

**DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS FOR**

HILLS OF OAKMONT

**A SUBDIVISION IN
PLATTE COUNTY, MISSOURI**

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THIS DECLARATION, made and executed as of the 20th day of August, 2002, by VALKYRIE LAND INVESTMENT COMPANY, LLC, a Missouri limited liability company, hereinafter called "Developer" and THE HILLS OF OAKMONT HOMES ASSOCIATION, INC., a Missouri not-for-profit corporation.

PREAMBLE

WHEREAS, the Developer is the owner of the real property legally described in Exhibit "A" of this Declaration, located in Platte City, Platte County, Missouri, and Developer desires to create thereon a single-family, residential community to be known as Hills of Oakmont in accordance with all applicable laws and regulations; and

WHEREAS, in accordance with said applicable laws, the Developer has caused or will cause to be filed with the Recorder of Deeds of Platte County, a plat of Hills of Oakmont First Plat, said plat having been previously approved by Platte County, Missouri, and said plat being composed of the lots and tracts contained within the legal description of the real property set forth on Exhibit "A"; and

WHEREAS, the Developer desires to provide for the preservation and enhancement of the property values, amenities, and opportunities in said community contributing to the personal and general health, safety, and welfare of the residents therein and for the maintenance of the land and improvements thereon, and to this end desires to subject the real property described in Exhibit "A", together with such additions as may hereafter be made thereto as provided in Article II, 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, the developer has deemed it desirable, for the efficient preservation of the values and amenities of said community, to create an agency to which should be delegated and assigned the power of maintaining and administering and enforcing these covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, to provide a means for meeting the purposes and intents set forth and the intents and requirements of Platte County, Missouri, the Developer has caused to be incorporated under the laws of the State of Missouri. The Hills of Oakmont Homes Association, Inc., a Missouri not-for-profit corporation, or other name, if the foregoing name is unavailable (the "Association").

NOW, THEREFORE, the Developer hereby declares that the land described in Exhibit "A" (hereinafter referred to as "Phase 1" or the "Property") together with and all additional property which may be added hereto pursuant to the provisions of the Article II hereof, shall be held, sold, used and conveyed subject to the following covenants, restrictions, easements, charges and liens, all of which are for the purpose of promoting the common good and general welfare of the residents and owners of the Property and thereby enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, restrictions, easements, charges and liens shall run with the land and with the title to the Property and shall be binding on all parties having or acquiring any right, title or Interest in the Property or any part thereof and, subject to the limitations herein provided, shall inure to the benefit of each owner, his or its heirs, grantees, distributees, personal representatives, successors and assigns, the Association (as herein defined), and the Developer.

AND FURTHER, the Developer hereby delegates and assigns to the Association, the power of owning, maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, collection and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety, and welfare to the residents in accordance with the provisions hereinafter set forth.

Article I

Definitions

Section 1. "Approval" shall mean and refer to the issuance of written approval, any written waiver approval rights, a letter of "no objection" by the Design Review Committee, the Association or any public agency.

Section 2. "Assessable Unit" shall mean and refer to any real property within the Properties which is subject to assessments, as provided in Article V.

Section 3. "Association" shall mean and refer to The Hills of Oakmont Homes Association, Inc., its successors and assigns.

Section 4. "Board", "Association Board" or "Board of the Association" shall mean and refer to the Board of Directors of the Association as the same may from time to time be elected.

Section 5. "Builder" shall mean and refer to a person or entity who or which acquires a portion of the Properties for the purpose of improving such portion in accordance with the Development Plan for resale to future Owners.

Section 6. "Common Area" shall mean and refer to all real property and improvements thereon owned or leased by the Association or over which the Association has an easement for maintenance (excepting Lots and Living Units thereon) for the use and enjoyment of the Members.

Section 7. "Declaration" shall mean and refer to the covenants, conditions, and restrictions and all other provisions herein set forth in this document, as they may from time to time be amended.

Section 8. "Developer" shall mean and refer to Valkyrie Land Investment Company, LLC, and its successors and assigns; provide, however, that no successor or assignee of the Developer shall have any rights or obligations of the Developer hereunder unless such rights and obligations are specifically set forth in the instrument of succession or assignment or unless such rights and obligations pass by operation of the law. The rights and obligations set forth herein of the Developer shall cease, when ninety-five percent (95%) of the Lots contemplated by the Development Plan are sold and the Living Units situated thereon are substantially complete (the "Development Period"). In the event another than the first Developer comes to stand in the same relation to the Property as the first Developer, that Developer shall hold the same rights and obligations as would then have been held by the first Developer.

Section 9. "Development Plan" shall mean and refer to the total general scheme of intended uses of land in the Properties as illustrated in Exhibit "B" hereof, as may be amended from time to time, and as further defined in Article II.

Section 10. "First Mortgagee" shall mean and refer to an institutional Lender who holds the first deed of trust on Lot.

Section 11. "Founding Documents" shall mean and refer to the Articles of Incorporation of the Association, this Declaration, Supplementary Declarations and the Association By-Laws, all as initially drawn by the Developer and filed and recorded as the case may be, and all as may be duly amended from time to time.

Section 12. "Governing Documents" shall mean and refer collectively to the Founding Documents and the Rules and Regulations as such may be amended from time to time.

Section 13. "Living Unit" shall mean and refer to any portion of a structure situated upon the Properties and designed and intended for use and occupancy as a residence by a Single Family.

Section 14. "Lot" shall mean and refer to any lot of land shown on any recorded subdivision map or plat of the Properties, with the exception of Common Area.

Section 15. "Members" shall mean and refer to members of the Association, which shall consist of all Owners.

Section 16. "Notice" shall mean and refer to written notice delivered personally or mailed to the last known address of the intended recipients.

Section 17. "Owner" shall mean and refer to the record holder of the fee simple title to any Lot, whether one or more persons or entities.

Section 18. "Park/Recreation Area" is defined in Article X, Section 5.

Section 19. "Phase" shall mean and refer to a group of Lots all of which are subject to the same Supplementary Declaration establishing such phase.

Section 20. "Property" or "Properties" shall mean and refer to all real property which is hereby subjected to the Declaration, together with such other real property as may from time to time be annexed thereto under the provisions of Article II hereof.

Section 21. "Quorum of Members" shall mean and refer to the representation by presence or proxy of Members who hold fifty on percent (51%) of the outstanding votes.

