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PROJECT

DECLARATION OF COVENANTS AND RESTRICTIONS

for

STONEBRIDGE VILLAGE, MISSOURI

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**DECLARATION OF
COVENANTS AND RESTRICTIONS
STONEBRIDGE VILLAGE, MISSOURI**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Cooper Communities, Inc., a Delaware corporation, hereinafter called “Developer”, is the owner of certain lands lying in Stone and Taney Counties, Missouri, hereinafter described in Article II of this Declaration; and

WHEREAS, Developer, with the encouragement and assistance of the County Commission of Stone County, Missouri, in order to further the orderly economic development of the Stonebridge project area and increase the public benefit to be derived therefrom, desires to create upon said lands, together with any additions thereto as hereinafter provided, to the extent economically feasible a residential and commercial community with streets, recreational facilities, greenbelt areas and other common areas and other common facilities for the use and benefit of said community; and

WHEREAS, Developer desires to provide for the construction of the facilities aforesaid and also desires to provide for the preservation of the values and amenities in said community and for the maintenance of said facilities and, to this end, desires to subject the initial phase of such lands, together with such additional phases as may hereafter be added thereto in accordance herewith, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it necessary and desirable, for the efficient construction of the common facilities and the preservation of the values and amenities in said community, that an agency be created to which should be delegated and assigned certain construction, maintenance and administration rights, duties and obligations with respect to the common facilities, as well as administering and enforcing the covenants and restrictions herein and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has encouraged and participated in the formation of the STONEBRIDGE VILLAGE PROPERTY OWNERS ASSOCIATION, a non-profit corporation organized and existing under and by virtue of the laws of the State of Missouri, hereinafter called “Association”, with its principal office to be located within Stonebridge, Missouri, for the purpose of exercising the functions aforesaid, which said Association joins in the execution of this instrument for the purpose of indicating its agreement to perform the obligations placed upon it by this Declaration, as well as any Supplemental Declarations hereafter placed of record pursuant hereto and whether or not executed by it;

NOW, THEREFORE, the Developer declares that the real property described in Section 2.1 of Article II hereof, and any additions thereto as may hereafter be made pursuant to Section 2.2 of Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, servitudes, charges and liens (sometimes referred to as “covenants and restrictions”) hereinafter set forth, all of which shall run with this land and bind and inure to the benefit of all persons who may now or hereafter own or acquire any right, title or

estate or interest in or to any of said real estate, or who may now or hereafter occupy any portion thereof.

ARTICLE I

DEFINITIONS

In addition to other definitions herein provided and except where it is clearly evident from the context that a different meaning is intended, the following terms shall have the following meanings when used in this Declaration, and any Supplemental Declarations, and record plat of the lands covered hereby, and any other documents related to the Project:

1.1 **Assessment** shall mean and refer to such amounts as are required by the Association for payment of the Common Expenses and levied against the Owners by the Association in accordance herewith.

1.2 **Association** means STONEBRIDGE VILLAGE PROPERTY OWNERS ASSOCIATION, INC., a Missouri non-profit corporation, its successors and assigns.

1.3 **Commercial Lot** shall mean and refer to any Lot so designated upon any recorded subdivision plat of the Project, or as may be so designated by this Declaration or any Supplemental Declaration intended for non-residential uses.

1.4 **Common Expense** shall mean and refer to all expenses incurred by the Association for the construction, maintenance, repair, replacement, operation, management and administration of the Project and the Common Property, together with any expenses which are the specific responsibility of an individual Owner which are paid by the Association and charged to the responsible Owner as a special levy for reimbursement.

1.5 **Common Property** means any property, real, personal or mixed, owned or leased by the Association, those areas reflected as such upon any recorded subdivision plat or the Project, and these areas so designated from time to time by the Developer, intended to be devoted to the common use and enjoyment of the Owners.

1.6 **CooperShare Interest** shall mean and refer to a period of ownership in a Living Unit in Stonebridge Village Condominiums. Or a Lot in Stonebridge Village so designated upon any recorded plat or as may be so designated by any Supplemental Declaration.

1.7 **Declaration** means this instrument as extended or supplemented from time to time in the manner herein provided.

1.8 **Developer** means COOPER COMMUNITIES, INC., a Delaware corporation, its successors and assigns.

1.9 **Household** shall mean and refer to those who dwell under the same roof and constitute a family.

1.10 **Limited Common Property** means those areas reflected as such upon any recorded subdivision plat of the Project and those areas so designated from time to time by the Developer, intended to be devoted to the common use and enjoyment of the owners of specifically designated property.

1.11 **Living Unit** shall mean and refer to any portion of a building situated upon the Project designed and intended for use and occupancy as a residence by a single family.

1.12 **Lot** shall mean and refer to the numbered lots or numbered and lettered lots in the numbered blocks designated as such on any recorded subdivision plat of the Project.

1.13 **Member** shall mean and refer to all those persons or entities who are members of the STONEBRIDGE VILLAGE PROPERTY OWNERS ASSOCIATION, INC. as hereinafter provided.

1.14 **Multi-Family Structure** shall mean and refer to any building containing two or more Living Units located on a single parcel of land.

1.15 **Occupant** shall mean and refer to any person or persons in possession of a Unit.

1.16 **Owner** shall mean and refer to the Developer and all persons, firms, corporations, partnerships, associations or other legal entities, who individually or in conjunction with others, own or are purchasing from the Developer the fee interest in a Lot, Living Unit or CooperShare Interest, or who have purchased or are purchasing a Certificate Membership from the Developer.

1.17 **A Parcel of Land** may refer to less than a lot, a single lot, more than a lot, several lots, or a plot of land described by a metes and bounds description.

1.18 **Private Streets** shall mean and refer to every way of access for vehicles which is not dedicated to the general public but is dedicated as either Common Property or Limited Common Property. The fact that a private street shall be known by the name of street, road, avenue, way, lane, place or other name shall in nowise cause the particular street to be public in nature despite the fact that streets under general definitions are not private in nature.

1.19 **Project** means all existing properties and additions thereto as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II, hereof.

1.20 **Public Streets** shall mean and refer to all ways of access for vehicles which are dedicated to the general public.

1.21 **Reserved Properties** shall mean and refer to those areas of land designated as such on any recorded subdivision plat of the Project.

1.22 **Residential Lot** shall mean and refer to any Lot, so designated upon any recorded subdivision plat of the Project, or as may be so designated by this Declaration or any Supplemental Declaration.

1.23 **Single Family Attached** shall mean and refer to any building containing two or more Living Units attached but each Living Unit located on a separate parcel of land

1.24 **Single Family Detached** shall mean and refer to any building intended for use by a single family and not attached to any other building.

1.25 **Special Levy** shall mean and refer to any expense or charge of the Association for which a specific Owner or Owners are liable.

1.26 **Utility Easements** shall mean and refer to those areas of land designated for such purposes on any recorded subdivision plat of the Project or as may be provided for, in or by this Declaration or any Supplemental Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

2.1 **Existing Property.** The existing real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located and situated in Stone and Taney Counties, State of Missouri, to-wit:

Block 1, Lots 1-33, Ledgestone Subdivision, Stonebridge Village, Missouri, per plat recorded in the Office of the Circuit Clerk and Recorder of Deeds, Stone County, Missouri; and

Block 1, Lots 1-29, Stoneycreek Subdivision, Stonebridge Village, Missouri, per plat recorded in the Office of the Circuit Clerk and Recorder of Deeds, Stone County, Missouri; and

Block 1, Lots 1-28, Silveroak Subdivision, Stonebridge Village, Missouri, per plat recorded in the Office of the Circuit Clerk and Recorder of Deeds, Stone County, Missouri; and

Block 1, Lots 1-37, Silverwood Subdivision, Stonebridge Village, Missouri, per plat recorded in the Office of the Circuit Clerk and Recorder of Deeds, Stone County, Missouri; and

Block 1, Lots 1-23, Silvercrest Subdivision, Stonebridge Village, Missouri, per plat recorded in the Office of the Circuit Clerk and Recorder of Deeds, Taney County, Missouri.

