

COVENANTS

OF

WHISPERING MEADOWS

HOMEOWNERS ASSOCIATION

Approved by a 67%+ vote of the Homeowners on March 3, 2006
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**WHISPERING MEADOWS
FIFTH AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND DEDICATION OF EASEMENTS**

This Amendment and Restatement of Declaration of Covenants, Conditions, Restrictions and Dedication of Easements (hereinafter this "Declaration") is made this fourth day of March, 2006.

WHEREAS, the following real property legally described in the following plats is made subject to those restrictions which are set forth in this Declaration:

WHISPERING MEADOWS, Lots 1 – 8, a subdivision in Independence, Jackson County, Missouri; and

WHISPERING MEADOWS, Lots 9 – 18 and 23 – 44, a subdivision in Independence, Jackson County, Missouri (a portion of said plat being subsequently replatted as Replat of Whispering Meadows, Lots 27 – 34); and

WHISPERING MEADOWS, Lots 19 – 22, a subdivision in Independence, Jackson County, Missouri; and

WHISPERING MEADOWS 4TH PLAT, Lots 45 –104, a subdivision in Independence, Jackson County, Missouri; and

WHISPERING MEADOWS PHASE 3, 5TH PLAT, Lots 105 – 156, a subdivision in Independence, Jackson County, Missouri; and

WHISPERING MEADOWS, CLUBHOUSE TRACT, a subdivision in Independence, Jackson County, Missouri, being more fully described in Exhibit B attached hereto and made a part hereof; and

WHEREAS, the above plats (hereinafter collectively referred to as the "Plats") constitute a part of the real property legally described in Exhibit A attached hereto; and

WHEREAS, the real property described in each of said Plats was made, and is intended to be made, subject to those restrictions set forth in the Declaration of Covenants, Conditions, Restrictions and Dedication of Easements, recorded on May 24, 1996, by the Declarant, Aspen Development L.C., as Instrument Number 1996I0032674, in Book I-2846 at Page 286, which has been amended thereafter on four (4) separate occasions, as more fully set forth in Article I, Section 6; and

WHEREAS, the real property constituting WHISPERING MEADOWS, Lots 1 – 8, a subdivision in Independence, Jackson County, Missouri; WHISPERING MEADOWS, Lots 9 – 18 and 23 – 44, a subdivision in Independence, Jackson County, Missouri (a portion of said plat being subsequently replatted as Replat of Whispering Meadows, Lots 27 – 34); WHISPERING MEADOWS, Lots 19 – 22, a subdivision in Independence, Jackson County, Missouri; and WHISPERING MEADOWS 4TH PLAT, Lots 45 –104, a subdivision in Independence, Jackson County, Missouri, are hereinafter referred to as “Phases 1 and 2”; and

WHEREAS, the real property constituting WHISPERING MEADOWS PHASE 3, 5TH PLAT, Lots 105 – 156, a subdivision in Independence, Jackson County, Missouri of the above described Plats is hereinafter referred to as “Phase 3”; and

WHEREAS, the real property constituting WHISPERING MEADOWS, CLUBHOUSE TRACT, a subdivision in Independence, Jackson County, Missouri of the above described Plats is hereinafter referred to as the “Clubhouse Tract”; and

WHEREAS, the Declarant, Aspen Development L.C., has closed upon the sale of one hundred percent (100%) of the Lots within the Townhome Property, this being the first of the events to occur which effectuates the Declarant’s surrender of its Class B membership, as provided in the original Article Three, Section 2 of this Declaration; and

WHEREAS, the Declarant has assigned and transferred all rights, reservations, interest, privileges and powers to the Association by virtue of the transfer of all appropriate accounts and title to all of the Common Area property; and

WHEREAS, the Association, as the successor to the Declarant as provided in the original Article Eleven, Section 9 of this Declaration, recognizes the need to eliminate all references to the rights, reservations, interests, privileges and powers of the Declarant and to resolve all the inconsistencies within this Declaration; and

WHEREAS, the Association finds it desirable in its own name, to amend and restate in full this Declaration, as amended, with respect to Phases 1 and 2, Phase 3, and the Clubhouse Tract , pursuant to Article XI, Section 2, consistent with its goal of creating a desirable residential community.

NOW, THEREFORE, the undersigned, constituting sixty-seven percent (67%) of all Members, amends and restates this Declaration, and approves the same, and hereby declares that the Townhome Property, being that real property more particularly described herein and in

Exhibits A and B attached hereto and made a part hereof, and any parts thereof, shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are intended for the purpose of protecting the value and desirability of, and which shall run with, the land and be binding on all parties having any right, title or interest in and to the Townhome Property or any part thereof and shall inure to the benefit of each owner thereof and each owner's respective heirs, legatees, personal representatives, successors and assigns.

ARTICLE I DEFINITIONS

The following words, when used in this Declaration or any supplemental declaration, shall have the following meanings:

1. "Area of Common Responsibility" means the Common Area, together with any areas, if any, within or upon a Lot or Townhome Unit, the maintenance, repair or replacement of which is the responsibility of the Association pursuant to the terms of this Declaration or as determined by the Board of Directors. Without limiting the generality of the foregoing sentence, Area of Common Responsibility shall include those areas set forth in Article VII, Section 2, hereof.
2. "Association" means the Whispering Meadows Homeowners Association, a non-profit corporation formed by Declarant pursuant to the General Business Corporation Law of the state of Missouri, by Articles of Incorporation filed with the Secretary of State for the state of Missouri on June 19, 1996, and its successors and assigns, created to manage and govern the Common Area and Area of Common Responsibility.
3. "Board of Directors" means the elected body of the Association having its customary meaning under Missouri law applicable to non-profit corporations. References to the Board of Directors will include its designee where applicable, whether specifically mentioned or not.
4. "Common Area" means all of the real property shown as common area on the Plats, including all private roadways shown thereon, except the Lots, including the Clubhouse Tract. The Clubhouse Tract shall be used for the community swimming pool ("Pool") and club house ("Clubhouse") for the benefit of the Owners, and their respective tenants and guests.
5. "Declarant" means Aspen Development, L.C., a Missouri limited liability company, its successors and assigns.