Section 22. "Registered Notice" shall mean and refer to any Notice which has been signed for by a recipient or has been certified by the U.S. Postal Service or other entity as having been delivered (or the delivery of which has been certified by the Postal Service or other entity to have been attempted) to the address of the intended recipient. Failure by refusal of an intended recipient to acknowledge such Notice shall nevertheless constitute receipt.

Section 23. "Rules & Regulations" shall mean and refer to the document containing the rules, regulations, and policies of the Association as they may from time to time be amended.

Section 24. "Single Family" shall mean and refer to a single housekeeping unit of one family which includes not more than three adults together with their children. In the event of a dispute as to the application of this section, the Board of Directors of the Association in its sole discretion shall resolve such dispute.

Section 25. "Supplementary Declaration" shall mean and refer to any declaration of covenants and restrictions which may be recorded by the Developer, which extends the provision of this Declaration to a Phase or which contains such complementary provisions for such Phase as are deemed appropriate by the Developer and/or as are herein required.

Section 26. "Zoning Order" shall mean the provisions pertaining all applicable zoning laws and ordinances as amended from time to time and as such shall be applicable to the Properties.

Article II

Property Subject to This Declaration Additions Thereto

Section 1. The Properties. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Platte County, Missouri and is more particularly described in Exhibit "A" and represents the first Phase of the Subdivision known as Hills of Oakmont.

Section 2. Additions to the Properties. Additional properties may become subject to this Declaration in the following manner.

- a. Additions by the Developer. The Developer shall have the right to subject to the Declaration any additional property which lies within the land area represented by the Development Plan as it may be amended from time to time; and,

- b. Other Additions. Additional land, other than that described above, may be annexed to the Properties upon approval of 51% of the votes of a Quorum of Owners.

The Additions authorized under subsections (a) and (b) shall be made by complying with the requirements of the Zoning Order, by filing a record one or more Supplementary Declarations of covenants and restriction with respect to the additional property, and by filing with the Association the plat for such additions.

Section 3. The Development Plan

a. Purpose. The Development Plan, illustrated in Exhibit "B", is the dynamic design for the staged development of the Properties as a residential planned community which will be modified and amended, as provided herein, during the several years required to build the community. Because the Development Plan is a temporary design, it shall not bind the Developer to make any of the additions to the Properties which are shown on the Development Plan or to improve an portion of such lands in accordance with the Development Plan unless and until a Supplementary Declaration is filed by the Developer subjecting such property to this Declaration. Thereupon, the Developer shall be obligated to complete development of such Phase in accordance with the Plat and Supplementary Declaration in effect.

b. Amendments. The Developer hereby reserves the right to add land to or amend the Development Plan for lands which have not yet been made subject to this Declaration, in response to changes in technological, economic, environmental, social or other conditions related to the development or marketing of the Properties or in response to changes in requirements of government agencies and financial institutions.

Article III

The Hills of Oakmont Homes Association, Inc.

Section 1. Organization

a. The Association. The Association is a nonprofit, nonstock corporation organized and existing under the laws of the State of Missouri and charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, and as such may be amended from time to time, provided no other Governing Documents than this Declaration shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

b. Institutional Plan. As the operation and responsibilities of the Association expand from those related to the Properties as originally constituted to those required by the fully developed Development Plan of Hills of Oakmont, this Declaration and the Governing Documents shall guide the controlled an orderly evolution of the Association into a comprehensive community institution.

c. Exercise to Vote. The vote for any membership which is held by more than one person may be exercised by any one of them, unless any objection or protest by any holder of such membership is made prior to the completion of a vote, in which case the vote for such membership shall not be counted. If fewer than twenty-five percent of all Class A votes are cast in an election

for any elective office, the Board of Directors may declare the results of such election invalid and may elect a member to fill such office.

Section 2. Membership and Voting Rights in the Association

a. Membership. 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 by covenants of record to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

B. Voting Rights. The Association shall have two classes of voting memberships. Class A Members shall be all those Owners in good standing in accordance with the By-Laws of the Association entitled to membership with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot or Living Unit in which they hold the interests required for membership. The Class B Members shall be comprised of the Developer. The Class B Member shall be entitled to ten (10) votes for each designated Lot, regardless of whether there is a completed Living Unit located thereon, in which the Developer holds fee simple title, provided that the Class B membership shall cease and become converted to Class A membership when the total number of votes to which the Class B Member would be entitled (if the Class B membership were converted to Class A membership) is less than 5% of the total vote. From and after the happening of this event, the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot or Living Unit in which it holds the interests required for membership.

For the Purposes of determining the votes allowed under this Section, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

Section 3. Board of the Association.

a. The powers of the Association shall be vested in, exercised by, and under the authority of, and the affairs of the Association shall be controlled by, a Board of Directors consisting of five (5) persons who need not be Members (the "Association Board"). The Association Board, by a majority vote, shall exercise for and on behalf of the Association all powers, duties and authority vested in or delegated to the Association.

b. The Developer shall have the absolute right to elect the Board throughout the Development Period. Thereafter, Directors shall be elected at the first annual meeting of Members following the Development Period, and terms shall be staggered, so that two (2) Directors and three (3) Directors shall be elected respectively in alternating years. At the first annual meeting of Members, and at each annual meeting of Members thereafter, Directors shall be elected for two (2) year terms of office and shall serve until successors are elected and qualified.

c. In any election of the members of the Association Board, every Member entitled to a vote at such election shall have the right to cumulate his votes and give one (1) candidate, or divide among any number of the candidates, a number of votes equal to the number of Directors to be elected multiplied by the number of votes which such Member is otherwise entitled to cast. The candidates receiving the highest number of votes, up to the number of the Directors to be elected, shall be deemed elected.