2.2 **Additions to Existing Property.** Additional lands situated in Stone and Taney Counties, Missouri that are generally contiguous with the existing Stonebridge Village development may become subject to this Declaration in the following manner:

(a) The Developer, its successors and assigns and/or the Association, shall have the right, but not the obligation, to bring additional properties within the plan of this Declaration in future stages of development.—Such proposed additions, if made, shall become

subject to Assessments as hereinafter provided. Under no circumstances shall this Declaration or any Supplemental Declaration obligate the Developer, its successors and assigns, or other owner of the proposed additions, to make the proposed additions or in anywise preclude the Developer, its successors and assigns, or other owner of the proposed additions, from conveying additional lands owned or acquired by it but not having been made subject to this Declaration, free and clear of this Declaration or any Supplemental Declaration.

(b) The additions authorized hereunder shall be made by submitting to the Association a proposed plat and legal description of the property, the number of units, common elements and limited common elements, the application for permit(s) filed with Stone and/or Taney Counties (if applicable) and a proposed Supplemental Declaration with respect to the additional property. Upon approval by the Association Board of Directors the property shall be subject to the plan of this Declaration, and the Owners, in such additions shall immediately be entitled to all privileges herein provided.

(c) Such Supplemental Declarations, if any, may contain such complementary additions and modifications of the covenants necessary to reflect the different character, if any, of the added properties as are not inconsistent with the plan to this Declaration. In no event, however, shall such Supplemental Declarations revoke, modify or add to the covenants, conditions and restrictions established by this Declaration or any Supplemental Declaration with respect to the then Existing Property.

2.3 **Limitation on Additions.** The Developer, its successors and assigns, and the Association shall have the right to subject additional lands to this Declaration. The Developer, its successors and assigns, may exercise such right within fifteen (15) years of the effective date of the Amendment of this Section. Thereafter, such right will cease. Any lands proposed to be added shall be identified in writing to the Association requesting such additional lands—be included in accordance with 2.2(b).

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1 **Membership.** The following classes of membership in the Association are hereby established subject to the limitations herein set forth:

3.1.1 **General Membership.** Every person or entity, other than the Developer, Certificate Member or CooperShare Member, who is the record owner of a fee interest in, or who is purchasing from the Developer a fee or undivided fee interest in a Lot or Living Unit which is subject to Assessment by the Association, even though such Assessment has not yet commenced, shall be a General Member of the Association. General Members shall be entitled to the privileges of membership for each such Lot or Living Unit they own.

3.1.2 **Certificate Membership.** In order to provide operating revenue to the Association and enhance utilization of the recreational facilities during the early development of the Project, the Developer shall have 1,000 Certificates of Membership in the Association. Such

Certificate Memberships may be sold by the Developer and shall not require the ownership of a Lot or Living Unit. Any person who owns or is purchasing from the Developer an interest in such Certificate Memberships shall be entitled to the privileges of membership in the Association except as hereinafter provided. At the expiration of fifteen (15) years from the date of recording of the Declaration or upon the completion of five thousand five hundred (5,500) Living Units, whichever is later, the Members other than Certificate Members shall, at the next annual meeting of the Membership, vote on the issue of continuing the Certificate Memberships. If a majority of the total votes cast favor continuing said Certificate Memberships, said Certificate Memberships shall continue for a period of five (5) years thereafter until, if ever, a majority of the voters elect to terminate said Certificate Memberships. Upon such termination, the Association shall be required to promptly purchase any such Certificate Memberships which have been sold by the Developer from the then Owners at a price equal to (10%) of the original purchase price of said Certificate Membership from the Developer. Except as to the Developer, Certificate Memberships may be owned only by natural persons and are not transferable other than between spouses and shall terminate in the event of the death of both spouses. Such Certificate Memberships may also be terminated by the Developer for failure of the purchasing Owner to pay in full the purchase price therefor from the Developer or any other breach of such contract of purchase in accordance with the terms of such contract of purchase or by the mutual cancellation of such contract of purchase by the parties thereto, and by the Association for the failure to pay any assessments or other amounts owed by the Owners therefor to the Association or for any other breach by such Owner of this Declaration which failure to pay or breach shall not be cured within six (6) months after notice to such Owner by the Association. Notwithstanding anything hereinabove to the contrary, upon the termination of a Certificate Membership, for any reason whatsoever other than the vote of the Association Membership as hereinabove provided, the Developer shall have the right, but not the obligation, to create and sell an additional Certificate Membership in the place thereof, without payment of any kind by the Developer therefor, so long as the total of the outstanding Certificate Memberships does not exceed 1,000 and so long as such Certificate Memberships have not been terminated by vote of the Association Membership.

3.1.3 CooperShare Membership. Every person or entity, other than the Developer, who is the record owner of a fee or undivided fee interest in or who is purchasing from the Developer a fee or undivided fee interest in a CooperShare Interest, which CooperShare Interest, is subject to assessment by the Association even though such assessment has not yet commenced, shall be a CooperShare Member. CooperShare Members shall be entitled to all privileges of membership as set out herein for each separate CooperShare Interest.

3.1.4 Developer Membership. The Developer, its successors and assigns, shall be a Member of the Association so long as it shall be the record owner of a fee or undivided fee interest in any Lot, Living Unit, Certificate Membership or CooperShare Interest which is subject to this Declaration, even though Annual Assessments may have not yet commenced pursuant to Article X, Section 10.1, and shall further be a Member until it is paid in full for each such Lot, Living Unit, Certificate Membership or CooperShare Interest it shall sell. The Developer, its successors and assigns, shall be entitled to the privileges of a Member for each such Lot, Living Unit, Certificate Membership or CooperShare Interest and shall be further entitled to the issuance of Membership guest cards during such membership to the extent it may deem necessary in its sole discretion to assist in the development and sale of such interests.

Notwithstanding anything hereinabove to the contrary, these provisions for membership are not extended to any person or entity other than the Developer who holds such interest merely as security for the performance of an obligation.

3.2 Voting Rights. All those persons or entities as defined in Section 3.1 of Article III of this Declaration, who hold the interest required for General or Certificate Membership as set forth in Section 3.1 of Article III and have paid the Developer in full for the purchase price of the Lot, Living Unit or Certificate Membership shall jointly be entitled to one (1) vote for such Lot, Living Unit or Certificate Membership. When more than one person and/or entity holds such interest in a single Lot, Living Unit or Certificate Membership, the vote for such Lot, Living Unit or Certificate Membership shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any single Lot, Living Unit or Certificate Membership.

All those persons or entities as defined in Section 3.1 of this Article III who hold the interest required for CooperShare Membership and have paid the Developer in full for the purchase price of the CooperShare Interest shall jointly be entitled to that portion of one (1) vote as their CooperShare Interest bears to fifty (50) weeks. When more than one person or entity holds such interest in a single CooperShare Interest, the pro-rated portion of the single vote shall be exercised as they among themselves determine but in no event shall more than one vote be cast with respect to a single CooperShare Interest. CooperShare Members may agree to combine their fractional votes and authorize their representative to vote their interests.

The Developer shall be entitled to ten (10) votes for each Lot, Living Unit or Certificate Membership in which it holds the interest required for Membership by Section 3.1 of this Article III until such time as it shall cease to be a record owner thereof and shall have been paid in full therefor. With regard to CooperShare Interests, the Developer shall be entitled to that portion of one (1) vote as its CooperShare Interests bear to fifty (50) weeks for each CooperShare Interest it owns until such time as it shall cease to be a record owner thereof and shall have been paid in full therefor. The Developer shall continue to have the right to cast votes as aforesaid even though it may have contracted to sell the Lot, Living Unit, Certificate Membership or CooperShare or may have same under a mortgage or deed of trust.

The weighted vote in favor of the Developer shall cease to exist on the twelfth anniversary of the date of recordation of this Declaration and such vote shall thereafter be equal to the vote of General Members.