6. "Declaration" means the within document, including all its prior recordings made with the Recorder of Deeds of Jackson County, Missouri, including the Whispering Meadows Declaration of Covenants, Conditions, Restrictions and Dedication of Easements recorded on May 24, 1996, Instrument Number 1996I0032674 ("Original Covenants and Restrictions"); the Whispering Meadows Declaration of Covenants, Conditions, Restrictions and Dedication of Easements recorded on August 14, 1997, Instrument Number 1997I0049968 ("First Amendment"); the Whispering Meadows First Amended Declaration of Covenants, Conditions, Restrictions and Dedication of Easements, recorded on October 15, 1998, Instrument Number 1998I0081867 ("Second Amendment"); the Whispering Meadows Second Amended Declaration of Covenants, Conditions, Restrictions and Dedication of Easements, recorded on June 14, 2000, Instrument Number 2000I0039402 ("Third Amendment"); and the Whispering Meadows Second Amended Declaration of Covenants, Conditions, Restrictions and Dedication of Easements, recorded on July 13, 2000, Instrument Number 2000I0045817 ("Fourth Amendment").

7. "Designee" means any party to which the performance of a particular responsibility or task, but none of the associated authority, has been designated or assigned.

8. "Lot" means any separately numbered tract upon the recorded subdivision plat.

9. "Member" means each Owner entitled to membership in the Association.

10. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to a Lot. The term "Owner" shall not mean any mortgagee, unless and until such mortgagee has acquired fee simple title to such Lot pursuant to foreclosure or a proceeding in lieu of foreclosure.

11. "Owner's Tenant" or "Tenant" shall have only the meaning consistent with the provisions of Article X, Section 1.

12. "Townhome Property" means the real property, including any improvements now or hereafter constructed thereon, subject to this Declaration, as further described herein and in Exhibits A and B attached hereto and incorporated herein by reference.

13. "Townhome Unit" means one single family residential townhome unit, which may be a detached single family residential structure (Phase 3), or which may be joined together with one additional single family residential townhome unit by a common wall, walls, roof, or foundation (Phases 1 and 2). The term "Townhome Unit" includes the Lot upon which said Townhome Unit is situated.

ARTICLE II
DECLARATION BINDING

The Townhome Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness thereof. These easements, covenants, restrictions, conditions, assessments, charges and liens shall run with the Townhome Property, shall be binding upon all parties having or acquiring any right, title or interest in the Townhome Property and shall inure to the benefit of each and every owner thereof.

ARTICLE III
ASSOCIATION MEMBERSHIP

Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership. Members shall be entitled to one vote for each Lot which they own; provided, however, that when more than one person owns any Lot, all such persons shall be Members, but shall be entitled to cast only one (1) vote for said Lot.

ARTICLE IV
COMMON AREA AND FACILITIES

1. Ownership. The Association shall own the Common Area.
2. Enjoyment. Each Owner shall have a right and easement of ingress to, egress from and use and enjoyment of the Common Area, which shall be appurtenant to, inseparable from and shall pass with the title to each Lot. Each Owner may use the Common Area, subject to reasonable rules and regulations adopted by the Board of Directors, in accordance with the purpose for which they were intended, but without hindering or encroaching upon the lawful rights of other Owners.

ARTICLE V
ASSESSMENTS

1. Obligation. Each Owner, by acceptance of the deed for such Owner's Lot, regardless of whether it shall be so expressed in any such deed, hereby covenants and agrees, and shall be deemed to covenant and agree, to pay to the Association, or its nominee:

(a) Annual assessments; and

(b) Special assessments for capital improvements or such other purposes set forth herein, to be fixed, established and collected from time to time as hereinafter provided; and

(c) Specific assessments against an Owner's particular Lot which are established pursuant to the terms of this Declaration.

2. Purpose of Annual Assessment. The annual assessment levied by the Association upon the Owners may be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners, including the maintenance of real or personal property. Without limiting the generality of the foregoing, such annual assessment charges may be used for the following purposes:

(a) All the responsibilities of the Association, as more fully set forth in Article VII, Section 2.

(b) *Ad valorem* and other taxes on land and improvements owned by the Association, if any.

(c) Management fees and other expenses (including necessary legal and accounting expenses) of the Association.

(d) Contingency and other reasonable reserve funds as determined from time to time by the Board of Directors.

(e) Insurance premiums for all insurance secured by the Board of Directors pursuant to this Declaration.

(f) Costs of maintaining on-site security, if any, for the entire Townhome Property, but not interior security for individual Townhome Units.

(g) The payment of such other fees and charges as may be elsewhere required or authorized by this Declaration or that the Board of Directors may from time to time

determine necessary or desirable to meet the purposes and obligations of the Association, as stated in its Articles of Incorporation, Bylaws, and this Declaration.

Prior to January 1 of each calendar year, the Board of Directors shall prepare a budget for the ensuing twelve (12) months which shall contain the estimated costs of maintaining the Common Area and the Area of Common Responsibility, and otherwise performing all of the obligations established under this Declaration. On the basis of this budget, the annual assessment for each Lot for the ensuing year shall be established by the Board of Directors.