Article IV

Powers and Duties of the Association

The Association shall have the following powers and duties:

a. To provide for the care and maintenance of all Common Areas owned by the Association including, if any, roads (to the extent not maintained by Platte County), sidewalks, shelters, maintenance facilities, Park/Recreation Areas, landscaping, open spaces, trails, ornamental features, play fields, signage, islands, monuments, detention and/or retention areas, street lights and other facilities now existing or which may be erected or created in the future on the affected property; and to make special charges or service fees or to charge dues to Members for the use of such facilities.

b. To levy assessments on the Owners of Lots or Living Units and to enforce payment of such assessments, all in accordance with the provisions of this Declaration set forth in Article V and VII.

c. To employ, at its discretion, the services of any person or corporation as manager (herein, "Manager"), together with other employees, to, as may be directed and delegated by the Association Board, manage, conduct and perform the business, obligations and duties of the Association and to enter into contracts for such purpose. Such employees shall have the right of ingress and egress over such portions of the Properties as is reasonably necessary for the purpose of performing such business, duties and obligations.

d. To employ at its discretion qualified officers for the purpose of providing such security protection as the Association Board may deem necessary or desirable in addition to the protection rendered by public authorities.

e. To maintain insurance or surety bonds, as deemed by the Association Board to be necessary and appropriate, including but not limited to:

(a) fire and appropriate extended coverage and other appropriate physical loss and damage insurance on all improvements located in or upon the Common Property;

(b) comprehensive liability insurance insuring the Association Board and Members, including the Developer, against liability to, and claims of, the public, Members or the Association Board and Association; provided, however, that the coverage in favor of the Developer shall not extend to the Developer's operation or active ties in its capacity as a developer and Builder; and

(c) such other insurance, including workmen's compensation insurance, to the extent necessary to comply with any applicable law and then-current insurance practices, and indemnity, faithful performance, fidelity and other bonds as the Association Board shall deem necessary, appropriate or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or

other person charged with the management or possession of any Association funds or property.

- f. To enforce the decisions of the Design Review Committee.
- g. To grant and convey to any third party easements and rights of way in, on, over or under the Common Areas for the purposes set forth in Article XIII hereof.
- h. To enforce the covenants and conditions of this Declaration.
- i. At its discretion to do all other things not inconsistent with this Declaration that the Board of Directors of the Association may from time to time determine to be either necessary or desirable for the Association, for its Members or for the protection, care or development of the Common Areas and of other affected Property.

Article V

Method of Providing Funds

Section 1. For the purpose of providing funds to enable the Association to perform the duties and to discharge the obligations imposed upon it, all of the Property and Members owning the same shall be subject to an annual general fund assessment to be paid to the Association by Owners of assessable interests in such amounts and payable on such terms that a majority of a Quorum of the Members shall determine. Such assessment shall be prorated as follows:

- A. 100% of the prorate share for each Lot, whether occupied or not until 50% of the Lots are sold.
- B. After 50% of the Lots are sold:
 - a. 100% on each lot occupied by a Living Unit;
 - b. 50% on each unoccupied Lot; and
 - c. 10% on each unoccupied platted lot owned by the Developer.

Section 2. The amount of the general fund assessment provided for in Section 1 of this Article may be increased not to exceed 25% in any given year from the prior year (excepting the first years assessment which shall not be restricted) by majority vote of a Quorum of Members in attendance in person or by proxy at such meeting at any general meeting or at a special meeting of members; PROVIDED that at least ten days notice in writing shall be given and such notice set out the reason, the purpose, and the need for the additional assessment.

Section 3. For the purpose of providing a special fund assessment to be used and to enable the Association to repair, replace, construct and extend its facilities and property, each Assessable Unit may be specially assessed by the Association at an annual rate in an amount not exceeding the amount fixed for the annual general fund assessment as provided in Section 1 above for the year that such special assessment is approved. The amount of the special fund assessment against each Assessable Unit shall be in the same peroration as required in Section 1 above. Such assessment may be made by the Board of Directors of the Association, subject to approval at a regular annual meeting or a specially called meeting of all Class A Members entitled to vote. A majority of a Quorum of Class A Members present or by proxy at such meeting shall be required to approve such an assessment.

Notice of any such meeting for the approval of an assessment for one or more special fund assessments shall be given as provided in Article I not more than 30 days nor less than 10 days prior to the meeting. Such notice shall set forth the purpose for which the sums derived from the assessment or assessments are to be used, together with the estimated cost of the proposed project or projects, and the proposed time and method of payments. The sums paid to the Association on account of such special assessment shall be set aside and used for the specific purpose for which the special fund assessment is made, unless otherwise authorized by the Members of the Association at a meeting duly called as herein provided.

Section 4. The Assessments made pursuant to Sections, 1, 2, and 3 above shall be on a calendar year basis and shall be paid on March 1 of each year. Said annual payment shall be in default if not paid on or before the fifteenth day of March of each year. Any assessment not paid when due shall bear interest at the maximum annual rate determined by law, or if no such maximum exists, 18%.

Section 5. User Fees and Charges

In addition to the general and special fund assessments, the Association Board may levy and collect charges and fees for the use of the Common Areas for the purpose of maintaining Common Areas, operating services on Common Areas, regulating the use of Common Areas and the services offered thereon and for providing utility services. In addition, the Association may levy and collect any costs incurred in bringing an Owner or his Lot into compliance with the provision of this Declaration.

Section 6. Developer Advances

a. On an annual calendar year basis, the Association Board shall prepare the Association Budget which shall include a cash budget projecting anticipated cash receipts, cash expenditures and net cash surplus or deficit for the ensuing fiscal year.

b. The Developer may, but shall not be obligated to make cash advances to the Association to eliminate any projected net cash requirements of the Association which occur during the course of any fiscal year. Such cash advances may be considered borrowings of the Association.

c. The option of the Developer to make advances to the Association pursuant to this Section 6 shall continue only during the Development Period.

d. The foregoing provisions notwithstanding, the Developer will not make an advance if the Developer shall determine that such an advance would materially jeopardize the performance of its obligations pursuant to the Development Plan or its creditors. In such event, the Developer will undertake to notify the Association in writing within thirty (30) days after a request is made by the Association that it is not able to make an advance and may state the reasons relating thereto.

e. If required by the Developer, all such advances shall be evidenced by promissory notes of the Association to bear interest at the effective rate of interest being paid by the Developer on its debentures or debt obligations.

f. The burden of the restrictions contained in this Section 5 is personal to the Developer, whereas the benefit runs to each Owner who holds title to a Lot from time to time.

Article VI

Limitation on Expenditures

Section 1. General Funds. The Association shall at no time expend more money within any one year for maintenance of Common Areas than the total amount of the general fund assessment for that particular year any surplus which it may have on hand from previous assessments, nor shall the Association enter into any contract whatever binding the general fund assessments of any future year to pay for any such obligations, it being the intention that the general fund assessment for each year shall be applied as far as is practicable toward the payment of the obligation of that year, and the Association shall have no power to make a contract affecting the assessment for the general fund of any future or subsequent year.

Section 2. Special Funds. The limitations imposed upon general fund shall not apply to special fun assessments.