Notwithstanding anything hereinabove to the contrary, with respect to CooperShare Interest, the Developer shall participate in the vote in the same proportion as any other owner of a CooperShare Interest.

For purposes of determining the votes allowed herein when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

ARTICLE IV

RESERVATION OF EASEMENTS

4.1 **Utility and Drainage Easements.** Developer, for itself and its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable blanket easement, privilege, privilege and right, but not the obligation, on, in, over and under the lands as hereinafter designated of the Project to install, maintain and use electric, antenna, television and telephone transmission and distribution systems, poles, wires, cables and conduits, water mains, water lines, drainage lines and drainage ditches, or drainage structures, sewers and other suitable equipment and structures for drainage and sewerage collection and disposal purposes, for the installation, maintenance, transmission and use of electricity, cable television systems, telephone, gas, lighting, heating, water, drainage, sewerage and other conveniences or utilities on, in, over and under all of the Common Property, Limited Common Property and on, in, over and under all of the easements, including, but not limited to, private and public streets, in place or shown on any subdivision plat of the Project, whether such easements are for drainage, utilities or other purposes, and on, in, over and under a 7½ foot strip along the interior of all lot lines of each Lot in the Project, said 7½ foot strip aforesaid to be parallel to the interior lot lines of the respective Lots. The Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements, and rights referred to herein with the understanding, however, that the Developer may make such utility easements available to the Association or any other public or private utility companies for the purpose of installation of water lines and other water installations and sewer lines and other sewer installations and, in addition, may also make such utility easements available to the Association or any other public or private utility companies for any other utilities which the Developer and Association shall agree upon and for which the Developer may obtain additional easements in order that utilities other than sewer and water may be installed. Such utility easements shall be made available to the Association or any other public or private utility companies without cost to it. The Association and Owners other than the Developer shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, in, over or under the property which is subject to said privileges, rights and easements. All such easements, including those designated on any plat of the Project, not made available to the Association or any other public or private utility companies are and shall remain private easements and the sole and exclusive property of the Developer and its successors and assigns. Within these aforesaid easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels within the easements, or which may obstruct or retard the flow of water through drainage channels within the easements.

4.2 **Easements for Streets.** Developer, for itself and its successors and assigns, hereby reserves a perpetual, alienable and releasable blanket easement, privilege and right, but not the obligation, in, upon, over and across the Common Properties and Limited Common Properties for purposes of constructing and maintaining such roads, streets or highways as it shall determine to be necessary or desirable in its sole discretion, including such cuts, grading, leveling, filling, draining, paving, bridges, culverts, ramps and any and all other actions or installations which it deems necessary or desirable for such roads, streets or highways to be sufficient for all purposes of transportation and travel. The width and location of the right of

way for such roads, streets or highways shall be within the sole discretion of Developer, its successors and assigns, provided, however, that the Developer, its successors and assigns, will use their best efforts consistent with their purposes to lessen any damage or inconvenience to improvements which have theretofore been located upon the property. Developer, its successors and assigns, further reserves the unrestricted and sole right and power of designating such roads, streets or highways as public or private and of alienating and releasing the privileges, easements and rights reserved herein.

4.3 **Others.** All other easements and reservations as reflected on or in the notes of the recorded subdivision plats of lands within the Project or hereafter granted of record by the Association, in its sole discretion, as to the Common Property, shall be binding upon each Owner and his Lot or Living Unit to the same extent as if set forth herein. The Developer will make such easements available to Stone and/or Taney Counties, Missouri, for the purpose of construction, operation and maintenance of any roads and streets dedicated to the public without any charge by the Developer therefor.

ARTICLE V

RESERVED PROPERTIES

5.1 **Reserved Properties.** Any area upon a recorded plat under this Declaration or any Supplemental Declaration, if any, designated as “Reserved Properties” shall remain the sole and exclusive property of the Developer, its successors and assigns, and neither this Declaration or any Supplemental Declaration or the plats in connection with same shall in anywise apply to such “Reserved Properties” unless, at a later time, same shall be included thereunder as provided in Article II hereof.

5.2 **Utilities Reserved.** It is contemplated that utilities for the Project shall be furnished by companies so engaged in the vicinity of the Project. The Developer has and retains the exclusive right to negotiate contracts and agreements with such companies, under such conditions and or such considerations as it shall deem proper under the circumstances. The utilities referred to shall include, but not be limited to, water treatment and distribution systems, waste water collection and treatment systems, natural, liquefied or manufactured gas systems, electrical systems, sanitation service, telephone systems, and television transmission and distribution facilities.

In the event the Developer cannot negotiate contracts and agreements with local companies to furnish the utility services aforesaid, it may, but shall not be obligated, to organize a company or companies to furnish such utility services and shall have the right to enter into agreements therewith to furnish utility services, even though such companies or organizations shall be wholly or partially owned by the Developer. Nothing herein contained shall be construed or interpreted as an obligation on the part of the Developer to provide the utilities reserved.

The Developer shall have the right, but not the obligation, to delegate to the Association the right to enter into contracts with utility companies to furnish certain or all of the utility services aforesaid. In the event of such delegation, the Association shall have the right to so

contract and to expend funds of the Association therefor as a Common Expense in order to secure necessary or desirable utility services whether named hereinabove or not.

ARTICLE VI

PLAN FOR CONSTRUCTION AND MAINTENANCE OF COMMON PROPERTIES

6.1 **Private Streets.** It is contemplated that the streets which are not dedicated to the general public will be private streets and a part of the Common Properties. Upon completion of construction, the cost of maintenance, capital improvements, operation, taxes and other expenses incident to the streets, regardless of whether dedicated to the public or as Common Properties, shall be paid from assessments as herein provided.

6.2 **Recreational Facilities.** It is contemplated that the Developer shall construct as Common Properties certain initial recreational facilities consisting of one 18-hole championship golf course, one activities center with pro-shop, grill and swimming and tennis facilities. The Developer shall have the right, but not the obligation, to construct such other recreational facilities as Common Properties in later phases of development as it shall, in its sole discretion, decide. The cost of maintenance, capital improvements, operation, taxes and other expenses incident to these Common Properties shall be the obligation of the Association and shall be paid from Assessments as herein provided and also from any fees for the use of the Common Properties. The Developer shall be the sole judge as to the time when such recreational facilities shall be constructed and if the Developer shall decide that it is not economically feasible to construct any or a portion of such facilities due to the failure to sell sufficient Lots, Living Units, CooperShare Interests and Certificate Memberships, it shall not be obligated to construct same.

ARTICLE VII

PLAN FOR CONSTRUCTION AND MAINTENANCE OF LIMITED COMMON PROPERTIES

7.1 **Construction and Maintenance.** The Developer shall construct as Limited Common Properties such streets, recreational facilities and other facilities as it shall, in its sole discretion, decide. The cost of maintenance, capital improvements, operation, taxes and other expenses incident to those Limited Common Properties shall be the obligation of the Association and shall be paid from a special levy against each of the Owners of the Lots or Living Units entitled to the use and enjoyment of the particular Limited Common Properties.

7.2 **Creation of Lien.** The special levy shall be assessed against the Lot or Living Unit entitled to the benefit of the particular Limited Common Properties in the discretion of the Board of Directors of the Association and it shall be added to and become a part of the Annual Assessment to which such Lot or Living Unit is subject and same shall constitute a lien against such property as provided for maintenance assessments in Section 10.1 of Article X.

ARTICLE VIII

PROPERTY RIGHTS IN COMMON PROPERTIES

8.1 **Association Powers and Duties.** The operating entity for the Common Properties within the Project shall be the Association. The Association shall have all powers and duties set forth therefor in this Declaration, its Articles of Incorporation and By-Laws, applicable laws, statutes, ordinances and governmental rules and regulations, and all other lawful powers and duties deemed by its Board of Directors as advisable or necessary to carry out its functions. Every Owner, however his interest is acquired, shall be bound by this Declaration, the Association Articles of Incorporation, By-Laws and Rules and Regulations, and the above set forth laws, statutes, ordinances and governmental rules and regulations.