An annual assessment which is increased more than fifteen percent (15%) over the prior year's annual assessment shall require an affirmative vote of fifty-one percent (51%) of the votes cast by Members of the Association who are voting in person or by absentee ballot at a meeting duly called for the purpose of considering such annual assessment. Notice of any such meeting shall be given to each Member not less than thirty (30) days and not more than fifty (50) days prior to the date of such meeting and shall set forth the time, purpose and place of such meeting.

3. Special Assessments. In addition to the annual assessment authorized hereinabove, the Board of Directors may levy in any year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, any prior year's budget deficit or the cost of any construction, reconstruction, repairs or replacement of capital improvements, including any fixtures or personal property related thereto, to be completed by the Association pursuant to the terms hereof. Special assessments shall require an affirmative vote of fifty-one percent (51%) of the votes cast by Members of the Association who are voting in person or by absentee ballot at a special meeting duly called for the purpose of considering such special assessment. Notice of any such special meeting shall be given to each Member not less than thirty (30) days and not more than fifty (50) days prior to the date of such meeting and shall set forth the time, purpose and place of such meeting. Such special assessment shall be due and payable at the time and in the manner authorized by the Board of Directors.

4. Specific Assessments.

(a) The Board of Directors shall have the right and power, but not the obligation, to levy specific assessments against individual Lots for the purpose of paying for any costs incurred by the Association as a result of the breach of the terms of this Declaration by an Owner or such Owner's agents, family members, guests, tenants, invitees or contractors, or as a result of the negligence or willful misconduct of the Owner thereof or

such Owner's agents, family, guests, tenants, invitees or contractors, or for such other purposes as are set forth in this Declaration. Such specific assessments shall be due and payable at the time and in the manner authorized by the Board of Directors.

(b) Additionally, specific assessments may be established by the Board of Directors to cover additional maintenance costs incurred by the Association resulting from any additional cost, including, but not limited to, the larger-than-standard size or non-standard features of any Townhome Unit. Such specific assessments shall require an affirmative vote of fifty-one percent (51%) of the votes cast by Members of the Association who are voting in person or by absentee ballot at a special meeting duly called for the purpose of considering such specific assessment. Notice of any such special meeting shall be given to each Member not less than thirty (30) days and not more than fifty (50) days prior to the date of such meeting and shall set forth the time, purpose and place of such meeting. Such specific assessment shall be due and payable at the time and in the manner authorized by the Board of Directors.

5. Uniform Rates. All Townhome Units situated in Phase 3, due to their larger size, may be subject to annual and special assessments that are different from the annual and special assessments for Townhome Units situated in Phases 1 and 2. The annual and special assessments applicable to Phase 3, however, shall be fixed at a uniform rate for all Townhome Units in Phase 3. The annual and special assessments for all Townhome Units situated in Phases 1 and 2 shall be fixed at a uniform rate common to both.

6. Date of Commencement of Annual Assessment: Due Date. Each Owner's annual assessment shall be payable without demand or setoff, to the Association in twelve (12) equal monthly installments, each of which shall be due on the first day of each calendar month in said year.

7. Duties of the Board of Directors with Respect to Annual Assessments.

(a) At least thirty (30) days in advance of each annual assessment period of January 1st through December 31st thereafter, the Board of Directors shall, by resolution, determine the amount of the annual assessment applicable to each Lot. Written notice of such annual assessment shall be given to each Owner of such Lot. Failure of the Association to give written notice of the annual assessment prior to January 1st of any year shall not invalidate the annual assessment levied thereafter, nor shall failure to levy

any annual assessment for any one year affect the right of the Board of Directors to do so for any subsequent year.

(b) Any Owner who becomes subject to an annual assessment subsequent to January 1 of any year by acquiring a Lot shall commence payment of such annual assessment on a pro rata basis commencing on the date said deed is issued and delivered.

(c) The Board of Directors shall, upon demand, at any time, furnish to any Owner liable for any annual, special or specific assessment hereunder, a certificate in writing, and in recordable form, signed by the president or secretary of the Association, setting forth whether all fees or charges have been paid to date. A reasonable charge may be made by the Board of Directors for the issuance of such certificate. Such certificate may be recorded in the office of the Recorder of Deeds of Jackson County, Missouri, and upon recording shall constitute conclusive evidence of the status of payment of any annual, special, or specific assessment for the period stated in the certificate.

8. Effect of Nonpayment of Assessments: Remedies of the Association.

(a) If any assessment or any part thereof is not paid when due, the unpaid amount of such assessment shall be deemed delinquent and shall thereupon be a continuing lien on the Lot and Townhome Unit of the non-paying Owner, which lien will take priority as of the date of recording and will be superior to any other liens hereafter placed on said Lot; provided, however, that such lien is hereby subordinated to, and shall be inferior and subordinate to, the lien of any valid first mortgage now existing or which may hereafter encumber said Lot. If any Owner fails to pay any assessment when due, the assessment will be delinquent and payment of principal, late charges, interest, costs of suit and reasonable attorneys' fees may be enforced as a lien on the Lot against which it is levied in proceedings in any court in Jackson County, Missouri, having jurisdiction over suits for the enforcement of such liens. Additionally, the Association may proceed against any Owner that fails to pay any assessment when due and shall be entitled to seek all remedies available under law and in equity.

