibits of the Prior Association Declaration, the Merging Association Declaration, and the Second Merging Association Declaration are hereby rescinded and terminated.

#### ARTICLE VIII EASEMENTS

8.1 EASEMENTS AND LICENSES. The Project is subject to those easements and licenses set forth, in the Declarations, Plats and Bylaws filed for the Prior Association, Merging Association and Second Merging Association.

8.2 UTILITY AND OTHER EASEMENTS. The Units and Common Elements shall be, and are hereby made subject to easements in favor of the Association, appropriate utility and service companies and governmental agencies or authorities for collection of trash, provision of fire and police protection services, and for such utility and service lines and equipment, including security systems, as may be necessary or desirable to serve any portion of the Property. The easement provided for by this paragraph 9.2 shall include, without limitation, the Association, any providing utility, any service company, and any governmental agency or authority and any of them to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), security systems, electrical wires, conduits and equipment in ducts and

vents and any other appropriate equipment and facilities over, under, through, along and on the Units and Common Elements.

**8.3 EASEMENT FOR INGRESS AND EGRESS THROUGH COMMON ELEMENTS, ACCESS TO UNITS AND SUPPORT.**

a. Each Unit Owner is hereby granted an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by this Declaration, the Bylaws and the Association. Each Unit is hereby burdened with and subject to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to use the same.

b. To the extent necessary, each Unit shall have an easement for structural support over every Unit in any building, the General Common Elements and 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 any building, the General Common Elements and the Limited Common Elements.

**8.4 COMMON ELEMENTS EASEMENT IN FAVOR OF THE ASSOCIATION.**

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

**8.5 COMMON ELEMENTS EASEMENT IN FAVOR OF UNIT OWNERS.**

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

a. 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 serve any Unit and which pass across or through a portion of the Common Elements.

b. For the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Element adjacent to such Unit; provided that the installation, repair, maintenance, use, removal, or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Building or impair or structurally weaken any Building.