8.2 **Interest of the Association.** All property acquired by the Association, whether real, personal or mixed, whether owned or leased, shall be held, utilized and disposed of by the Association as Common Property for the use and benefit of the Owners within the Project. Except as otherwise specifically provided in this Declaration, any expense of the Association for acquisition, ownership, leasing, administration, maintenance, operation, repair or replacement of the Common Properties shall be treated as and paid for as part of the Common Expense of the Association.

8.3 **Title to Common Properties.** It is contemplated that the Developer shall, within a reasonable time after the completion of construction of any improvements which the Developer intends to be a part of the Common Property, cause such land to be conveyed to the Association, free from any encumbrances or liens. The Developer shall be the sole judge as to the time when the aforesaid improvements, if any, shall be constructed or provided and as to when, if ever, such lands will be so conveyed. The Developer shall have the right, but not the obligation, to provide additional lands and improvements to the Association as Common Properties and to cause same to be conveyed or transferred to the Association as and when it shall, in its sole discretion, decide. The Association may acquire additional lands and improvements as Common Properties at its own instance, from the Developer or otherwise.

Nothing herein shall preclude the Developer from constructing homesites or improvements and retaining ownership and control of their operation as a commercial venture or otherwise.

8.4 **Members' Easement of Enjoyment.** Every Member of the Association, so long as such Membership shall continue, shall have a right and easement of enjoyment in and to the Common Properties. Such easements of enjoyment shall, however, be subject to the provisions and limitations thereon as set forth in this Declaration or any Supplemental Declaration including, but not limited to, the following:

(a) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of constructing, maintaining and improving the Common Properties and in aid thereof to mortgage said property or use any leasehold interest therein as security therefor, provided the rights of such mortgagee in said properties shall be

subordinate to the rights of the Owners hereunder until there shall be a default under said mortgage; and

(b) the right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(c) the right of the Association to suspend the enjoyment rights of any Member other than the Developer as provided in this Declaration; and

(d) the right of the Association to charge Members and their guests reasonable admission and other fees for the use, service and enjoyment of any recreational facility or other improvement situated upon the Common Properties. Such user fees need not be uniform among the various classes of members and their guests but may be established by the Association's Board of Directors in its absolute discretion and may be changed without notice; and

(e) the right of the Association, subject to sub-paragraph (h) hereof, to open any of the Common Properties including, but not limited to, the golf course and other recreational facilities to other than Members and their guests or the public at large and charge admission fees, green fees or any other fees for the use, service and enjoyment of any of the recreational facilities; and

(f) except as to the Developer, Membership in the Association shall entitle only one Household to the benefit of the easement of enjoyment as to the Common Properties, provided, however, the Association may enlarge the limitation aforesaid for a time by a majority vote of its Board of Directors and, further provided, this limitation shall not apply to Private Streets; and

(g) when more than one Household holds Membership in a single Lot or Living Unit, the Household entitled to the easement of enjoyment shall be designated in accordance with and subject to the provisions and restrictions set forth therefor in the By-Laws of the Association; and

(h) the right of the Developer, so long as any Lot, Living Unit or Certificate Membership is being held by the Developer for sale in the ordinary course of business, to use such portions of the Common Properties as the Developer shall determine, in its sole discretion, for the purpose of aiding in such sales, including the right to freely determine its sales tour route through the Project even though traffic is increased in a specific area thereby and to use portions of the Common Properties for parking for prospective purchasers and such other parties as the Developer determines. Such right to use of Common Properties shall extend to Developer's commercial efforts and enterprises so long as the value and availability of the Common Property to the Membership is not unreasonably diminished. Notwithstanding any provisions of this Declaration to the contrary, the Developer shall further have the right to use any Living Unit owned by it for Model Home purposes in the furtherance of its sales program. The foregoing rights shall include the right to display and erect signs, billboards and placards and to store, keep and exhibit same and to exhibit and distribute audio and visual promotional materials upon the Common Properties or in Model Homes; and

(i) the right of Members to the exclusive use of parking spaces as provided in Section 8.6 of Article VIII hereof; and

(j) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument is signed by Members entitled to cast a majority of all votes, agreeing to such dedication or transfer and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance thereof.

8.5 Guests and Delegation of Easement of Enjoyment. The Association shall, upon the request of an Owner, issue temporary guest cards for the use of the Common Properties of the Association by guests and invitees of such Owners, provided, however, such temporary guest cards shall be limited to periods not in excess of thirty (30) days and, except as to Developer guests, shall be subject to such other reasonable limitations and rules and regulations as provided therefor by the Association. Notwithstanding anything herein to the contrary, the easement of enjoyment of an Owner of a Living Unit or commercial building may be transferred to a tenant or lessee who shall occupy the unit or structure of such Owner under a written lease agreement for a term of not less than six (6) months, provided: (1) that a copy of such lease agreement is provided to the Association, (2) the Owner shall remain jointly and severally liable with the lessee for any breach of the duties and responsibilities of an Owner under this Declaration, (3) during the period of such lease delegation, the lessee shall have such easement of enjoyment in lieu of the Owner, and (4) such delegation shall be otherwise subject to such reasonable rules and regulations as the Board of Directors of the Association sit all from time to time determine.

8.6 Parking Rights. Subject to reasonable rules and conditions, the Association shall designate at least one parking space on any adjacent Limited Common Property designated for parking purposes for each Living Unit. The designation of Limited Common Property for such use shall be within the exclusive discretion of the Developer. Such parking space shall be for the exclusive use of Members residing in that Living Unit, their families and guests. The use of such space by any other Member or person may be prohibited and/or enjoined by the Association or the Members entitled thereto. The right of the exclusive use of such parking space and to its maintenance and designation by the Association shall be appurtenant to and shall pass with title to each such Living Unit.

8.7 Access to Streets. With the exception of the private areas further discussed herein, each Owner shall have a right of ingress and egress and passage over all streets for himself, members of his Household and guests and invitees, subject to such limitations as the Association may impose from time to time on the Members, their. guests and invitees. No such limitations may be imposed, however, upon the Developer in furtherance of its sales efforts.

Access to the streets in certain designated areas shall be Limited Common Property and not open to the general membership of the Association. Such limited access streets shall be, subject to such restrictions as the Association may from time to time impose on the Membership to insure the privacy of these areas. Any such restrictions shall facilitate maintenance by the Association and access for governmental and quasi-governmental purposes, including school

buses, mail, emergency and law enforcement vehicles. Maintenance of any such limited access streets shall not be paid for from Annual Assessment Revenues, but the Association may perform such maintenance and assess the Lot or Living Unit benefitted a special levy which shall be added to and become a part of the Annual Assessment to which the Lot or Living Unit is subject.

ARTICLE IX

PROPERTY RIGHTS IN LIMITED COMMON PROPERTIES

9.1 **Owners' Easement of Enjoyment.** Lands designated as Limited Common Property from time to time by the Developer shall be devoted to the common use and enjoyment of the Owners of specifically designated Lots and Living Units to the exclusion of the common use and enjoyment of other Owners. The Owners of the specifically designated Lots or Living Units, subject to Section 8.6 of Article VIII hereof, shall have a right and easement of enjoyment in and to the particular Limited Common Properties and such easement shall be appurtenant to and shall pass with every such specifically designated Lot or Living Unit.

9.2 **Title to Limited Common Properties.** It is contemplated that the Developer shall, within a reasonable time after completion of the construction of any improvements upon the properties designated as Limited Common Property on the recorded plats, cause such land to be conveyed to the Association free from any encumbrances or liens. The Developer shall have the right, but not the obligation, to provide additional lands and improvements to the Association as Limited Common Properties and to cause same to be conveyed or transferred to the Association as and when it shall in its sole discretion decide.

9.3 **Association Powers and Duties.** The operating entity for the Limited Common Properties within the Project shall be the Association. The Association shall have all powers and duties set forth therefor in this Declaration, its Articles of Incorporation and By-Laws, applicable laws, statutes, ordinances and governmental rules and regulations, and all other lawful powers and duties deemed by its Board of Directors as advisable or necessary to carry out its functions.