(b) The Association will bring the suits to enforce such liens or otherwise collect unpaid assessments. The Association may, at its discretion, file certificates of nonpayment of assessments in the office of the Recorder of Deeds of Jackson County, Missouri, whenever any such assessments are delinquent. For each certificate so filed,

the Association will be entitled to collect from the Owner of the property described therein a fee as established from time to time by the Association, which fee shall be secured by the aforementioned lien. Said fee will be collectible in the same manner as the original assessment provided for herein and in addition to the principal, late charges, interest, costs of suit and reasonable attorneys' fees due on such assessment. The Association may terminate or suspend any services provided to an Owner or said Owner's Lot or Townhome Unit if, and so long as, such Owner fails to pay any assessment.

(c) All payments received shall be applied first to costs, then to late charges, if any, then to interest, if any, then to delinquent assessments, then to any unpaid installments of assessments in the order of their coming due, whether or not such installments are the subject matter of any actions to enforce a lien.

9. Exempt Property. All Townhome Property dedicated to and accepted by any municipality or public utility for public use and purposes is wholly exempt from the assessments and liens created hereby.

10. Easements. Any foreclosure of the lien securing an assessment shall not terminate any easement granted by the Declarant or the Association, whether pursuant to this Declaration or otherwise, and all such assessments shall be inferior and subordinate to such easements.

ARTICLE VI

INSURANCE, CONDEMNATION, AND RECONSTRUCTION

1. Association's Insurance. The Board of Directors shall obtain and maintain in the name of the Association the following areas of insurance:

(a) Property and casualty insurance for the Common Area (to include physical damage to structures and their contents) in an amount equal to the full replacement value, to include, but not be limited to the Clubhouse, Pool, gates, fences, and benches.

(b) General liability insurance, including completed operation and product liability and medical payments.

(c) Fidelity insurance against dishonest acts on the part of directors, managers, trustees, employees or volunteers of the Association responsible for handling funds collected and held for the benefit of the Owners, naming the Association as insured.

(d) Worker's compensation insurance to the extent necessary to comply with any applicable law.

(e) Such other insurance the Board of Directors deems necessary to protect the Association and the community at large.

2. Owner's Insurance. Each owner shall obtain and maintain property and casualty insurance, insuring such Owner's respective Townhome Unit against loss by fire, lightning, windstorm and extended coverage in an amount equal to the full replacement value, including all external structures attached to the Townhome Unit that are partially or wholly situated on the Common Area. All premiums for such insurance shall be paid by each Owner. All insurance policies shall be subject to the following provisions:

(a) All policies shall be written with a company or companies licensed to do business in the state of Missouri.

(b) Each Owner shall provide to the Association evidence of current insurance coverage with all appropriate endorsements and provisions.

3. Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area actually owned by the Association or any improvements damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a Special Assessment against all Lots for such deficiency.

4. Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds received by the Association after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Property. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against any Owner for committing willful or malicious damage.

5. Condemnation, Destruction, or Liquidation. Any losses or proceeds from condemnation, non-insured destruction of property, or liquidation of all or part of the Common Area or individual Lots shall be treated and handled in the same manner as provided for losses

and proceeds under insurance policies in this Article VI, or to the extent not so provided, in a reasonable and equitable manner as determined by the Board of Directors.

6. Reconstruction. In case of fire or any other disaster to any Townhome Unit, the insurance proceeds to reconstruct the Townhome Unit shall be applied to such reconstruction. "Reconstruction of the Townhome Unit," as used herein, means restoring the Townhome Unit to substantially the same condition in which it existed prior to the fire or other disaster, with the Townhome Unit and the Common Area having the same vertical and horizontal boundaries as before.

ARTICLE VII

MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

1. Board of Directors and Management. The management, repair, improvement, and alteration of all improvements constructed upon the Common Area, Area of Common Responsibility and all other property as set forth hereinafter as the responsibility of the Association, shall be the responsibility of the Board of Directors. The Board of Directors shall have the power to hire a manager or managing agent. Such engagement shall be evidenced by a management contract reviewed by an attorney on behalf of the Association, which shall not exceed three (3) years in duration and which shall set forth such duties and responsibilities as the Board of Directors may from time to time determine.

2. The Association's Responsibilities.

(a) The Association shall provide, from the proceeds of the assessments received pursuant to Article V of this Declaration, and as governed by this Declaration, by the Bylaws and by board policy, routine repair, maintenance, service, and care of the following:

(1) Private streets, curbs, street sidewalks, driveways, community buildings and structures, walks, ponds, the Pool, other watercourse-related improvements and other improvements and recreational amenities located upon the Common Area, including, but not limited to, the Clubhouse, fence, entryways, trees, shrubs, grass, and berms. The Association shall have the right, but not the obligation, to maintain or replace trees and shrubs located upon the Common Area or any Lot.

(2) Townhome Unit exteriors, including painting, repair of EIFS (exterior insulation finishing system) or stucco, and repair or replacement of Townhome Unit driveways (excluding decorative borders and other Owner modifications) and roofs (not including rafters, sheeting or other substructure).

(3) Underground sprinkler systems for the watering of lawns and grass areas throughout the Common Area and all Lots.

(4) The Clubhouse and Pool (including furnishings and equipment related thereto), keeping it in good, clean, and attractive condition and repair.

(5) Snow removal from streets and driveways, and trash removal.

(b) The Association may provide, but is not obligated to provide, from the proceeds of the assessments received pursuant to Article V of this Declaration, additional services, repairs, maintenance and care for other areas of the Townhome Units, as determined by the Board of Directors. These items may include, but are not limited to, clearing of rain gutters and downspouts, snow removal from front stoops and/or porches, and rain gutter maintenance and/or repair.

