

I132422

**KERRINGTON WOODS
DECLARATION OF
COVENANTS AND RESTRICTIONS**

I2653P2353

THIS DECLARATION, made this 27 day of January, 1995, by KERRINGTON WOODS, L.P., a Missouri limited partnership (herein known as the “Company”),

WITNESSETH THAT:

WHEREAS, the Company is the owner of certain real property in the City of Independence, Missouri, and desires to create thereon a planned residential development to be known as “KERRINGTON WOODS” with open spaces, recreational facilities, streets, roads, walkways and other common facilities for the benefit of said community; and

WHEREAS, the Company desires to insure the attractiveness of development and to preserve, protect and enhance the values and amenities of said property by the adoption of a sound urban environmental plan and set of restrictions to govern said property, and to provide for the maintenance of said open spaces, recreational facilities, streets, roads, walkways and other common facilities (herein known as “Common Ground(s)” or “Common Land(s)”), the maintenance of lawns, landscaping and for the overall maintenance and improvement of the Community; and

WHEREAS, the Company has deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which the Common Ground(s) should be conveyed, and which should have the powers of maintaining and administering the Common Ground(s) and facilities and administering and enforcing the covenants and restrictions hereinafter set forth and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Company has caused (or will cause) to be incorporated under the laws of the State of Missouri, as a not—for— profit corporation, Kerrington Woods Homes Association, Inc., for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Company declares that the property described in Exhibit A and such additions thereto as may hereafter be made pursuant to these covenants and restrictions is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (hereinafter sometimes referred to as “Covenants and Restrictions”) hereinafter set forth.

ARTICLE I
DEFINITION OF TERMS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

1. “Association” shall mean and refer to the Kerrington Woods Homes Association, Inc., a Missouri not—for—profit corporation, and its successors and assigns.

2. “Board of Directors” shall mean the Board of Directors of the Association.

3. “Common Ground” or “Common Land” and “Common Ground(s) or Common Land(s)” shall mean and refer to those areas of land owned by the Association and intended to be devoted to the common use and enjoyment of the Owners of The Properties, including, without limitation, parks, open spaces, playgrounds, streets, parking areas, paths, walkways, and other facilities for the benefit in common of such owners; nothing herein in the foregoing enumeration shall be construed as a representation that any such areas are included or will be included in The Properties or that any such facilities will be constructed upon the Common Ground.

4. “Company” means Kerrington Woods, L.P., a Missouri limited partnership and any successor and assign thereof to whom Kerrington Woods, L.P. shall convey or otherwise transfer all of the rights, title and interest in The Properties then owned by it, and to whom Kerrington Woods, L.P. shall expressly transfer and assign all of its rights, title and interest under this Declaration, or any amendment or modification of this Declaration.

5. “Living Unit” shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

6. “Lot” shall mean and refer to any plot of land shown on any final recorded subdivision plat of The Properties with the exception of Common Ground(s) as herein defined.

7. “Member” shall mean and refer to all those Owners who are members of the Association.

8. “Mortgage” and “Mortgagee” shall mean and refer also to a deed of trust and the trustee and beneficiary under a deed of trust, respectively.

9. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The

Properties but shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

10. "The Properties" shall mean and refer to all such existing properties and additions thereto, as are subject to this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION: EXISTING AND ADDITIONS

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Independence, and is more particularly described in the legal description contained in Exhibit A attached hereto and made a part hereof by reference.

Section 2. Additions to Existing Property. The Company at its sole discretion may from time to time add to the land subject to these covenants and restrictions such land as is now owned or hereafter owned or approved for addition by the Company. Company, however, shall be under no obligation to add to The Properties if it determines that said addition is not in the best interests of the project.