Section 3. Surplus Funds. The Association may create as part of the general fund assessment a surplus or reserve fund to be carried forward from year to year as determined by the Board as necessary and/or desirable for the greater financial security of the Association and the effectuation of its purposes.

Article VII

Liens on Real Estate

Assessments, fees and other charges levied by the Association as herein provided shall become a lien on the real estate against which it is levied as soon as it is due and payable, provided, however, that such lien shall be inferior and subordinate to the lien of

any valid First Mortgage now existing or which may hereafter be placed on said real estate. Once such assessments, fees and charges become delinquent, the payment of both principal and interest at the rate hereinbefore specified, together with the costs of collection thereof (including attorneys fees), may be enforced as a lien on said real estate in proceedings in any court in Platte County, Missouri having jurisdiction of suits for the enforcement of such liens. The Association shall have the right, at its sole discretion, to bring suits to enforce such liens before expiration thereof.

The Association may at its discretion file certificates of nonpayment of assessments in the Office of the Recorder of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the Owner or Owners of the property described therein a fee of \$100.00, which fee is hereby declared to be a lien upon the real estate described in said certificate, provided that such lien shall be inferior and subordinate to the lien of an valid First Mortgage now existing or which may hereafter be placed on said real estate. Such fee shall be collectible in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

Such liens shall continue for a period of five (5) years from the date of delinquency and no longer, unless within such time, suit shall have been instituted for collection of the assessment, in which case, the lien shall continue until termination of the suit and until sale of the property under execution of the judgment establishing same.

Article VIII

Right to Enforce This Declaration

The restrictions set forth herein shall run with the land and bind the Properties, the present Owners, their heirs, administrators, executors, successors and assigns, and all persons claiming by, through or under them shall be taken to hold, agree and covenant with the Owners of said lands, their heirs, administrators, executors, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said lands and the construction of improvements thereon. The Association and those persons bound by this Declaration, including but not limited to an individual Owner or Owners, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the provision hereof or to maintain an ordinary legal action for damage.

The failure of the Association to enforce any of the restrictions herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter. In the event the Association is the prevailing party in any legal action, it shall be entitled to recover its attorney's fees in such action.

If any Member shall fail to pay a user fee, fine or charge when due and payable, such Member shall have breached this Declaration and the Association Board may suspend the voting rights and the rights of enjoyment of such Member, the Association shall not refund any portion of any user fees or charges which such Member may have paid for the

use of common Areas from which such Member is barred while his rights of enjoyment are suspended.

If any Member shall fail to pay any user fee or charge when due and payable, the Association Board may immediately suspend such user's right of enjoyment of the Common Areas or services thereon and may take whatever action it deems necessary to enforce such suspension.

Article IX

Area Associations

Section 1. Purpose. Certain areas of the Properties may encompass common facilities not intended by the Developer for use generally by the Members of the Association requiring the creation of a localized association for maintenance and operational purposes. In such cases the Developer may designate any area shown on any subdivision plat as an Area Association.

Section 2. Membership. Any Member of the Association who owns a Lot or Living Unit within an Area Association shown on any subdivision plat shall by virtue of such ownership also be a member of the Area Association created for such area and shall be entitled to vote as from time to time provided in the By-Laws of the Area Association.

Section 3. Title to Common Areas and Members' Easements. Each Area Association shall take title to (by conveyance from the Developer) and hold, maintain, improve, and beautify for the common benefit of the Members thereof such Common Areas as from time to time may be conveyed to it; and each Area Association member shall have a right and easement of enjoyment in and to such Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit in the Area Association. The extent of such easement shall be the same as is set forth in Article III.

The provisions of Article X are hereby made applicable to and incorporated in this Article IX as if fully set forth herein.

Section 4. Superior Jurisdiction. The Association shall have jurisdiction over all Area Associations and over all of the Property, and every Owner who shall be a Member. Membership in an Area Association shall not grant any greater or lesser right to any Owner or Member, as a result of such membership, than such Owner or Member has as an Owner of any Lot or Living Unit on the Property.

Article X

Common Areas

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the

common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot. Otherwise, such rights shall not be transferable or assigned except to the members of Owner's immediate family.

Section 2. Title to Common Areas. The Developer may retain the legal title to the Common Areas until such time as it has completed any improvements set forth on the Plat or Plats. The Developer hereby covenants, for itself, its successors and assigns that it shall complete all improvements set forth on the recorded Plat(s) and the Development Plan and convey the Common Areas to the Association, free and clear of all liens and encumbrances.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

a. The right of the Developer and the Association to borrow money for the purpose of improving the common Areas and in aid thereof to mortgage said Common Areas. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to the right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary to the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored;

b. The rights of the Association to take such steps as are reasonably necessary to protect the Properties against foreclosure;

c. The right of the Association to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any one infraction of its published rules and regulations;

d. The right of the Association to charge admission and other fees for the use of the Common Areas;

e. The right of the Association to dedicate or transfer all or any part of the common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless notice of the proposed agreement and action there under is sent to every Member at least thirty (30) days in advance of any action taken.

f. The right of the Association to levy and enforce assessments as provided in Articles V through VIII hereof.

Section 4. Damage or Destruction by Owner. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or

members of his family, such Owner does hereby authorize the Association to repair such damaged areas. The Association shall repair such damaged area in a good and workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association at the discretion of the Association. The amount necessary and actually expended for such repairs shall be a Special Assessment upon the Lot or Living Unit of said Owner, shall be a lien upon the Lot or Living Unit of said Owner and shall be enforceable as other Assessments under Article VIII.

Section 5. Common Area Restrictions. Notwithstanding anything to the contrary contained herein, any of the Common Areas shown on the Plat as “park”, “recreation” or “natural habitat areas” (herein collectively called “Park/Recreation Areas”) shall at all times be properly maintained by the Association, including but not limited to:

- a. Trimming and pruning of trees and bushes;
- b. Fertilize or improve existing wildlife habitat;
- c. Maintain or improve existing wildlife habitat;
- d. Maintain walking or riding paths (if applicable);
- e. Prohibit the introduction of waste, litter, refuse, abandoned property, debris or other materials which are offensive to the maintenance of the natural state of the area;
- f. Leave any natural areas in their original state except as necessary to comply with e. above.