(c) The frequency of and the type of materials to be used in the performance of all such routine repair, maintenance and care shall be at the sole discretion of the Board of Directors, or its agent, and shall not be subject to the control of any Owner. In the event that the need for maintenance, care, repair, replacement, or extraordinary services to any Lot is caused by Owner modifications to the original design of a Lot, the addition of improvements by the Owner, or through the willful or negligent act of any Owner, or such Owner's agents, family, guests, tenants, invitees or contractors, such maintenance, care, repair, replacement, or extraordinary services not covered by insurance may be provided by the Association. The costs therefor will become a specific assessment which must be paid by or on behalf of said Owner within thirty (30) days after written notice of same from the Board of Directors, and shall be enforceable and secured by a lien as in the case of all other assessments.

3. The Owner's Responsibility. Each Owner shall maintain, repair and replace at such Owner's expense all portions of such Owner's Lot and Townhome Unit which are not an Area of Common Responsibility, including, but not limited to, foundation plantings and garden landscaping; concrete accessing (excluding driveways); foundation; all external structures

attached to a Townhome Unit, such as decks (whether on the Owner's Lot or the Common Area); all exterior doors (including garage doors); all window glass or plexiglass repair or replacement; all appliances, heating, plumbing, electrical, air conditioning, air conditioning compressor and related facilities, fixtures, or installations, and any portion of any utility services (including meters) located within the interior of such Owner's Townhome Unit; and all interior improvements and fixtures which are appurtenant to each Townhome Unit, including without limitation, responsibility for all breakage, damage, malfunction, painting, repair and maintenance thereof. All fixtures and equipment installed within a Townhome Unit, commencing at a point where the utility and sewer lines, pipes, wires, conduit or systems enter through the exterior of the Townhome Unit, shall be maintained and kept in repair by the Owner thereof, except as otherwise provided in this Declaration. (See also Article IX, Sections 1(a) and 2.)

4. Improvements and Alterations. No Owner may paint or otherwise decorate or change the appearance of the exterior portion of such Owner's Townhome Unit or the surrounding Lot without the prior written consent of the Board of Directors or its designee.

5. Remedy of Violations. If any violation(s) of directions and/or limitations in Sections 3 and/or 4 is not remedied or is not in a diligent remedial process within fifteen (15) days after notice of such violation is delivered to the Owner of the Lot upon which such violation exists, the Association shall have the right, through its agents and employees, to take such legal action as may be necessary to force the removal or termination of such violation. The cost thereof (including legal fees and court costs incurred by the Association to enforce the provisions hereof) may be assessed against the Lot upon which such violation occurs as a specific assessment, and when so assessed, a statement for the amount thereof shall be rendered to the Owner thereof, in all respects, and shall be subject to the same provisions and limitations as provided in Article V of this Declaration. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions of this Article, or any of the other provisions or requirements of this Declaration, exists thereon, and neither the Association nor any such agent, employee or committee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE VIII
PARTY WALLS

Townhome Units may have at least one wall in common with an adjoining Townhome Unit, which common wall or walls will be built on a dividing line between Lots. Each such common wall shall be a party wall and the rights and obligations of the Owners of such party walls shall be as follows:

(a) To the extent not inconsistent with this Article, all laws applicable to party walls and liability for property damage due to negligence or willful acts or omissions in the state of Missouri shall apply thereto. No Owner shall cut through or make penetration through a party wall for any purpose whatsoever.

(b) The cost of reasonable repair and maintenance of any party wall shall be shared by the Owners who make use of such wall, except for any repair and maintenance required to be made by the Association as set forth hereinbefore.

(c) If a party wall is damaged or destroyed by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, such party wall shall be repaired or replaced by the Owners who make use of such wall and the cost of any repair or replacement shall be borne by them equally, without prejudice, however, to the right of either Owner to demand a larger contribution from the other under any rule of law regarding liability for negligence, willful acts or omissions.

(d) Notwithstanding any other provision of this Article, to the extent that damage to a party wall is not covered and paid for by insurance provided for herein, an Owner, who by such Owner's negligence or willful act causes or permits any party wall or portion thereof to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements and for the repair to such wall.

(e) The right of any Owner to contributions from any other Owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors in title.

(f) In the event of any dispute arising concerning any party wall, the resolution thereof shall be determined by the decision of a majority of all the Board of Directors. As an alternative method of resolving the dispute, the Board of Directors may select one or more arbitrators who shall have the authority to settle the dispute pursuant to such

rules of arbitration as the Board of Directors may determine. The determination by the Board of Directors or arbitrators shall be binding and conclusive on the parties.

ARTICLE IX EASEMENTS

1. Utility Easements. Declarant has installed or caused to be installed lines, pipes, conduits, and other utility facilities, hereinafter referred to as “utility lines,” for the purpose of providing sewer, electricity, gas, water, and telephone services to the Townhome Units and to the Common Area. To insure that such utility lines shall be installed, kept, maintained, restored, repaired and replaced, the Association reserves unto itself an easement to install, keep, maintain, restore, repair, and replace any utility lines under and across the Common Area and all individual Lots.

(a) If, in order to maintain, restore, repair or replace any utility lines or other utility equipment that serves more than one Townhome Unit, it becomes necessary to break through walls, excavate or otherwise damage a Lot, Townhome Unit, or Common Area, the damages caused by such entry shall be repaired and the Lot, Townhome Unit or Common Area entered shall be restored to substantially the same condition as prior to such damage. Unless caused by the negligence or willful act of an Owner, the cost of such restoration shall be an expense of the Association. Expenses applicable to removal of obstructions in a sewer line from under the basement floor to the top floor of a Townhome Unit shall be assumed and paid by the Owner thereof, not the Association.