The additions authorized under this section shall be made by executing and filing of record in the County of Jackson, State of Missouri an instrument or plat executed by Company which shall extend this Declaration to such additional properties. Said instrument may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any of the added properties and as are not inconsistent with the scheme of the Declaration, and may limit the availability of the Common Ground(s), or portions thereof, including the prohibition of use thereof, to such added properties, subject to limitation of applicable zoning and subdivision ordinances as now provided, and hereinafter referred to.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Company and every person or entity who is a record Owner of a fee or undivided fee interest in any Lot or Living Unit which is subject to this Declaration shall automatically be a Member of the Association. Membership shall confer certain rights and privileges as described herein, provided that any person or entity who holds an interest merely as security for the performance of an obligation shall not be a Member. Membership shall be connected with, appurtenant to and may not be separated from the ownership of a Lot or Living Unit.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A: Except for the Company (which shall initially be a Class B member), each Owner of a Lot or Living Unit shall be a Class A member. Each Class A member shall be entitled to one (1) vote in the aggregate. When more than one person holds a fee or undivided fee interest in any Lot or Living Unit, all such persons shall be members, and the vote for such Lot or Living Unit shall be exercised as they among them shall determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit. For purposes of the votes allowed hereunder, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

Class B: The Class B member shall be the Company. The Class B member shall be entitled to three votes per Lot or Living Unit owned by it. For the purposes of the votes allowed hereunder, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted. The Class membership in the Association shall cease and be converted to Class A membership in the Association on the tenth anniversary of the date of this Declaration or at such earlier time as the total number of votes entitled to be cast by Class A members of the Association equals or exceeds one—third of the total number of votes entitled to be cast by the Class B member of the Association. Provided, however, the Class B membership shall be revived (and the Company shall again be entitled to three votes for each Lot owned by the Company) during any periods of time occurring before the tenth anniversary of the date of this Declaration, when by reason of the annexation of additional land as a part of The Properties additional Lots or Living Units owned by the Company exist which, when added to the other Lots or Living Units then owned by the Company, would result in the Company having more than fifty percent (50) of the votes of the Association were the Company to have three votes for each Lot or Living Unit owned by the Company instead of only a single vote for each Lot or Living Unit owned by the Company.

ARTICLE. IV PROPERTY RIGHTS IN THE COMMON GROUND(S)

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 2 hereof, every Member of the Association shall have a right and easement or enjoyment in and to the Common Ground(s), and such easement shall be appurtenant to and snail pass with the title to every Lot and Living Unit.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association to promulgate rules and regulations governing the use of the Common Ground(s), including, without limitation, the right to

restrict or limit their usage or to permit, on such terms as deemed appropriate by the Board of Directors, their use by non—members; and

- (b) The right of the Association¹ as provided in its Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations; and
- (c) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Ground(s) and to require licenses and license fees where it is deemed necessary by the Board of Directors; and
- (d) The right of the Association to dedicate or transfer, subject to the requirements set forth herein and in the Articles of Incorporation of the Association, all or part of the Common Ground(s) to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association and such public agency or authority; and
- (e) The right of the Company or other builder—developers authorized in writing by the Company to utilize Common Ground(s) for promotional purposes during periods of development; and
- (f) The right of the Association to grant such easements and rights of way to such utility companies or public agencies or authorities or other persons or entities as it shall deem necessary or appropriate; and
- (g) The right of Owners to perpetual easements over any part of the Common Ground(s) for such portion of their dwelling unit that may overhang said Common Ground(s), and for pedestrian anti vehicular ingress and egress to and from any dwelling over said Common Ground(s); and
- (h) The right of the Association to enter into licensing agreements with commercial enterprises for the operation of recreation facilities and related concessions for the benefit of Owners and residents of The Properties.

ARTICLE V COVENANT FOR ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Company, as grantor for each Lot and Living Unit within The Properties, hereby covenants and each Owner of any Lot or Living Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay (except for special provisions hereinafter contained

with respect to “Exempt or Partially Exempt Property” as defined in Article V, Section 10) to the Association: (1) annual assessments or charges; and (2) special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied under this Article shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and in particular for the rendering of services in the furtherance of such purposes, including the carrying out of all functions herein authorized, and for the improvement, maintenance and operation of the Common Ground(s) and all facilities thereon, including, but not limited to, the payment of taxes and insurance thereon, debt service and repair, maintenance and improvement of all lawn and landscaping on all Common Ground(s) within The Properties, and for the cost of labor, equipment, materials, management and supervision thereof and for such other needs as may arise.