The Association shall inspect all such Park/Recreation Areas at least annually. In addition, the Association shall enforce such provisions and cause special assessments and/or fines to be levied against any Owners who fail to obey such restrictions. In addition, the Association shall:

- a. Maintain insurance on Park/Recreation Areas and pay all taxes applicable thereto;
- b. Be considered in violation of applicable zoning orders and subject to penalties and such other criminal or civil actions as are applicable for violation of these restrictions;
- c. In the event of proposed transfer of such Park/Recreation Areas by the Association, or the assumption of maintenance by a third party, provide notice of such action to all Owners.

The Association may lease any Park/Recreation Areas to any qualified person, corporation, or other entity for operation and maintenance, but only (i) pursuant to a

written lease, (ii) if the Owners shall at all times have access to the Park/Recreation Area; (iii) if the Park/Recreation Area shall be maintained for the purposes set forth in this Declaration; (iv) if the operation of the Park/Recreation Area facilities shall be for the benefit of the Owners or the residents of Platte County, at the election of the Association; (v) any lease and any transfer or assignment of the lease shall be subject to the approval of the Board of the Association and all Owners shall have prior written notice that such issue is being taken up for consideration or vote by the Board.

Article XI

Design Review Committee (DRC)

Section 1. Purposes, Powers and Duties of the Design Review Committee (DRC). The purpose of the DRC is to assure that all proposed uses and any construction or alteration of any structure which takes place on any Lot or to any Living Unit or any other property affected by the Declaration shall be performed in conformity with these covenants and restrictions and the "Design Standards and Procedures for Single Family Construction" at Hills of Oakmont. To carry out that purpose, the DRC shall have all of the rights, powers and duties conferred upon it pursuant to the provisions of this Article XI.

Section 2. Composition and Appointment. The DRC shall be composed of a minimum of four members. Throughout the Development Period, members of the DRC shall be appointed by the Developer. Thereafter, members of the DRC shall be appointed by the Board of the Association.

Section 3. Conflict of Interest. No member of the DRC may participate in any decision of the DRC on a matter in which he has a direct or indirect financial interest, or in which he has personally provided professional consulting services for a fee to the party whose application is before the DRC, provided however, that the fact that any DRC member has in the past or currently provides services to the Developer shall not be considered a conflict of interest.

Section 4. Operation of the DRC.

a. Meetings. The DRC shall hold regular meetings at least quarterly or more often as may be determined by the members of the DRC. Regular and special meetings shall be held at such time and such place as the members of the DRC shall specify. At least three members of the DRC must be present for the transaction of business. The DRC shall maintain a written record of votes and minutes of its meetings.

b. Activities. The DRC shall adopt and promulgate and, as it deems appropriate, recommend to the Board of Association, amendments to the Designs Standards and Procedures for Single Family Construction as provided in Section 5 hereof and will make findings, determinations, and orders with respect to the conformity with said Design Standards of plans and specifications submitted for approval. As required, the DRC shall issue permits, authorizations or approvals pursuant to the directions and authorizations contained herein.

Any applicant for approval, permit or authorization, may within ten (10) days after receipt of notice of any decision which he deems to unsatisfactory, file a written request to have the matter reviewed by the Board of Directors of the Association. The Board of Directors of the Association shall review such request within 30 days of receipt and their decision shall be final and binding.

Section 5. Design Standards and Procedures for Single Family Residential Construction.

a. Pursuant to the provisions of Section 1, of this Article, the DRC shall adopt and enforce the Design Standards and Procedures for Single Family Residential Construction, for the purposes of:

(a) governing the form and content of plans and specifications to be submitted for Approval pursuant to the provisions of Section 6 of this Article; and

(b) governing the procedures for such submissions of plans and specifications;
and

(c) establishing policies, requirements, standards, restrictions and specifications with respect to the approval and disapproval of proposed uses and with respect to all construction or alteration of any structure on any Lot, Living Unit, Easement or Common Area.

Section 6. Submission of Plans and Specification. No structure shall be commenced, erected, placed or moved onto or permitted to remain on any Properties, nor shall any existing structure upon any Properties be altered in any way which materially changes the exterior appearances, thereof (including but not limited to colors, materials, etc.), nor shall any new use be commenced, all unless plans and specifications (including a description of any new use) therefore shall have been submitted to and approved in writing by the DRC. Plans for construction of a new home or additions to existing homes shall be designed by a licensed architect. Upon receiving plans and specifications, an authorized representative of the DRC shall provide a written receipt.

Section 7. Approval of Plans and Specifications. Upon approval by the DRC of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited as a permanent record with the DRC and a copy of such plans and specifications bearing such approval in writing shall be returned to the applicant submitting the same.

Approval for use in connection with any Lot or Living Unit or any plans and specifications shall not be deemed a waiver of the DRC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot of Living Unit. Approval of any such plans and

specifications shall be final and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. The DRC, in its discretion, is permitted to approve deviations from the Design Standards and Procedures and from this Declaration when, in its judgment, such deviations will result in a more commonly beneficial use, or when such deviations do not detract from the value or enjoyment of surrounding properties. Such approval must be granted in writing. When the DRC approves and grants a deviation from this Declaration, such approved deviation shall for all purposes amend this Declaration but only to the limited extent of such specifically approved deviation.

Section 8. Disapproval of Plans and Specifications.

a. The DRC shall have the right to disapprove any plans and specifications submitted hereunder for any reason, including but not limited to:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards and Procedures;

(c) objection to the exterior design, appearance, colors or materials of any proposed Living Unit or improvements;

(d) incompatibility of any proposed improvements or use with existing Living Units or uses upon surrounding properties;

(e) objection to the site plan of improvement on grounds of incompatibility with surrounding properties;

(f) objection to the grading plan;

(g) objection to the color scheme, finish, proportions, style, architecture, height, bulk, safety or appropriateness of any proposed Living Unit or improvement;

(h) failure to satisfy minimum floor area requirements;

(i) objection to the proposed parking areas based on, inter alias:

(i) incompatibility with surrounding properties;

(ii) insufficiency of size of the parking area in relation to the proposed use; or

(iii) undesirable alteration of the flow of water.

(k) any matter not included in the Design Standards and Procedures, if such matter, in the judgment of the DRC, would lower the value of or otherwise damage the Properties; or

(l) or other matter which, upon the judgment of the DRC, would render a proposed improvement or use inharmonious with the Design Standards for Hills of Oakmont or as set forth in the Development Plan.

b. In any case in which the DRC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the DRC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

Section 9. Failure to Act. In the event that the DRC shall fail to take action on any plans and specifications within ninety (90) days of presentation to the DRC, together with the fees authorized by Section 13 of this Article, and consistent with such other requirements as called for by the Design Standards and Procedures, the same shall be deemed to have been approved as submitted, and no further action by the DRC shall be required for the applicant to begin construction. Such approval shall be placed in writing on the plans and specifications and shall be returned to the applicant.