ARTICLE X

COVENANT FOR MAINTENANCE ASSESSMENTS

10.1 **Creation of Lien.** The Developer, subject to the provisions hereinafter set forth, for each Lot, Living Unit and Certificate Membership. owned by it within the Project, hereby covenants and each Owner of a Lot, Living Unit, or Certificate Membership or CooperShare Interest, other than the Developer, by acceptance of a deed or certificate therefor or by entering into a contract of purchase with the Developer therefor, whether or not it shall be so expressed in any such deed, certificate, contract of purchase or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments, 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, including a reasonable attorney's fee, as hereinafter provided, shall be a continuing charge and lien upon the Lot, Living Unit, Certificate Membership and CooperShare Interest against which each such Assessment is made. Each such Assessment, together with such interest,

costs and reasonable attorney's fees, shall also be the personal obligation of the Owners of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

10.2 Purpose of Annual Assessments. The Annual Assessments levied hereunder by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and in particular for the construction, lease improvement and maintenance of properties, services and facilities devoted to purpose and related to the use and enjoyment of the Common Properties and the improvements situated thereupon, including, but not limited to, taxes and insurance on the Common Properties, maintenance, repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. The limitation aforesaid shall not preclude the use of Assessments levied hereunder for maintenance of streets within the Project, even though same may have been dedicated to the public.

10.3 Basis and Maximum Annual Assessments. Until January 1st of the year immediately following the date of this Declaration, the maximum Annual Assessment shall be Four Hundred Eighty Dollars (\$480.00) per Lot, Living Unit or Certificate Membership and One Thousand Nine Hundred Twenty Dollars (\$1,920.00) per Living Unit or Lot committed to CooperShare Interest. The Annual Assessment due from each CooperShare Interest shall be a proportionate share of this Annual Assessment of the Living Unit or Lot committed to CooperShare Interest based on a fifty (50) week year. As to Commercial Lots, there shall be one such Annual Assessment for each business establishment located thereon which may be determined by the existence of separate water meters therefor or any other reasonable basis within the discretion of the Board of Directors of the Association. From and after January 1 of the year immediately following the date of this Declaration, the Annual Assessment aforesaid may be increased each year above the Annual Assessment for the previous year by majority vote of the Board of Directors of the Association and without a vote of the Membership, provided, however, that such increase shall not in any one year exceed the greater of five percent (5%) or the increase in the Consumer Price Index for the twelve (12) month period ending June 30 of the preceding year using the "All Urban Consumer, U.S. City Average" for "General Summary, All Items" as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor or, if such is not available, any other reliable governmental or other non-partisan publication evaluating similar information. Unless the Annual Assessments shall be increased as aforesaid, they shall remain at the rate prevailing for the previous year. From and after January 1 of the year immediately following the date of this Declaration, the Annual Assessment may be changed prospectively from the amounts hereinabove set forth in any year, without limitation on the amount of such change, by a majority vote of Members voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors of the Association may at any time after consideration of current income and expense and the future income requirements of the Association, within its discretion, fix the Annual Assessment at an amount less than the amounts aforesaid.

10.4 Special Assessments. In addition to the Annual Assessments, the Association may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the streets within the Project, even though such streets may

have been dedicated to the public, and also any desired repair, replacement or improvement of facilities of the Association and/or the construction, of any capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the votes of Members voting in person or by proxy at a meeting duly called for this purpose.

10.5 Notice and Quorum for Any Action of Members Authorized Under 10.3 and 10.4. Written notice of any meeting of the Membership called for the purpose of taking any action authorized under Sections 10.3 or 10.4 of Article X hereof shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast a majority of all votes shall constitute a quorum. If the required quorum is not present at any meeting, another meeting may be called, subject to the same notice requirement, and the required quorum at any such subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than ninety (90) days following the preceding meeting.

10.6 Date of Commencement of Assessments and Application Thereof to Lots, Living Units, Certificate Memberships and CooperShare Interest. Annual Assessments shall commence and become due and payable as to each Lot, Living Unit, Certificate Membership and CooperShare Interest on the date this Declaration (with respect to the existing property) or any Supplemental Declaration (with respect to additional property) is filed of record, provided, however, no Assessments shall be applicable to or payable with respect to any Lot, Living Unit, Certificate Membership or CooperShare Interest until the first day of the second month following the execution of a contract of sale by the Developer with respect to such Lot, Living Unit, Certificate Membership or CooperShare Interest and, further provided, no Assessment shall commence where such contract of purchase is terminated by reason of a failure of down payment or rescission thereof pursuant to any right granted by any public and/or governmental authority or agency. Each initial Annual Assessment shall be prorated according to the number of months remaining in that calendar year. Written notice of Assessments shall not be required. The due date of any Special Assessment shall be fixed in the resolution authorizing such Assessment and may also be payable monthly within the discretion of the Board of Directors. The Association shall, upon demand and for which a reasonable charge may be imposed, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot, Living Unit, Certificate Membership or CooperShare Interest have been paid, which certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

10.7 Non-Payment of Assessments. If any Assessments are not paid on the date when due, then such Assessments shall become delinquent and the Association shall have the right to declare the Assessments for the entire year due and payable, together with such interest thereon and costs of collection thereof as hereinafter provided. The Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property and both actions shall be cumulative and neither shall preclude the other. No Owner may waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment.

If Assessments have become delinquent, such Assessments shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such Assessments shall remain his personal obligation and shall not pass to successors in title unless expressly assumed by them. Such delinquent Assessments shall bear interest from the date of delinquency at any lawful rate as determined from time to time by the Board of Directors of the Association or, if not so determined, the rate of 10% per annum. In the event a judgment is obtained, such judgment shall include interest on the Assessments as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

10.8 Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon the properties subject to Assessment. While an ordinary sale or transfer shall not affect the Assessment lien, any sale or transfer of a Lot or Living Unit secured by a first mortgage or deed of trust pursuant to a decree of foreclosure or deed in lieu of foreclosure shall extinguish the lien of such Assessments which became due prior to such sale or transfer. No such sale or transfer shall relieve such property from liability for any Assessments thereafter becoming due or from the subsequent lien thereof except future such foreclosure transfers or transfers in lieu of foreclosure.

10.9 Exempt Property. The following property subject to the Declaration shall be exempt from the Assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Properties; (c) the Limited Common Properties; (d) utilities; (e) utility easements and all other easements; (f) any Reserved Properties; and (g) any Lot, Living Unit, Certificate Membership or CooperShare Interest owned or held by the Developer prior to the initial sale or contract to sell by the Developer any such interest sold or contracted to be sold by the Developer which does not remain sold by reason of failure of down payment or rescission pursuant to any right granted or created by any public and/or governmental agency or authority.

10.10 Delegation of Collection of Assessment. The Association may delegate the collection of the Assessments herein provided to the Developer, its successors and assigns to be accomplished at the expense of the Association. Due to the common interest of the Developer and the Association, the failure on the part of an Owner to pay an Assessment as herein provided shall be a reason or ground for which the Developer may cancel a contract of sale as to a Lot, Living Unit, Certificate Membership or CooperShare Interest.

ARTICLE XI

ARCHITECTURAL CONTROL COMMITTEE

Except as to construction by the Developer, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition, change or alteration be made thereto, until and unless the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design, location in relation to surrounding structures and topography and compliance with this Declaration, the Protective covenants

contained herein and any Rules and Regulations adopted by the Architectural Control Committee of the Association. The Committee shall make such determinations by majority vote and the determination of the individual committee members shall be in the exercise of the sole and absolute discretion of such members. Such Committee shall be composed of three (3) or more representatives appointed by the Board of Directors of the Association. In the event said Committee fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been properly submitted to it in accordance with reasonable rules and regulations which may be adopted thereby, approval will not be required and this provision will be deemed to have been fully complied with, except to the extent such construction is in violation of the Protective Covenants. The Architectural Control Committee shall have the right to set reasonable charges and fees within their discretion necessary to offset expenses incurred by them in connection with the performance of their duties hereunder and the failure to pay same shall be grounds for withholding approval hereunder. The Architectural Control Committee, through its members or duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or Living Unit at reasonable hours for the purpose of the performance of its functions hereunder.