Section 3. Basis and Maximum of Annual Assessments. The maximum amount of the first annual assessment shall be fixed by the first Board of Directors of the Association. The Board of Directors may increase the first assessment or any subsequent assessments for any assessment year by an amount which is equal to the increase in the Consumer Price Index — United States All Items Figure as published by the United States Department of Labor Statistics as indicated by the last available Index published prior to the assessment year over the corresponding last available Index published prior to commencement of the first assessment year hereunder; if such Index be discontinued, the Board of Directors shall utilize a successor index, determined by the Board of Directors, in its sole judgment, to be most similar to the discontinued Index.

Section 4. Special Assessments. In addition to the annual assessment authorized in Section 3 hereof, there may be levied in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Common Ground(s), including the necessary fixtures and personal property relating thereto, upon the approval of a majority of the Members of the Board of Directors and the assent of a majority of the votes of Members, who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall have been sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting. The provisions of this Article with respect to the establishment of due dates, effect of non—payment and remedies for enforcement shall be applicable to any special assessment levied as hereinabove authorized.

Section 5. Change in Basis and Maximum of Annual Assessments. The Association may change the basis and maximum of assessments provided for in Section 3 above upon the approval of a majority of the Members of the Board of Directors and the assent of a majority of the vote of Members who are voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall have been sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate.

Section 6. Notice of Assessments. A notice of all assessments shall be given either by mail, postage prepaid, addressed to the last known or usual post office address of the holder of legal title of the assessable Lot or Living Unit (such notice to be considered given when mailed), or by posting a brief notice of the assessment upon the assessable property itself.

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence on the first day of the month designated by the Board of Directors to be the date of commencement. The first annual assessment shall be adjusted according to the number of months remaining in the assessment year, and subsequent assessments shall thereafter be on a full assessment year basis. The Board of Directors shall fix the amount of the annual assessments to be levied against each Lot or Living Unit at least thirty (30) days in advance of each assessment year, and the due dates for such assessments shall be established by the Board of Directors. Assessments may, if authorized by the Board of Directors, be payable in monthly or other periodic installments, with the entire balance or the annual assessment to become payable upon non—payment of a periodic installment. The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non—Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of the Association. If assessments is not paid on the date when due (being the dates as determined under Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owners, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien, the personal obligation of the then Owner to pay such assessment shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring legal action against the Owner personally obligated to pay the same, and, in addition, may execute and acknowledge an

instrument reciting the levy of the assessment with respect to such property and cause same to be recorded in the Office of the Recorder of Deeds of Jackson County, Missouri, and thereafter institute any appropriate legal action to enforce such lien. Upon payment, the Association shall cause to be executed and recorded (at the expense of the Owner of the affected property) a release of such lien. All costs including reasonable attorney's fees, Incurred by the Association in enforcing the payment of any delinquent assessment shall be paid by the Owner in default and the amount of such costs, including reasonable attorney's fees, shall be a lien against the property involved until paid.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional (bank, savings and loan association, pension or retirement fund, insurance company or federally insured mortgage) first mortgage now or hereafter placed upon any Lot or Living Unit with respect to assessments which have become due and payable prior to a sale or transfer of such property pursuant to foreclosure or in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The term "mortgage" or "mortgages" shall include deed or trust or deeds of trust.

Section 10. Exempt or Partially Exempt Property. The following properties subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (1) All Common Ground(s) as defined in Article I hereof.
- (2) All properties exempted from taxation under the laws of the State of Missouri
- (3) All Lots or Living Units owned by the Company or other builder—developers before title to the Lot or Living Unit has been transferred to the first purchaser thereof at retail (as distinguished from sales in bulk or at wholesale to others for development or resale) or before commencement of the first term under a lease or tenancy affecting the Lot or Living Unit. Any Lot or Living Unit located within lands added hereto, the owners or residents of which are not eligible to use portions of the Common Ground(s), shall not be subject to assessment for such portions of the Common Ground(s).

ARTICLE VI ARCHITECTURAL AND ENVIRONMENTAL CONTROL

Kerrington Woods has been established as a planned residential development within the City of Independence and County of Jackson, Missouri. All covenants as described in this Article shall apply to each improved Lot or Living Unit within The Properties and are intended to insure compliance with those requirements and the general purposes and objectives upon which such planned residential development has been founded.