Section 10. Inspection Rights. After reasonable notice and at any reasonable time or times, any designated agent of the Association or the DRC may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Living Unit thereon is in compliance with the provisions hereof; and neither the Association, nor the DRC nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection provided such inspection is carried out in accordance with the terms of this Section.

Section 11. Violations. If any Living Unit shall be erected, placed, maintained or altered upon, any Lot, or any new use commenced on any Lot, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article without the approval required herein. If, in the opinion of the DRC, such violation shall have occurred, the DRC shall notify the Association. If the Association Board shall agree with the determination of the DRC with respect to the violation, then upon Notice of the violation to the Owner from the Association Board, any such Living Unit or improvement hereof shall be removed or altered, and any such use shall be terminated, so as to extinguish such violation. If, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same within the time specified in such Notice, the Association shall have the right to enforce its rights of action as provided in this Declaration together with all remedies whether at law or in equity and including but not limited to the remedy of injunctive relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorneys' fees, and damages.

Section 12. Certification of Compliance.

a. Upon completion of the construction or alteration of any improvement in accordance with plans and specifications approved by the DRC, the DRC shall, upon written request of the Owner thereof, issue a Certificate of Compliance, identifying such improvement and the property upon which such improvement is placed and stating that the plans and specifications and location of such improvement complies with the requirements of the DRC. A copy of said Certificate of Compliance shall be filed for permanent record with the plans and specifications on file with the DRC. Provided, however, in no event shall such Certificate of Compliance be deemed a certification by the DRC as to compliance of an improvement with any governmental regulations or requirements.

b. Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated and, as to any purchaser, encumbrancer, or insurer, such Certificate of Compliance shall be conclusive evidence that all improvements on the Lot or uses described therein comply with all the requirements of this Article.

Section 13. Fees. As a means of defraying its expenses, the DRC may charge a reasonable and appropriate fee as established from time to time, including fees for the professional DRC members. The fees shall be made payable to the Association and shall be payable at the time plans and specifications are submitted as a condition precedent for the review and approval of such plans and specifications. No additional fee shall be required for the resubmission of plans and specifications revised in accordance with DRC recommendations.

Section 14. Nondiscrimination by DRC. The DRC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, national origin, family composition or marital status. Further, the DRC in the exercise of its power granted pursuant to this Declaration shall not take any action which is intended to or does, in effect, discriminate against persons of a particular race, color, sex, religion, national origin, family composition or marital status.

Section 15. Public Approvals. All pertinent requirements of public agencies must be followed in the development of this Property, and all plans must be approved by the appropriate departments in Platte County. Each potential Owner should verify code requirements prior to purchase of a Lot of Living Unit. Although based on local zoning and subdivision regulations, the community development criteria may be more restrictive in land use, site development standards, landscape requirements and other matters. In every case in which these criteria are at variance with public agency requirements, the more restrictive regulations shall govern. Final approvals permitting development and occupancy of property will be made by Platte County, Missouri.

Article XII

General Restrictions

Section 1. General Provisions. In additions to any design standards established by the DRC all of the existing Properties and all additional lands which shall be subject to this Declaration under Article II above shall be subject to the following use restrictions.

a. Land Use. No building or structure shall be used for a purpose other than Single Family residential use. No Living Unit, outbuilding, structure or other improvements shall be place on any Lot without the prior written approval of DRC;

b. Landscaping; Obstruction of Traffic. NO fence, wall, tree, hedge or shrub planting shall be maintained in such matter as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no tree of a diameter of more than four inches measure and six feet aboveground level shall be removed without the approval of the Design Review Committee. The DRC may adopt and promulgate rules and regulations regarding the preservasions of trees and other natural resources and wildlife to protect and encourage the preservation of the ecological balance of the Properties. The DRC may mark certain trees regardless of size, as not removable without written authorization. All landscaping must conform to the area in the opinion of the DRC. Owners and Builders shall protect all trees during the course of construction. Each Lot shall be landscaped immediately after substantial completion of a Living Unit and such initial landscaping shall consist of an expenditure of at least \$250.00;

c. 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. All exterior lighting shall have a concealed light source;

d. Grades. Within any slope control area established by the Association, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel and all improvements in them shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible.

e. Fences.

(i) No fence of any kind, including both above-ground and below ground fences, shall be erected, begun, or permitted to remain upon any portion of the Properties unless approved by the DRC.

(ii) As to the above-ground fences, the following shall apply:

(x) No above-ground fence shall be located on any Lot nearer than twenty-five (25) feet to a property line which is adjacent to a street or any Common Area.

(iii) As to below-ground fences, the following shall apply:

- (x) No below-ground fence shall be located in the front or side yard of any Lot except to the extent required to complete the electric circuit related to such below-ground fence.
- (y) to the extent such below-ground fence must be located in the front or side yard areas, such fence shall be located no further than five (5) feet from the existing structure built on such Lot.
- (z) All below-ground fences must be of a type which can be divided into separate zones. In other words, there shall be a front yard zone and a back yard zone. Accordingly, to the extent any animals are kept on any particular Lot, the animal must remain in the back yard zone and shall at no time have access to the front yard zone.
- (zz) Any resident who installs a below-ground fence on their Lot, must execute the form of indemnity provided by the DRC which shall indemnify and hold harmless the Board, the Association and the Developer.

f. No Business Structure. No business structure shall be erected on any Lot; however, limited home occupation shall be permitted subject to the following restrictions and limitations:

(a) Prior to commencing any home occupation on any Lot, the Owner shall furnish to the Board a written description of such home occupation. In the event the Board in its sole discretion, deems such home occupation to be non-detrimental to the Properties or to other Owners, written permission to conduct such home occupation shall be given to such Owner. Such written permission shall always be subject to revocation upon thirty (30) days written notice and the Owner shall thereupon cease such home occupation. In no event will permission be granted for (a) wholesale or retail selling from inventory located or exhibited at the premises, (b) rental of equipment or personal property stored or exhibited at the premises, (c) medical, dental or related health care services, (d) automobile or other vehicle repair services;