The Architectural Control Committee may from time to time adopt Rules and Regulations regarding form and control of plans and specifications to be submitted for approval; establish precedents relative to architectural control and protection of the aesthetic or property values in the community; insure that the general plan of development will be followed; develop procedures to assure the timely completion of initial construction and to apprise owners of the advantages of builder's risk and workers compensation insurance and effects of materialmen's and mechanic's liens; establish time limitations for completion of construction; and otherwise preserve, protect and enhance all of the properties subject to this Declaration.

ARTICLE XII

EXTERIOR MAINTENANCE

12.1 Failure to Maintain by Owner. In the event the Owner of any Lot or Living Unit shall fail to properly provide for exterior maintenance thereof the Association may, but shall not be obligated to, provide such exterior maintenance as follows: cut, trim, care for and maintain trees, shrubs and grass, or repair, replace and care for walks, roofs, gutters, downspouts, exterior building surfaces, windows, fascia, doors, decks and other exterior improvements, including repainting or staining as needed.

12.2 Assessment of Cost. The cost of such exterior maintenance shall be assessed by the Association against the Lot or Living Unit upon which such maintenance is done and shall be added to and become a part of the Annual Assessment to which such Lot or Living Unit is subject as a special levy and, as a part of such Annual Assessment, it shall be a lien upon said Lot or Living Unit until paid, subject, however, to any prior lien by reason of a first mortgage or first deed of trust, and shall become due and payable in all respects as provided herein for Assessments.

12.3 Access at Reasonable Hours. For the purpose solely 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 exterior or any Living Unit at reasonable hours on any day except Sunday.

ARTICLE XIII

OWNER LIABILITY

Any violations of this Declaration, any Supplemental Declaration, the Association Articles of Incorporation, By-Laws and Rules and Regulations, or any laws, statutes, ordinances, or governmental authority rules and regulations by a family member, guest, lessee, licensee or invitee of any Owner other than the Developer shall be the responsibility of that Owner and all enforcement rights or penalties therefor shall be applicable to said Owner, except as specifically provided to the contrary in such documents or laws, statutes, ordinances, or governmental authority rules and regulations.

In the event an Owner violates or threatens to violate any of the provisions hereof, the Association shall have the right to proceed in any appropriate Court for an injunction to seek compliance. In lieu thereof, or in addition thereto, the Association shall have the right to assess a special levy, enforceable in the same manner as Assessments, against the Owner and his Lot, Living Unit or Certificate Membership for such sums as are necessary to enjoin any violation or to remove any unauthorized addition, or alteration and to restore the affected property to good condition and repair.

ARTICLE XIV

SUSPENSION OF VOTING RIGHTS AND EASEMENT OF ENJOYMENT

14.1 **Regular Suspension.** Should an Owner other than the Developer become delinquent in the payment of any Assessment or special levy or violate any other provision of this Declaration, and Supplemental Declaration, or the Association Articles of Incorporation, By-Laws or Rules and Regulations, the Association may deny such Owner enjoyment of the Common Properties until such time as any such delinquent Assessments or special levies and any interest due thereon are paid and any such violations are ceased and any penalties therefor are satisfied.

14.2 **Penalty Suspension.** The Association shall further have the right in its sole discretion to impose, as a penalty suspension for any such violations, the suspension of such Owner's easement of enjoyment for a period not to exceed thirty (30) days for any one violation or occurrence. An Owner must be given notice and opportunity as is reasonable under the circumstances to refute or explain in person or in writing the charges against him by the Association before any decision of the Association to impose any such penalty suspension is enforced.

14.3 **General.** Any suspension of rights under these provisions shall not be used as a basis for any reduction of Assessments or other charges payable by such Owner.

ARTICLE XV

PROTECTIVE COVENANTS

Attached hereto as “Exhibit 1” and made a part hereof as fully as though contained herein word for word are the Protective Covenants relative to the Project as well as any other lands which may be added as provided in Article II hereof. Every provision of this Declaration shall apply as fully as to the Protective Covenants as if same were set forth herein word for word.

ARTICLE XVI

GENERAL PROVISIONS

16.1 **Duration.** The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owners subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners having two-thirds of the total number of qualified votes in the Association has been recorded, agreeing to change said covenants and restrictions in whole or in part, provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

16.2 **Invalidity.** If any of the provisions of this Declaration, any Supplemental Declaration, the Articles of Incorporation or By-Laws of the Association, or any section, clause, phrase, word, or the application thereof, in any circumstance, is held invalid, the validity of the remainder of such instruments and the application of any such provision, action, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

16.3 **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, postpaid, 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.

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

16.5 **Captions.** The captions used this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text.

16.6 **Enforcement.** Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or entity violating or attempting to violate any covenant,

condition or restriction herein, either to restrain violation or to recover damages, against the land to enforce any lien created by these covenants. Failure by the Association, the Developer or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

16.7 Assignment, Transfer or Conveyance by Developer. The Developer reserves and shall have the right to assign, transfer or convey any reservations, rights or obligations of the Developer hereunder and upon such assignment, transfer or conveyance and the Developer shall immediately be released and discharged as to any and all liability incident to such reservations, right or obligation

16.8 Applicability. All provisions set forth herein shall extend to and be binding on the respective legal representatives, heirs, successors and assigns of all parties mentioned herein where consistent with the context hereof.

IN WITNESS WHEREOF, the Developer, joined by the Association for purposes of indicating its agreement hereto, have caused this instrument to be executed by their duly authorized corporate officers and their seals affixed as of the ____day of _____, _____.

ATTEST:

COOPER COMMUNITIES, INC.

Secretary

Chairman of the Board

ATTEST:

**STONEBRIDGE PROPERTY OWNERS
ASSOCIATION, INC.**

Secretary

Chairman of the Board

EXHIBIT 1

DECLARATION OF COVENANTS AND RESTRICTIONS for STONEBRIDGE, MISSOURI

PROTECTIVE COVENANTS

1. **APPLICATION.** These Protective Covenants shall apply to all of the Existing Properties. Same shall also apply to additions to Existing Properties unless the Developer shall specifically except from these Protective Covenants such additions or a portion thereof in the Supplemental Declaration by which the Developer subjects such additions to this Declaration. In the event of conflict between these protective Covenants and the Declaration, the Declaration shall prevail.

2. **ARCHITECTURAL CONTROL COMMITTEE.** When the Architectural Control Committee, hereafter referred to as the A.C.C., is mentioned in these Protective Covenants, it shall mean the Architectural Control Committee of the Association as more particularly described in Article XI of the Declaration. Except as to construction by the Developer, A.C.C. permits shall be required for any construction activity within the Project as set forth in Article XI of the Declaration. The A.C.C. shall further have the authority, in connection with the issuance of such permits, to adopt such rules, regulations and standards and to adopt such standard building or other codes (or any portion thereof) as it shall deem appropriate or necessary for the proper performance of its function and duties and shall have authority to impose reasonable fees for the performance of any and all such functions and duties. The Owner, contractor and builder will subject all permitted activities to such inspections as required by the A.C.C. to determine compliance with such A.C.C. permits, the Declaration and these Protective Covenants. In the event of any conflict between the provisions of the Declaration, these Protective Covenants and those of the A.C.C. rules, regulations and standards, same shall prevail in that order. All actions of the A.C.C. shall be subject to review by the Board of Directors of the Association and appeals may be taken thereto under such terms and conditions as such Board of Directors may set from time to time.

3. **AMENDMENT, RESCISSION OR ADDITIONS.** The Developer, its successors and assigns, may amend, rescind or add to the Protective Covenants from time to time, provided, however, unless the Lots are specifically exempted from the Protective Covenants by the Declaration or a Supplemental Declaration at the time the Lots are subjected to the plan of the Declaration, such amendment, rescission or additions shall not make the Protective Covenants as to those Lots zoned as residential less restrictive for construction of residential buildings than as provided in the standards herein.