Section 1. Review by Committee. From and after the conveyance of an improved Lot or Living Unit by the Company or other builder—developer, no building, fence, wall or other structure or landscaping of any kind shall be commenced, erected or maintained thereon, nor shall any exterior addition to, removal of all or any part thereof, or exterior change or alteration in any improvement thereon be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design, types of materials, colors and location in relation to surrounding structures and topography by the Architectural Control Committee. The Architectural Control Committee will be composed of three (3) or more persons appointed by the Board of Directors. Until such time as the Board of Directors comes into existence, the Company will act as the Architectural Control Committee. It is expressly agreed that the Architectural Control Committee shall have control over completed homes whose owners are members of the Association at or after the recording of this Declaration. Notwithstanding anything in this Declaration to the contrary, exclusive control of new Living Units to be constructed and the development of the Lots upon which such Living Units are built shall be vested solely in the Company until such time as the Lots or Living Units are transferred to the first purchaser thereof at retail (as distinguished from sales in bulk or at wholesale to others for development or resale) and the Owners thereof become subject to this Declaration and become members of the Association; at such time, said Lots or Living Units will then become subject to the control of the Architectural Control Committee. In the event said Architectural Control Committee shall fail to approve or disapprove such design, materials, colors and location within forty—five (45) days after all required plans and specifications have been submitted to it (and fees, if required, have been paid), approval will not be required and this Section will be deemed to have been fully complied with. The Architectural Control Committee is authorized where it deems appropriate to charge a review fee for any submission to defray the costs of review it conducts or authorizes.

Section 2. Building and Materials and Construction. It is the intent of this Declaration that all buildings and structures within The Properties shall be constructed of attractive exterior materials of high quality. In its review of submissions the Architectural Control Committee shall evaluate the construction standards and building materials for all proposed construction to insure that they are in conformance with the general objectives of the project as enumerated herein, and all other restrictions as to construction and design applicable to The Properties. Accessory buildings, enclosures, appurtenant structures to, or extrusions from any building or structure shall be of similar or compatible materials, design and construction. Exterior finishes once approved shall not be altered with the express consent of the Architectural Control Committee.

Section 3. Land and Landscaping Maintenance. It shall be the duty of the Company to keep and maintain (including necessary cutting, watering, fertilizing, aerating, spraying, pruning, weeding and replacement) the lawns, ground covers, trees, shrubbery, vines and other landscaping installed by the Company on Lots prior to the transfer of a Lot to the first purchaser thereof at retail, including all easements within Lots. Fertilizing and spraying for control of insects and fungus shall be accomplished in

such a manner as to avoid contamination to the drainage system and destruction to plant materials. It shall be the duty, of the Association to replace all original landscaping installed by the Company as the Association deems necessary from time to time and in the event of the destruction or removal by the Association thereof.

Each Owner of a Lot or Living Unit shall insure that snow is removed from the sidewalks and driveways that are part of each Lot or Living Unit. If snow is not removed by the Owner of a Lot or Living Unit on a timely basis, and in the reasonable judgment of the Association Board of Directors such removal is necessary for pedestrian circulation and or safety, said snow shall be removed by the Association at the cost and expense of the Owner. Any such cost and expense incurred by the Association shall be paid to the Association upon demand and if not paid within ten (10) days thereof, then they shall become a lien upon the property affected equal in priority to the lien provided for in Article IV hereof, and enforceable in the same manner as therein provided. Therefore, the ultimate responsibility for meeting all city ordinances and regulations for the removal of snow from all Lots or Living Units shall be each Owner's.

The Association shall have the right to care for vacant and unimproved property, and may do all things necessary or desirable in the opinion of the Architectural Control Committee to keep such property in neat and good order, all at the cost and expense of the Owner. In the event of the occurrence of fire or other casualty to a Living Unit(s), the Association shall have the right to remove all debris from the Lot(s) and/or Living Unit(s) as it deems necessary or desirable, at the cost and expense of the Owner. All costs and expenses incurred by the Association hereunder shall be paid to the Association upon demand and if not paid within ten (10) days thereof then they shall become a lien upon the property affected equal in priority to the lien provided for in Article V hereof, and enforceable in the same manner as therein provided.