(b) The home occupation shall be incidental and subordinate to the principal use of the premises and not more than twenty-five (25%) of the floor area of any one floor of the Living Unit shall be utilized for a home occupation;

(c) All materials or equipment used in the home occupation shall be stored within an enclosed structure;

(d) No alteration of the exterior of the Living Unit shall be made which changes the character thereof as residence;

(e) No signs shall be permitted;

(f) At least one person occupying such Living Unit shall be made which changes the character thereof as residence;

(g) No equipment shall be utilized that creates a nuisance due to noise or electrical interference;

(h) In no event shall fewer than two (2) off-street parking spaces be provided.

g. Animals. No hogs, cows, horses, rabbits, chickens, goats, poultry, birds, livestock, or animals of any kind, other than house pets (except house pets with vicious propensities), shall be brought onto or kept on the Properties; and no more than three (3) dogs, cats, or other such pets may be kept or maintained on any Lot or Living Unit and further provided that they are not kept, bred or maintained for any commercial purpose or as a steady hobby of the Owner. Pets shall be confined and not allowed to run at large;

h. Parking of Motor Vehicles, Boats and Trailers. No trucks or commercial vehicles, boats, house trailers, and trailers or every other description shall be permitted to be parked or to be stored on any Lot unless they are parked or stored in an enclosed garage or in such other enclosure approved by the DDRC, except only during periods of approved construction on the Lot. This prohibition of parking shall not apply to temporary parking such as for pick-up delivery, and other commercial services.

For the purpose of this covenant, a $\frac{3}{4}$ ton or smaller vehicle, commonly known as a pickup truck and which is not used for commercial purposes, and not bearing a commercial sign, shall not be deemed to be a commercial vehicle or truck. The DRC is authorized at its discretion, to issue a waiver of not more than 48 hours in a 30-day period for recreation vehicles;

i. Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on the Properties without the prior written consent of the DRC;

j. Laundry Poles. No permanent poles for attaching wires or lines for the purpose of hanging laundry thereupon shall be erected, installed or constructed on the Properties;

k. Antennas. No outside radio or television antenna or dish shall be erected, installed or constructed on any Lot, without prior written consent of the DRC;

l. Fuel Tanks. No aboveground fuel tank or container of any nature shall be placed, erected, installed or constructed on any Lot;

m. Temporary Structures. No structure of the character of a trailer, basement, tent, shack, garage, barn or other out buildings shall be used on the Properties at any time as a residence, either temporarily or permanently;

n. Signs. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any Lot; provided, however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each Lot which shall not be more than eight (8) square feet in size and may be used for the sole and exclusive purpose of advertising for sale the Lot upon which it is erected;

o. Drilling and Quarrying. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring oil or natural gas shall be erected, maintained or permitted upon any Lot;

p. Trash. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in containers, or other equipment for the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition and out of view. There shall not be burning of trash or leaves on any Lot. All firewood shall be stored out of view of any street;

q. Sewage Disposal. No individual sewage treatment system shall be permitted on any Lot;

r. Water Supply. No individual water supply system shall be permitted on any Lot, except for use in air conditioners and sprinkler systems;

s. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved to the Association. Such easements shall include the rights of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage any structure installed in accordance with said easement, or interfere with the installation and maintenance of utilities, 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 maintained continuously by the Owner of said Lot;

t. Care and Appearance of Premises. The structures and grounds on each Lot shall be maintained in a neat and attractive manner. All sidewalks and driveways shall be kept clear of snow and ice, which shall be removed as soon as possible. The Association shall have the right (upon twenty (20) days notice to the Owner of the Lot involved, setting forth the action intended to be taken, and if at the end of such time such action has not been taken by the Owner), at the expense of the Owner, to remove trash or rubbish, and to cut grass, weeds and vegetation and to trim or prune, any hedge or other planting that in the opinion of the DRC, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property, upon like notice and conditions, to care for vacant or unimproved property, and to remove grass, weeds and rubbish there from and to do any and all things necessary or desirable in the opinion of the DRC to keep such property in neat and good order, all at the cost and expense of the Owner. Such costs and expenses 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;

u. Exterior colors and Landscaping. The exterior colors, materials and all landscape planting with mature height above three (3) feet and decoration shall have the prior written approval of the DRC and shall not be changed without the written approval of the DRC;

v. Minimum Size and Height Requirements. Minimum square footage and height requirements will be set forth for each Phase of development pursuant to the Development Plan. The requirements for Phase I are as follows:

(a) A minimum of 1,100 square feet of enclosed floor area.

(b) The words "enclosed floor area" as used herein shall mean and include areas of the residence enclosed and finished for all year occupancy, computed on outside measurements of the residence and shall not mean or include any areas in basements, garages, carports, porches or attics.

w. Building Lines. No part of any residence shall be located on any Lot nearer than thirty (30) feet to the property line which is adjacent to a street; nor shall any part of a residence be located on any lot nearer than six and one half (6.5) feet to a side property line nor nearer than thirty (30) feet to the rear property line.

Provided, however, the following enumerated parts of any residence may project over the above described front, side and rear lines, for the distance shown to wit:

(a) Window Projections. Bay, bow or oriel, dormer and other projecting windows not exceeding one story in height may project a distance not to exceed two (2) feet.

(b) Miscellaneous Projections. Roof, overhangs, cornices, spoutings, chimneys, brackets, pilaster, grillwork, trellises and other similar projections for purely ornamental purposes, may project a distance not to exceed two (2) feet.

(c) Vestibule Projections. Any vestibule not more than one story in height may project a distance not too exceed two (2) feet.

x. Damaged Structures. In the event of fire, windstorm or other damage, no building shall be permitted to remain with its exterior in a damaged condition longer than six (6) months. The DRC shall have the right at its discretion to grant extensions for periods of no more than two (2) months. Extensions shall be subject to renewal by the DRC but in no event shall the exterior of any building on any lot be permitted to remain in a damaged condition for more than twelve (12) months. In the event an owner fails to comply with the time limitation set forth herein, liquidated damages of \$100 per day shall accrue against such Owner and shall become a lien upon such Owner's Lot;

y. Garages. All garages must have capacity for a minimum of two (2) cars and must be attached to the main dwelling house unless otherwise approved by the DRC. All garages must be equipped with doors which shall be kept closed as much as practicable to preserve the appearance of the house fronting on the street;

z. Frontage. All Living Units shall present a good frontage to any street or adjacent property. All Living Units located on a corner Lot shall front or present a good frontage on both streets. Each Living Unit shall present good frontage on all sides;

aa. Foundation Exposure. No concrete on common concrete blocks shall be exposed over one (1) foot aboveground level on any elevation of a structure;

bb. Driveways. Any portion of any driveway within street right of way must comply to standards established by the DRC.