(b) If it becomes necessary to maintain, restore, repair or replace any utility lines which serve more than one Townhome Unit, then the cost of such maintenance, restoration, repair or replacement to its former condition shall be at the expense of the Association.

2. Blanket Easement. The Association hereby reserves unto itself a blanket easement upon, across, over and under all of the Townhome Property, including the Lots except for that portion of the Townhome Property upon which a Townhome Unit structure exists, for ingress to and egress from, installment, operation, replacement, repair and maintenance of utilities, including, but not limited to water, sewer, telephone, television, electricity, gas, cable television and drainage facilities, together with the right to remove any obstruction that may be placed in

such easement area that would constitute interference with the use of such easement or with the use, maintenance, operation or installation of such utilities or drainage facilities.

The Association reserves the right to convey all or part of the easement created herein to any public or private utility company or public entity in furtherance of the purposes described herein. Notwithstanding anything to the contrary contained in this paragraph, or in this Declaration, no sewer, electrical line, water line or other utilities may be installed or relocated upon the Townhome Property until approved by the Board of Directors. Neither the Association nor any utility company or other authorized entity using the easements created by this Declaration shall be liable for any damage to shrubbery, trees, flowers, grass, or other improvements located on the property covered by such easements. Owners shall not be deemed to separately own pipes, wires, conduits or other services lines running through their property, which are utilized for or serve other Townhome Units or the Common Area, but each Owner shall have an easement in and to the aforesaid lines as shall be necessary for the use, maintenance and enjoyment of such Owner's Townhome Unit, subject to such rules and regulations as may be established by the Board of Directors.

No Owner may disconnect any utility line, and all Owners are prohibited from intentionally interrupting the utility services rendered to other Owners or the Common Area. All expenses incurred by the Association in reconnecting or repairing utility services as the result of the intentional disruption of such service by an Owner shall be assessed against and shall be immediately due from such Owner as a specific assessment. It shall be the Association's obligation to maintain sewer lines and facilities only from the exterior of Townhome Units to the municipal sewer line, such lines to be located within such easement areas. All expenses for such maintenance shall be paid from the annual assessments received by the Association pursuant to this Declaration.

3. Easement for Ingress and Egress. The Association reserves unto itself for the benefit of each Owner, an easement for ingress to and egress from each Townhome Unit over and across all the Common Area.

4. Easement for the Association. The Association reserves unto itself an easement over, under and across all of the Townhome Property for the purposes of executing any of the powers, rights or duties granted to or imposed upon the Association by the terms of this Declaration, its Articles of Incorporation, or its Bylaws.

ARTICLE X
USE RESTRICTION

1. Single Family Residence. Each Townhome Unit shall be used solely for a private residence of no more than one (1) family unit. The leasing or rental of a Townhome Unit for residential purposes shall be considered to be a violation of this Declaration unless made in accordance with rules and regulations promulgated by the Board of Directors with respect to leases and rentals, which shall contain a requirement that an Owner obtain the written approval of the Board of Directors prior to attempting to rent or lease such Owner's Townhome Unit.

2. Other Structures. No structure of a temporary character, and no trailer, vehicle, basement, tent, shack, playhouse, shed, garage, barn or other buildings shall be erected, used or maintained at any time upon any Lot or the Common Area without the prior written consent of the Board of Directors or its designee.

3. Signs. No signs of any type shall be hung or displayed either on the inside or the outside of any Townhome Unit or otherwise so as to be seen from the exterior; provided, however, that one "for sale" sign at any one time may be displayed by or on behalf of an Owner solely in the area in front of such Owner's Townhome Unit until the same is sold, all in accordance with the laws of the city of Independence, Missouri. One small security system warning sign or decal may be displayed on or closely adjacent to the front, and/or side, and/or rear of any Townhome Unit.

4. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. The determination of such unsightly or unkempt conditions and rules of enforcement of such conditions shall be determined by the Board of Directors or its designee.

5. Storage. No storage of any type shall be allowed at any time on any Lot except within each Owner's private enclosed Townhome Unit, and nothing shall be stored in such manner as to be exposed to public view. No liquid fuel storage tank with a capacity in excess of two gallons may be maintained upon any Lot. Storage within a garage shall not be so great as to cause an Owner to not use such Owner's garage for the purpose of parking such Owner's vehicle.

6. Vehicle Repair. No major repair, rebuilding, or maintenance of any vehicle shall be permitted except within an Owner's private enclosed garage. No major repair, rebuilding, or

maintenance of any vehicle shall be permitted in open parking areas. This includes, but is not limited to automobiles, trucks, campers, trailers and boats. No non-operable vehicle of any kind, nor any vehicle without current license tags may be kept on any yard, driveway, or street in front of any Townhome Unit at any time.

7. Animals Kept as Pets. No livestock, animals or poultry of any kind shall be kept on or in a Lot or Townhome Unit, except not more than two (2) household pets may be kept on or in a Lot or Townhome Unit. All such animals must be confined at all times within the interior of the Townhome Unit or on a leash under the direct supervision and control of the Owner. Owners shall prevent their animals from barking and from making loud or raucous noises to the disturbance of other Owners. The Board of Directors or its designee shall have the authority to prohibit an animal from being kept on or in a Lot or Townhome Unit for violation of a use restriction.

8. Garbage. All rubbish, trash or garbage or unsightly debris shall be kept so as not to be seen from the neighboring Lots and streets, except on collection days.