In addition to the foregoing rights, the Association shall, in the interest of the general welfare of all the Owners, provide maintenance, including replacement of landscaping, in the Common Grounds.

Section 4. Parking Areas. It shall be the duty of the Association to keep and maintain the off street parking areas and to promulgate rules and regulations governing the use thereof.

Section 5. Circulation systems. Pedestrian and bicycle circulation systems, if any, throughout The Properties are an integral part of the overall planning and design concept. All buildings or structures on Lots immediately adjacent to designated circulation systems shall allow for unrestricted public pedestrian and bicycle passage as provided on the recorded plats of The Properties.

Section 6. Ornamental Street Lights. The Company may install such ornamental Street lights as it may deem appropriate in such locations within the planned residential development as it may desire. The maintenance, repair and replacement or all

such ornamental street lights so installed shall be the primary responsibility of the Association. In the event that the Association shall fail to maintain, repair or replace any ornamental Street lights situated on any of The Properties, then the responsibility for such maintenance, repair or replacement shall be that of the Owners collectively.

ARTICLE VII USE RESTRICTIONS

Section 1. Land Use. No building or structure shall be used for a purpose other than that for which the building or structure was originally designed, without the approval of the Architectural Control Committee.

Section 2. Re-subdivision. No Lot shall be re-subdivided nor shall a fractional part of any Lot be sold without the consent of the Board of Directors, not to be unreasonably withheld. This provision shall not, however, require the consent of the Board of Directors for the sale of an entire lot as shown on a final recorded plat.

Section 3. No Commercial Activities. No commercial activities of any kind shall be conducted on any Lot or in any Living Unit, but nothing herein shall prohibit the maintenance of such facilities as are incident to the management of Lots or Living Units by the Company nor the carrying on of promotional activities by the company, nor the conduct of a home occupation in strict accordance with the provisions of the applicable zoning ordinances.

Section 4. Leasing. The Lots and Living Units being developed pursuant to these declarations are to be owner—occupied. No Lot or Living Unit may be leased for any period of time longer than 6 months during any 12 month period nor for any consecutive period of time longer than 11 months.

Section 5. Nuisances. No noxious or offensive activity shall be carried on upon any portion of The Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a Lot or other parcel.

Section 6. Maintenance of Lots and Living Units. Each Owner shall maintain and keep his Lot or Living Unit (including all areas or facilities exclusively reserved for such Lot or Living Unit) in good order and repair (except for such repairs and maintenance as are the responsibilities of the Association), and shall do nothing which will prejudice the structural integrity or increase the rate of insurance on the improvements or which would be in violation of law.

Section 7. Obstructions. There shall be no obstruction of any portion of the Common Ground(s) or any storage or construction or planting thereon by any Owner. No clothes, laundry or other articles or equipment shall be placed, hung, exposed or stored in

any portion of the Common Ground(s) or in any portion of the exterior or yard area of any Lot or on or about the exterior of any building.

Section 8. Animals. No dangerous animals of any kind shall be brought onto or kept on The Properties. The term “dangerous animal” as used herein means and includes: 1) any mammal, amphibian, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, raccoons, crocodiles, and snakes which are poisonous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup; and 2) any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation. No animals, birds, reptiles, horses, rabbits, fowl, poultry, cattle or other livestock of any kind shall be brought onto or kept on The Properties, except that no more than two dogs, cats or other household pets may be kept or maintained on any Lot or Living Unit so long as such pets are kept in a fully enclosed area or are leashed, and so long as such pets do not constitute a nuisance. It shall be the duty and responsibility of the Board of Directors to determine whether any animal constitutes a nuisance as defined hereunder.

Section 9. Parking of Motor Vehicles, Boats, Motorcycles, Campers and Trailers. No trucks or commercial vehicles, boats, motorcycles, campers, house trailers, boat trailers and trailers of any other description shall be permitted to be parked or stored on any Lot unless they are parked or stored in an enclosed garage or in such other enclosure [open or otherwise] approved by the Architectural Control Committee, except only during periods of approved construction on the Lot. The foregoing prohibition shall not apply to temporary parking, such as for pick-up, delivery, and other commercial services.