4. **ZONING.** The notes upon the recorded subdivision plats shall control as to use of the Lots reflected thereon, the residential structure types (Single Family Detached, Single Family Attached, and Multi-family Structure) which shall be permitted upon Residential Lots, and the minimum square footage of each Single Family Detached Structure, Single Family Attached Structure or Living Unit in a Multi-family Structure.

5. **RESUBDIVISION.** No Lot shall be resubdivided except upon written approval of the A.C.C. In the event more Lots are created by any such A.C.C. approved resubdivision than originally existed, Association Assessments shall apply to such newly created Lots as if such had been contained upon the original plat of such lands. The A.C.C. may permit the construction of a single residence upon two or more Lots by waiver of the 7 ½ foot utility easement and side yard setback on the appropriate interior lot lines, provided, however, such action by the A.C.C. shall not be construed as a waiver of other matters affecting such Lots, including but not limited to the obligation to pay Assessments on each such Lot.

6. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

7. **SETBACKS.** No building shall be placed closer to the front or back lot lines than the setback lines shown therefor on a recorded subdivision plat, provided, however, where such requirements create an undue hardship upon the Owner, such setbacks may be modified by the A.C.C. to the extent necessary to prevent the hardship.

8. **SIDE YARDS.** Where Lots are zoned as a Residential Lot the following shall apply:

a. A Single Family Detached Structure or any building incident thereto shall not be closer to a side lot line than 7 feet, which restrictions may be extended in excess of 7 feet when necessary for drainage, utility, or screening purposes and the extent thereof is reflected on the recorded subdivision plat, provided, however, where such restrictions create an undue hardship upon the Owner, such restrictions may be modified by the A.C.C. to the extent necessary to prevent the hardship.

b. A Single Family Attached Structure shall not be required to have a side yard and a common or party wall may be constructed upon the dividing lines between Lots so that the wall may be partially upon one Lot and partially upon the other, or said common wall may be entirely upon one of the two Lots involved.

c. Multi-family structures shall not be required to have a side yard and may be constructed up to or upon the dividing lines between Lots where approved by the A.C.C.

The A.C.C. shall decide all questions relative to location of structures upon Commercial Lots.

9. **PARTY WALLS.** The following provisions shall apply to party walls within the Project:

a. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a structure and placed on the dividing line between Lots shall constitute a Party Wall. To the extent not inconsistent with the provisions of this section, general rules of law regarding Party Walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

b. Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall in proportion to such use.

c. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

d. Weatherproofing. Notwithstanding any other provision of this section, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

e. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

f. Arbitration. In the event of any dispute arising concerning a Party Wall, or under the provisions of this section, each party shall choose one arbitrator, and such arbitrators, as chosen, shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

10. **LAND NEAR GOLF COURSES AND RECREATION AREAS.** No structure shall be placed nor shall any material or refuse be placed or stored upon any Lot or other Parcel of Land within 20 feet of the property line of any Common Property used as a golf course or permanent recreation area, or as otherwise shown on a record plat of lands with the Project.

11. **ASSURANCE OF COMPLETION OF BUILDINGS.** Except as to construction by the Developer, the Owner and any contractor, builder, person or entity constructing a structure upon the Project shall, prior to beginning the construction of any such structure, furnish the A.C.C. such credit information and proof of financial ability to complete the construction within the time requirements of these Protective Covenants as shall be required by the A.C.C. At the same time, there shall be furnished to the A.C.C. satisfactory proof that builders' risk and appropriate workers compensation insurance will be in effect for the construction period.

12. **TIME FOR COMPLETION OF BUILDINGS.** Commercial Structures, Single Family Attached Structures, and Multi-family Structures shall be completed according to plans and specifications and all applicable permits, codes, standards, rules and regulations applicable thereto, both as to exterior and interior, within such time as shall be fixed by the A.C.C. when the plans and specifications for the particular structure are approved by the A.C.C. The following shall apply to the construction of a Single Family Detached Structure, as well as garage and outbuildings permitted:

a. The exterior of any Single Family Detached Structure, garage, or permitted outbuildings shall be completely finished within six months of start of construction;

b. The interior of any Single Family Detached Structure, garage or permitted outbuildings shall be completely finished within twelve months of start of construction.

The Owner, contractor and builder will subject all structures to inspection by the A.C.C. as required to determine compliance with completion dates as herein provided or as may be provided by the A.C.C. In the event of non-compliance with completion dates as herein provided, the Association shall have the right, but not the obligation, to hire one or more contractors to perform the work and furnish the materials necessary for compliance and to bill the Owner for the amount expended plus 10% for administration. In the event the Owner does not pay same, the Association shall have the legal right to file statutory lien against the property involved and proceed in law or equity to sell the Property to obtain said charges. All money received over and above said charges and court costs, including a reasonable attorney's fee, shall be paid over to the Owner.

13. **ELECTRIC WIRING AND PLUMBING.** Electric wiring and plumbing installed in any structure erected upon or moved upon the Project shall be in accordance with standards prescribed by these Covenants, and in no event shall such standards be less restrictive than those provided by the Federal Housing Administration or the State of Missouri.

14. **SEWAGE DISPOSAL.** No privately owned septic tank or other sewage disposal system shall be permitted upon any Lot or parcel of land of the Project except in extraordinary circumstances involving temporary service to a major building, which temporary service must be discontinued when central sewer service becomes available, and only after approval by the Association and appropriate county officials, and then not unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Missouri Department of Natural Resources and approved by the A.C.C. In any event, no such privately owned individual system shall be permitted on any single family lot registered with the Interstate Land Sales Registration Division pursuant to the Interstate Land Sales Full Disclosure Act.

15. **WATER SUPPLY.** No privately owned well or other water system shall be permitted upon any Lot or parcel of land of the Project unless approved by the Association or unless the Association has indicated it will not make its water system available and then not unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Missouri Department of Natural Resources and approved by the A.C.C. In any event, no such privately owned individual system shall be permitted on any single family lot registered with the Interstate Land Sales Registration Division pursuant to the Interstate Land Sales Full Disclosure Act.

16. **PARKING.** Except in connection with construction activities of a temporary nature, trucks, trailers, campers, recreational vehicles, boats, and other large vehicles may be parked on the Properties only if in garages or screened enclosures approved by the ACC or in accordance with ACC Rules and Regulations. Grounds maintenance vehicles and other equipment of the Association may be stored and maintained on the Properties with approval of the ACC. No junk or derelict or other vehicle on which current registration plates are not displayed shall be kept on the Properties.

17. **OUTBUILDINGS.** Outbuildings or accessory buildings for residence purposes such as servants' quarters or guest houses, shall be permitted on Lots upon which a Single Family Detached Structure has been constructed or is under construction, provided the building and/or buildings are occupied by servants employed on the premises or by guests and are not occupied otherwise as rental units by nonservant or nonguest occupants, and provided the A.C.C. shall approve the design, plans, specifications, et cetera, of such buildings. Outbuildings or accessory buildings permitted upon Lots or parcels of land upon which there is constructed a Commercial Building, Single Family Attached Structures, or Multi-family Structure, shall be entirely within the discretion of the A.C.C.

18. **PROTECTIVE SCREENING.** There shall be compliance with all protective screening areas as reflected upon any recorded subdivision plat of the Project. Except as otherwise provided herein regarding street intersections under "Sight Distance at Intersections," shrub plantings, fences or walls shall be maintained throughout the entire length of such protective screening areas by the Owner or Owners of such areas at their own expense to form an effective screen in order to protect and beautify the area. No building or structure except a screening fence or wall approved by the A.C.C. or utility or draining facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utility and drainage facilities.