9. Adverse Acts. An Owner shall do no act nor any work that will impair the structural soundness or integrity of such Owner's or another Townhome Unit or impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Townhome Units or their Owners.

10. Vehicle Parking. In addition to the following general provisions, restrictions, rules, and regulations for vehicle parking will be determined, set, administered and enforced by the Board of Directors.

(a) Street Parking.

(1) No vehicle shall be parked on any street for more than twenty-four (24) hours on any street.

(2) No vehicle shall be parked on any driveway so as to obstruct ingress and egress by Owners and invitees, except for the reasonable needs of emergency vehicles, and then limited to as brief a time as possible.

(b) Driveway Parking.

This Section 10 has been superseded by Article X, Section 10 appearing in the Sixth Amendment to Whispering Meadows Declaration of Covenants, Conditions, Restrictions and Dedication of Easements. Please see separate document for text of this Section.

except temporarily, and in no event shall any vehicle be parked continuously for more than twenty-four (24) hours on any street. No vehicle shall be parked on any driveway so as to obstruct ingress and egress by Owners and invitees, except for the reasonable needs of emergency vehicles, and then limited to as brief a time as possible.

(1) One vehicle belonging to a resident may be parked overnight on an Owner's driveway. Trucks with camper shells must be parked within the garage.

(2) Automobiles and trucks (with a capacity not exceeding one-half ton) of visitors or guests may park temporarily on an Owner's driveway in accordance with rules and regulations proposed by the Board of Directors.

(c) Specific Vehicles.

(1) Except for the reasons of emergency, construction, delivery or pickup, or service, no truck or trailer with a capacity exceeding one-half ton shall be permitted to park in the Townhome Property.

(2) No boat, camper, truck, or trailer with a capacity exceeding one-half ton, mobile home, or recreational vehicle of any type whatsoever may be parked in the Townhome Property, except for a period of time reasonably necessary for loading or unloading of personal property by an Owner.

(3) No person shall be allowed to cook or sleep in any vehicle or trailer at any time or for any reason whatsoever when such vehicle or trailer is located on Townhome Property.

This Section 10 has been superseded by Article X, Section 10 appearing in the Sixth Amendment to Whispering Meadows Declaration of Covenants, Conditions, Restrictions and Dedication of Easements. Please see separate document for text of this Section.

11. Planting, Gardening, and Fencing. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Townhome Property, except as installed in connection with the initial construction of buildings or Townhome Units, or as approved by the Board of Directors or its designee. No boundary fences shall be allowed upon any Lot.

12. Barbeque Grills. No wood-burning or charcoal-burning barbeque grill, smoker, or oven shall be installed, erected or placed on any wooden structure.

13. Sound Devices. No speaker, horn, whistle, siren, bell or other sound device shall be located, installed or maintained upon any Lot or the exterior of any Townhome Unit except for security purposes.

14. Insurance Risks. Nothing shall be done or kept in or on the Townhome Property which will increase the rate of insurance payable by the Association or individual Owners. No Owner shall permit anything to be done or kept on or in such Owner's Lot or Townhome Unit or

the Common Area which will result in the cancellation of insurance on any Lot or Townhome Unit or any of the Common Area, or which would be in violation of any law.

15. Association's Standards. The Association, acting through its Board of Directors or its designee, shall have authority to make and enforce standards, use restrictions, and safety practices applicable to the Townhome Property in addition to those contained herein, and to impose reasonable user fees for facilities.

16. Occupants. All provisions of this Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all other occupants of any Townhome Unit.

ARTICLE XI GENERAL PROVISIONS

1. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the Townhome Property, and shall inure to the benefit of and be enforceable by the Association, or any Owner, for a term of thirty (30) years after the date that this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of fifteen (15) years unless Owners representing sixty-seven percent (67%) of the votes held by Members have signed and recorded an instrument abolishing or changing said covenants, conditions and restrictions in whole or in part; provided, however, that no such instrument shall be effective unless made and recorded six (6) months in advance of its effective date; and provided, further, that no such change shall be effective on less than thirty (30) days prior notice to the Owners. The party wall covenant shall not terminate.

2. Amendment by Owners. Except as provided in paragraph 1 of this Article, the covenants, conditions and restrictions of this Declaration may be abolished, amended, or changed in whole or in part only with the consent of Owners representing at least sixty-seven percent (67%) of the votes of Members to be evidenced by a document in writing bearing each of their signatures.

3. Enforcement. The Association or any Owner may enforce this Declaration by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain such violation or to recover damages or

to enforce any lien created herein against the land; and failure by the Association or any Owner to enforce any covenant, condition or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

4. Severability. Invalidation of any of these covenants, conditions or restrictions by judgment or court order shall not affect in any way the other provisions contained herein, which shall remain in full force and effect.

5. Notices. All notices required to be given hereunder shall be sent by certified mail, return receipt requested addressed to the Association at the address of its registered agent or such other address as may be filed of record by the Association in the Recorder of Deeds of Jackson County, Missouri; and addressed to an Owner at the street address assigned to such Owner's Townhome Unit by the city of Independence, Missouri; provided, however, that said notice may be delivered by any other means if actually received by the intended recipient.

6. Captions. Captions provided herein for Articles or paragraphs are inserted only for convenience and are not to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or paragraph to which they refer.

7. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association, or paid for out of the annual, special or specific assessments levied upon Owners, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Area, or from any wire, pipe, drain, conduit, utility line or the like. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Area. No diminution or abatement of annual, special or specific assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area, or from any action taken by the Association in accordance with any of the provisions of this Declaration or with any law, ordinance, order, or directive of any municipal or other governmental or quasi-governmental authority. Neither the Association nor any of its employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications including, without limiting the generality of the foregoing, ponds, and other watercourse-related improvements.