Section 10. Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on any Lot without the consent in writing of the Architectural Control Committee.

Section 11. Fences; Obstruction of Traffic. No fence, wall, tree, fledge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no live tree shall be removed without the approval of the Architectural Control Committee. No fence erected in the back or side yard of any Lot or Living Unit shall exceed six feet in height. No fence in front of any Lot or Living Unit shall exceed four feet in height.

Section 12. Antennas. No outside antenna shall be erected, installed or constructed on any Lot, without the written consent of the Architectural Control Committee.

Section 13. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other out—buildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 14. Signs. No signs, advertisements, billboards, or advertising structures of any kind may be erected, maintained or displayed on any Lot except with the written consent of the Architectural Control Committee; provided, however, customary “For Rent” or “For Sale” signs, not larger than twenty—eight inches wide and twenty inches high, may be placed on or in front of a Living Unit by an Owner. Provided, further, however, that nothing herein shall prohibit signs erected or displayed by the Company or by builder—developers in connection with the development of The Properties and the sale or rental of homes of Living Units therein.

Section 15. Storage of Rubbish. No rubbish, trash or garbage receptacle shall be placed on the exterior of a Living Unit except after 5:00 p.m. on the day immediately preceding the day of regularly scheduled collection, unless such receptacle is completely recessed into the ground and equipped with a permanent cover, or unless an above—ground receptacle is approved by the Architectural Control Committee.

Section 16. Garages. All garages must be equipped with doors which shall be kept closed as much as practicable to preserve the appearance of the elevation of the house fronting on the street. Open carports, if any, so long as approved by the Board or Directors, but not otherwise, are permissible.

Section 17. All Terrain Vehicles and Motorcycles. The use of all terrain vehicles and motorcycles within The Properties shall be limited solely to purposes of ingress to and egress from Lots and Living Units within The Properties to public roads outside The Properties. No all terrain vehicles or motorcycles may be driven within The Properties other than on paved roads, parking areas and driveways. The driving of all terrain vehicles and motorcycles within The Properties for recreational purposes is prohibited.

ARTICLE VIII EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. The Association may, in the interest of the general welfare of all the Owners, provide exterior maintenance or repairs upon any Lot or Living Unit, including any improvements thereon, if such maintenance or repair is reasonably necessary in the judgment of the Board of Directors and the Owner thereof has failed or refused to perform said maintenance or repairs within a reasonable time after written notice of the necessity of such maintenance or repair delivered to such Owner by the Board of Directors.

Section 2. Assessment of Cost. The cost of such exterior maintenance or repair shall be assessed against the Lot or Living Unit upon which such maintenance or

repair Is done and shall be enforceable in the same manner as herein provided for assessments or charges to which such Lot or Living Unit is subject under Article V hereof.

Section 3. Access at Reasonable Times. For the purpose of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day.

ARTICLE IX RESERVED EASEMENTS AND EASEMENTS FOR ENCROACHMENTS

Section 1. Reserved Easements. The Company reserves easements over the front, side and rear five feet of each Lot for the installation and maintenance of utilities, storm water sewers and surface drains. No Structure, planting or other material shall be placed or permitted to remain within these easements which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels In the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be continuously maintained. No conveyance by the Company of any Lot, or of any interest in any Lot, shall be deemed to be, or construed as, a conveyance or release of these easements, or any of them, even though the conveyance purports to convey the Lot in fee simple, or by other language purports to Convey the Company's entire interest in the Lot, but such effect shall only arise if the conveyance specifically recites it to be the, intention of the Company to thereby convey or release the easements.

Section 2. Streets. The designation of streets, avenues, roads, courts and open spaces on that certain Plat of The Properties recorded among the records of Jackson County, Missouri in Book _____ at Page _____ (the "Plat", is for the purpose of description only and not dedication, and the rights of the Company in the same are specifically reserved, and the Company hereby reserves to itself, its successors and assigns, the right to grade, re-grade and improve any streets, avenues, roads, courts and open spaces not dedicated to the public as the same may be located on the Plat, including the creation or extension of slopes, banks or excavation in connection with such creation or extension and in the construction of and installation of drainage structures.