19. **SIGHT DISTANCE AT INTERSECTIONS.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

20. **SIGNS.** Except for signs erected by the Developer for promotional or marketing purposes or in connection with its sales program or by the Association, not signs of any character shall be erected, posted or displayed that do not comply with the Rules and Regulations of the Architectural Control Committee pursuant to Article XI hereof without the prior written approval of the ACC. Such Rules and Regulations may restrict the posting of signs or prohibit signs altogether.

21. **MODEL HOUSES.** No provision of these protective Covenants shall preclude the Developer in furtherance of its sales program from erecting and maintaining Model Houses in any area zoned as Residential.

22. **BUSINESSES PROHIBITED IN RESIDENTIAL AREAS.** The practice of any profession or the carrying on of any business is prohibited within any area zoned as residential except for the business of the Developer in the furtherance of its sales program and any home occupation which does not create any extraordinary traffic within the subdivision. Such home occupations must, however, first be approved by the A.C.C. and a permit issued therefor.

23. **UTILITY AND DRAINAGE EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved in the Declaration and will be reserved in any Supplemental Declaration and also will be reserved as indicated upon any recorded subdivision plat of the Project. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of draining channels within the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which the Association, a public authority or a utility company is responsible.

24. **NUISANCES.** No obnoxious or offensive activity shall be carried on upon any Lot or parcel or land of the Project.

25. **LIVESTOCK AND POULTRY.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or parcel of land of the Project except that dogs, cats or other household pets which are not considered inherently frightening to the general public may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

26. **GARAGE AND REFUSE DISPOSAL.** No Lot or parcel of land of the Project shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in a clean and sanitary container and disposition of same shall be prompt.

27. **SALVAGE YARDS, ETC.** No automobile wrecking, junk, or salvage yards are permitted on any Lot or on any other parcel of land within the Project.

28. **OIL AND MINING OPERATIONS.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or parcel of land of the Project. No derrick or other structure designed for use in boring for oil or natural gas, nor any oil wells, tanks, tunnels, mineral excavations or shafts shall be erected, maintained or permitted.

29. **CEMETERIES.** The following standards shall apply to the development and construction of any new cemeteries within the Project:

1. Sites for cemeteries shall be provided access directly from a collector or arterial street. Access to cemeteries shall not be made from residential streets which have residences or lots abutting the street and using it for access.

2. Any new cemetery shall be located on a site containing not less than five acres.

3. All cemetery structures, including but not limited to, mausoleums, permanent monuments, or maintenance buildings shall be set back not less than 25 feet from any property line or street right of way.

4. All graves or burial lots shall be set back not less than 25 feet from any property line or street right of way.

30. **A.C.C. RESPONSIBILITY.** The function of the A.C.C. is designed for the enforcement of the Declaration and these Protective Covenants. The performance of its duties with respect thereto shall be on a best efforts basis in an effort to reasonably protect the aesthetics and property values of the Project and the health safety and welfare of all of the Owners therein as a community of interest. No warranty or representation is made to or should be implied by any individual Owner that the actions of the A.C.C. in the issuance of permits, inspection and approval of construction, or otherwise, is intended as a tacit approval of the quality, safety, desirability, or suitability of such design or construction.

31. **ENFORCEMENT.** These Protective Covenants may be enforced in the same manner as any violation or threatened violation of the Declaration of which these Protective Covenants are in part, including, but not limited to the lien rights of the Association for any costs or charges incurred in connection therewith.

STATE OF MISSOURI)
) SS IN THE RECORDER'S OFFICE
COUNTY OF STONE)

I Cathy Shortt, Recorder of said county, do hereby certify that the within instrument of writing, was on the ____ day of _____, 20__, duly filed for record in the office, at ____ o'clock ____ minutes, ____m. and is recorded in the records of this office in Book ____ at page _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed by official seal at Galena, Missouri this ____ day of _____, 20__.

By Deputy CHRISTINE READY

Stone County Recorder of Deeds

Recording Requested By:

COOPER COMMUNITIES, INC.

When Recorded Mail To:

COOPER COMMUNITIES, INC.

1801 Forest Hills Blvd.

Bella Vista, AR 72714

Attn:

(Above Space For Recorder's Use)

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS

WHEREAS, Cooper Communities, Inc., hereinafter called "Developer", executed on the ____ day of _____, 20____, a Declaration with Protective Covenants attached thereto as Exhibit 1 and forming a part of said Declaration, which Declaration was received at _____ p.m. on the ____ day of _____, 20____, in the Office of the Circuit Clerk and Recorder of Deeds in and for Stone County, Missouri, and there duly recorded in Deed Book ____, Page _____ et seq; and

WHEREAS, the Developer desires to make an addition to the existing properties by adding thereto the hereinafter described land; and

WHEREAS, it is the desire of the Developer that the properties hereinafter described shall be covered as fully by the Declaration aforesaid as if such additional property had been included with the other property described in said Declaration; and

WHEREAS, the Developer, in compliance with ARTICLE II, Section 2, of the Declaration aforesaid, hereby declares and provides that the following land is hereby subject to said Declaration to the extent that same shall constitute additional land thereunder and shall be a part of the existing property, and that said land shall be covered by said Declaration as fully as though said land had been included in said Declaration at the time same was executed, the land referred to lying and being situate in the County of Stone, State of Missouri, to-wit:

LEGAL DESCRIPTION
SILVERBLUFF SUBDIVISION
LOTS 1 – 38

A PARCEL OF LAND LYING IN THE SE ¼ OF THE SE ¼ OF SECTION 16, TOWNSHIP 23 NORTH, RANGE 22 WEST, STONE COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 202.71 FEET NORTH AND 999.79 FEET WEST OF A STONE, SAID STONE BEING THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE, S 02° 17'36" E 156.86 FEET; THENCE, S 81°37'24"

W 120.21 FEET; THENCE, N 52°09'34" W 110.71 FEET; THENCE, N 47°38'02" E 191.96 FEET; THENCE, 63.32 FEET ALONG THE ARC OF A 124.78 FOOT RADIUS CURVE TO THE LEFT, SAID ARC HAVING A CHORD OF S 68°25'32" E 62.64 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.598 ACRES, MORE OR LESS; and

LEGAL DESCRIPTION
SILVERCLIFF SUBDIVISION
LOTS 1 – 15

A PARCEL OF LAND LYING IN THE SW ¼ OF THE SE ¼ OF SECTION 16, TOWNSHIP 23 NORTH, RANGE 22 WEST, STONE COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1,087.25 FEET NORTH AND 2,348.21 FEET WEST OF A STONE, SAID STONE BEING THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE, 75.68 FEET ALONG THE ARC OF A 276.66 FOOT RADIUS CURVE TO THE LEFT, SAID ARC HAVING A CHORD OF N 55°10'23" W 75.44 FEET; THENCE, N 63°00'33" W 13.49 FEET; THENCE, N 26°49'41" E 210.20 FEET; THENCE, S 38°30'33" E 123.40 FEET; THENCE, S 34°52'52" W 170.93 FEET, TO THE POINT OF BEGINNING AND CONTAINING 0.440 ACRES, MORE OR LESS; and

LEGAL DESCRIPTION
STONEKIRK SUBDIVISION
LOTS 1 – 20

A PARCEL OF LAND LYING IN THE SW ¼ OF THE SE ¼ OF SECTION 16, TOWNSHIP 23 NORTH, RANGE 22 WEST, STONE COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 242.05 FEET NORTH AND 2,214.77 FEET WEST OF A STONE, SAID STONE BEING THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE N 51°37'24" W 140.24 FEET; THENCE, N 44°34'00" E 127.71 FEET; THENCE, S 50°28'50" E 129.87 FEET; THENCE, S 39°55'59" W 124.42 FEET, TO THE POINT OF BEGINNING AND CONTAINING 0.390 ACRES, MORE OR LESS.

Subject to the notes and other indicated restrictions, if any on said plat or plats and to the covenants, reservations, easements, charges and liens reflected in the Declaration of Covenants and Restrictions filed in connection therewith in the Office of the Circuit Clerk and Recorder of Deeds, Stone County, Missouri as reflected thereon;