8. Successor of Declarant. Any and all rights, reservations, interests, privileges and powers of the Declarant hereunder have been assigned and transferred by the Declarant to the Association.

9. Miscellaneous Expenses. Whenever an Owner, such Owner's tenant or such Owner's mortgagee requests any information pursuant to the terms of this Declaration, all reasonable expenses incurred by the Association in providing such information will be paid by the party requesting same.

10. Rules and Regulations of the Board of Directors. From time to time and subject to this Declaration, the Board of Directors may adopt, amend and repeal rules and regulations. A copy of said rules and regulations will be distributed to each Owner, and any change in said rules and regulations will be distributed to each Owner within a reasonable time following the effective date of the change. The Board of Directors or its designee will provide for enforcement of the rules and regulations as set forth in the Bylaws.

11. Disclosure of Declaration, Bylaws and Board Policy. In the event that an Owner places a Townhome Unit on the market, that Owner shall inform the Board of Directors in writing of such intention. The Board of Directors shall advise the Owner of the information that needs to be communicated to a buyer concerning this Declaration, Bylaws and board policy of the Association. The Owner shall provide to a buyer or to the real estate agent copies of the aforementioned documents. Upon completion of the sale, the Owner shall provide the name and address of the new Owner to the Board of Directors.

IN WITNESS WHEREOF, the undersigned, consisting of sixty-seven percent (67%) of the Members, hereby certify the above Amendment to the Declaration of Covenants, Conditions, Restriction and Dedication of Easements is hereby approved by the undersigned Owners. The approval of the above Amendment may be executed in multiple counterparts. When all signature pages are attached to this Amendment, it shall constitute a duly executed Amendment by all Owners.

Note: The final copy of this document, complete with the required number of notarized signatures and notarized absentee ballots was recorded at the Jackson County Office of Records, Independence, Missouri on March 6, 2006. It becomes effective six months from date of filing or on September 6, 2006.

EXHIBIT A

ALL OF THE NW 1/4, NE 1/4, SECTION 30-T.49-R.31 AND ALL OF THE SW 1/4, SE 1/4, SECTION 19-T.49-R.31, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 70 AS ESTABLISHED BY DOCUMENT NUMBER 733591 IN BOOK 1354 AT PAGE 275, ALL BEING IN INDEPENDENCE, JACKSON COUNTY, MISSOURI BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SE 1/4, OF SAID SECTION 19-T.49-R.31; THENCE N 2 DEGREES-08'-56" E, ALONG THE WEST LINE OF SAID SE 1/4, 770.89 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE N 73 DEGREES-12'-25" E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 82.19 FEET TO A POINT 150.00 FEET SOUTH OF AND OPPOSITE CENTERLINE STATION 650+50; THENCE S 80 DEGREES-13'-41" E, CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE 150.00 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE THEREOF, 1050.00 FEET TO A POINT 150.00 FEET SOUTH OF AND OPPOSITE CENTERLINE STATION 661+00; THENCE S 53 DEGREES-39'-47" E, CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE, 111.80 FEET TO A POINT 200.00 FEET SOUTH OF AND OPPOSITE CENTERLINE STATION 662+00; THENCE S 80 DEGREES-13'-41" E, CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE, 200.00 FEET SOUTH OF AND PARALLEL WITH THE CENTERLINE THEREOF, 117.77 FEET TO THE EAST LINE OF THE OF THE W 1/2, SE 1/4, OF SAID SECTION 19-T.49-R.31; THENCE S 2 DEGREES-05'-03" W, ALONG SAID EAST LINE, 593.44 FEET TO THE NORTHEAST CORNER, NW 1/4, NE 1/4, OF SAID SECTION 30-T.49-R.31; THENCE S 2 DEGREES-04'-32" W, ALONG THE EAST LINE OF SAID NW 1/4, NE 1/4, 1323.75 FEET TO THE SOUTHEAST CORNER OF SAID NW 1/4, NE 1/4; THENCE N 87 DEGREES-18'-29" W, ALONG THE SOUTH LINE OF SAID NW 1/4, NE 1/4, 1328.34 FEET TO THE SOUTHWEST CORNER OF SAID NW 1/4, NE 1/4; THENCE N 2 DEGREES-04'-22" E, ALONG THE WEST LINE OF THE NE 1/4, SAID SECTION 30-T.49-R.31, 1324.34 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

WHISPERING MEADOWS, CLUBHOUSE TRACT, a subdivision in Independence, Jackson County, Missouri being more fully described as follows:

All that part of the Northwest 1/4 of the Northeast 1/4 of Section 30, Township 49, Range 31, in Independence, Jackson County, Missouri described as follows: Commencing at the Southeast corner of said 1/4 1/4 Section; thence North 2 degrees 04 minutes 32 seconds East, along the East line of said 1/4 1/4 Section 259.45 feet to the true point of beginning of the tract of land herein described, said point also being the Northeast corner of a common area and drainage easement platted as part of "Whispering Meadows, 4th Plat, Lots 45-104"; thence continuing North 2 degrees 04 minutes 32 seconds East, along said East line, 274.32 feet; thence North 87 degrees 55 minutes 28 seconds West, 231.62 feet to a point on the Northeasterly line of said 4th Plat and drainage easement; thence South 38 degrees 06 minutes 04 seconds East, along said Northeasterly line, 359.03 feet to the point of beginning, containing 0.729 acres, more or less.