Section 3. Easements Over Streets and Other Open Spaces. The Company further reserves to itself, its successors and assigns, the right to grant easements, rights—of—way and licenses to any person, individual, corporate body or municipalities; to install and maintain pipelines, underground or aboveground lines, with the necessary appurtenances, for public utilities or quasi—public utilities, or to grant such other licenses or permits as the Company may deem necessary for the improvement of the Property in, over, through, upon and across any and all of the streets, avenues, roads,

courts and open spaces, and in, over, through, upon and across each and every Lot in the easement area reserved in paragraph 1 of Particle II of this Declaration or as shown on the Plat. The Company further reserves to itself, its successors and assigns, the right to dedicate all of the streets, avenues, roads, courts, open spaces and easements to public use. No Street, avenue, road, court; open space or easement shall be laid out or constructed through or across any Lot, except as set forth in this Declaration, or as shown on the Plat, without the prior written approval of the Company.

Section 4. Easements for Encroachments. If the Plat or any amendment thereto, shall be inaccurate so that, in fact, any portion of the common elements encroaches upon a unit or units, a valid easement for the encroachment and the maintenance of same, so long as it stands, shall and does exist. If the Plat shall be inaccurate so that, in fact, any portion of a unit encroaches upon the general common elements, or upon an adjoining unit or units, a. valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the common elements or on the units for purposes of marketability of title. Corrections shall be made by re-filing an amended Plat properly reflecting the corrections in description, by the Board of Directors, as soon after the discovery of the errors as is practicable.

ARTICLE X GENERAL PROVISIONS

Section 1. Enforcement. The Association, or the Owner of any Lot or Living Unit subject to this Declaration, shall have the right to enforce, by any proceeding at law or in equity, all of the covenants, conditions, restrictions and provisions hereof, either to restrain or enjoin a violation or threatened violation or to recover damages. Failure or forbearance by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Duration. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind The Properties and shall be enforceable by the Association and by the owners of all or any portion of The Properties until the fortieth anniversary of the date of this Declaration and thereafter for successive ten—year periods unless, prior to the expiration or the then current term, a written instrument shall be executed by the then owners of seventy—five percent (75%) of the Lots and Living Units which are then subject to the Declaration and recorded among the records of Jackson County, Missouri, stating that this Declaration shall expire at the end of the then current term. All or any part of the rights and powers (including discretionary powers and rights) reserved by or conferred upon the Association by this Declaration may be assigned or transferred by the Association to any successor developer of all or any part of The Properties, or to any community association or architectural committee composed of residents of Te Properties. Any such assignment or transfer shall be evidenced by an appropriate instrument recorded among the records or Jackson County, Missouri, and upon such

recordation the grantee or grantees of such rights and powers shall thereafter have the right to exercise and perform all of the rights and powers reserved by or conferred upon the Association by this Declaration.

Section 3. Amendment. This Declaration may be amended by instrument signed by the Owners of two—thirds (2/3) of the Lots and Living Units subject hereto and bearing the written approval of the Board of Directors; provided that written notice of the proposed amendment has been sent to every Owner at least ninety (90) days in advance of any action taken. For the purpose of determining the number of signers required for amendment, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted. An amendment shall become effective upon recordation thereof in the Office of the Recorder of Deeds of Jackson County, Missouri. No amendment shall affect the obligation of the Board of Directors to maintain the Common Ground(s).

Section 4. Common Ground Appurtenant- Vacation of Subdivision. Any conveyance or change of ownership of any Lot or Living Unit shall convey with it ownership in the Common Ground(s), and no interest in the Common Ground(s) shall be conveyed by a Lot or Living Unit Owner except in conjunction with the sale of a Lot or Unit. The sale of any Lot or Living Unit shall carry with it all the incidents of ownership of Common Ground(s) although such act is not expressly mentioned in deed, provided, however, that no right or power conferred upon the Board of Directors shall be abrogated. In the event that any subdivision encumbered by these restrictions is vacated, thereafter fee simple title to the Common Grounds shall vest in the then owners of any Lot or Living Unit as joint tenants; the rights of the joint tenants shall only be exercisable appurtenant to and in conjunction with their ownership of any such Lot or Living Unit.

Section 5. Company's Right to Assign. In connection with the sale of all or part of the Property subject to this Declaration, Company shall have the right to assign to such Purchaser the rights herein reserved or granted to Company.

Section 6. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 7. Ordinance Compliance- Assessments. Notwithstanding any other conditions herein, the Board or Directors shall make suitable provision for compliance with all subdivision and other ordinances, rules and regulations of the City of Independence, Missouri or any other municipality of which the subdivision may become a part and for such purposes shall not be limited to the maximum assessment provided for herein. Specifically, and not by way of limitation, the Board of Directors shall make provision for the maintenance and operation of all street lights, roadways and easements.

Section 8. Eminent Domain. In the event it shall become necessary for any public agency to acquire all or any part of the property conveyed to the Board of Directors for any public purpose, the Board of Directors, during the period of the trust, as well as during the times fixed for the appointment or election of the Board of Directors, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Board of Directors need be made parties, and in any event the proceeds received shall be held by the Board of Directors for those entitled to the use of the Common Grounds, common roads or easements.

Section 9. Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunder its hand and seal on the day and year first above written

ATTEST:
(SEAL]

KERRINGTON WOODS, L.P.
a Missouri Limited Partnership

STATE OF:
COUNTY OF:

On this 27th day of January, 1995, before me appeared _____ to me personally known, who, being by me duly that he is a Partner of KERRINGTON WOODS, L.P., a partnership of the State of Missouri, and that this instrument signed and sealed in behalf of said limited partnership, by authority of its Managing Partner and said Managing Partner acknowledged said instrument to be the free act and deed of said limited partnership.

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

Notary Republic

My Commission Expires:

EXHIBIT A

DESCRIPTION:

Containing 669.473 square Feet or 15.369 Acres.

All that part of the NE 1/4, NW 1/4 of Section 30—T.49—R.31 and that part of the SE 1/4, SW 1/4 of Section 1.49-9Z31, Independence, Jackson County, Missouri described as follows:

Beginning at a point on the North line of said Section 30, said point being N 87°—41'—07" W, along said North line, 296.98 feet from the NE corner of said NW 1/4; thence S 02°—11'—48" W, 289.95 feet; thence N 87°—48'—12" W, 192.25 feet; thence S 02°—11'—48" W, 285.00 feet to the North line of the South 750.00 feet of said NE 1/4, NW 1/4; thence N 87°—48'—12" W, along said line, 812.15 feet to the West line of said NE 1/4, NW 1/4; thence N 02°—02'—03" E, along said line, 577.02 feet to the NW corner of said NE 1/4, NW 1/4; thence N 01°—55'—27" E, along the West line of the SE 1/4, S 1/4 of said Section 19, 187.35 feet; thence S 88°—04'—33" E, 170) feet; thence S 01°—55'—27" W, 8.33 feet; thence S 88°—04'—33" E, 120.00 feet; thence S 01°—55'—27" W, 35.00 feet; thence S 87°—12' 50" E, 140.00 feet; thence N 84°—18'—41" E, 99.49 feet; then N 66°—46'—28" E, 210.00 feet; thence S 23°—13'—32" E, 120.00 feet; thence N 66°—46'—28" E, 9.54 feet; thence S 23°—13'—32" E, 58.51 feet; thence S 87°—51'—02" E, 160.35 feet; thence S 02°—11' W, 4.14 feet to the point of beginning.

**KERRINGTON WOODS
DECLARATION OF
COVENANTS & RESTRICTIONS**

ADDENDUM I

Square Footage Restrictions:

All single story residences shall have a total finished ground floor area of not less than 1,300 square feet; all two story residences shall have a finished ground floor area of not less than 750 square feet and a total finished floor area of not less than 1,500 square feet; all one and one—half story residences shall have a finished ground floor area of not less than 1,000 square feet and a total finished floor area of not less than 1,400 square feet.