Section 2. Lot Use for Model Home or Real Estate Office. All else herein to the contrary notwithstanding and as expressly limited herein, any Lot may be used for a model home or for a real estate office by the Developer, or its agents or employees, during the Development Period. Such right shall be limited to the Developer, or its agents or employees, and shall extend to no other person, Builder, Owner or other developer except as may be permitted by a majority vote of the Association Board.

Article XIII

Easements

Section 1. Easements. Any provision in this Declaration to the contrary notwithstanding, easements and rights-of-way are hereby expressly reserved to the Developer and, as appropriate and necessary, to the Association, their agents, designees, successors and assigns, in, on, over and under the easement area of each Lot and the Common Area as designated on any plat filed relative to a Phase, for the following purposes:

a. the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments and appurtenant structures in connection with the transmission of electricity, telephone, traffic signals, fire alarm systems, communication systems, television cables and other utilities and similar facilities;

b. the erection, installation, construction and maintenance of storm water drains, land drains, public and private sewers, grinder pumps, pipe lines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function, and appurtenant structures whether aboveground or underground;

c. slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios

approved by the Developer or which might create erosion or slicing problems or which might change, obstruct or retard drainage flow; and

d. landscape purposes, including the right to require Owner's of Lots affected by the Landscape Easements set forth on any plat filed relative to a Phase, to plant and maintain such area in accordance with DRC standards.

Section 2. Installation. Developer reserves unto itself, its assignees, successors and designees, the right, power and authority to direct and control, in cooperation with a public authority or any utility company which will install or own, operate and maintain the respective facilities, or both, which utilities and drainage services (as provided for herein) shall be installed in an occupy any specific easement. Within any easements, no improvement, planting or other material or improvement shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the directional flow of drainage channels in the easement, or which may alter, obstruct or retard the flow of water through drainage channels within the easement areas, or which may change or prevent the intended use of any easement.

Section 3. Owner Rights and Obligations. Subject to all of the other restrictions contained in this Declaration, each Owner shall have the right to use the Easement Areas of his Lot in any manner not inconsistent with the purposes for which such easement areas are reserved, and the area within any easement area and all improvements within the bounds of such easement areas shall be maintained continuously by the Owner of the said Lot, except for such improvements for which a public authority or utility company is or may become responsible for maintenance. Notwithstanding anything herein to the contrary, each owner of a Lot covenants and agrees that, in cooperation with the Developer, each Owner shall execute all grants of easements, grants of right-of-way or any other similar grant or conveyance documentation required to be executed by an Owner in order to grant and convey to any public authority or utility company, their assigns or lessees, the right, privilege and easement to lay, construct, maintain, alter, inspect, repair, replace, protect, relocate, change the size of, operate and remove all utility lines, service taps, distribution facilities, valves, regulators, pressure sewer systems (including the force mains, grinder pump units and appurtenances) and other equipment appurtenant to and necessary for providing any and all of the utility and drainage services as provided herein.

Section 4. Access. The Developer reserves for itself and the Association, their agents, designees, successors and assigns the right at all reasonable times and upon notice to enter upon all parts of the Easement Areas of each Lot for any of the purposes for which said easements or rights-of-way are reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry. The Developer and the Association, their agents, designees, successors and assigns shall be responsible for leaving each Easement Area in good repair and condition following any work or activity within such Easement Area pursuant to the provisions of this Article XII.

Article XIV

Duration of Restrictions

The restrictions set forth shall continue and be binding upon the parties hereto, their heirs, administrators, successors and assigns, for a period of twenty (20) years from date hereof and shall automatically be continued thereafter for successive periods of ten (10) years each, unless the same shall be modified, amended or terminated as set forth in Article XVII.

Article XV

Notice

A written or printed notice personally delivered or deposited in the United States mail with postage thereon prepaid and addressed to the respective Owners, Members and other persons entitled to a notice at the last address as shown on the records of the Association shall be deemed to be sufficient and proper notice of any matter to which any Member or other interested person may be entitled under the terms of this Declaration. Notice of an Assessment may be made by a billing mailed to the Members as herein provided.

Article XVI

Covenants Running With the Land

Section 1. Covenants Run With the Land. All of the provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon the parties hereto and upon their heirs, successors and assigns.

Section 2. Incorporation of Provisions in Deeds.

a. Each grantee, by accepting a deed, lease or other instrument conveying any interest in any Lot, whether or not such instrument incorporates or refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by the Declaration and to incorporate this Declaration by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.

b. The developer and each grantee taking title through the Developer by acceptance of a Deed, lease or other instrument conveying any interest in any Lot, further agrees to cause all subsequent grantees to execute any deed, lease or other instrument conveying any interest in any Lot for the purpose of affirmatively assuming the obligations of an Owner hereunder and agrees to include the following covenant in any such Deed or other instrument conveying any interest in any Lot:

“For the benefit of the grantor, the Developer, The Hills of Oakmont Homes Association, Inc., and their respective heirs, successors and assigns, the grantee hereunder executes this instrument for the purpose of

assuming the obligations of an Owner under the Declaration of Covenants, Restrictions, Easements, Charges and Liens to which the property is subject and expressly agrees to comply with each provision thereof to the extent such provision applies to him.”

This covenant, and any such covenant in any deed to any Lot, may be specifically enforced against the grantor or the grantee, or both.

Article XVII

Modification, Amendment and Termination

This Declaration may be modified, amended or terminated in any particular at any time by the execution and acknowledgement of an appropriate agreement or document by a two-thirds (2/3) vote of the Members of the Association (as set forth in Article III, Sec. 2b.) then subject to the terms of this Declaration which instrument shall be recorded in the Office of the Recorder of Deeds of Platte County, Missouri, provided however that no amendment shall be valid if it adversely and materially affects the Association’s ability to assess and collect Assessments for care of the Common Areas.

Article XVIII

Assignment by the Association

The Association may, with the approval of a majority of its Members, by appropriate agreement made expressly for that purpose, assign or convey to any other person or corporation all or any part of the rights, reservations and privileges herein reserved by or granted to it, and upon such agreement or assignment or conveyance being so made, its assigns or grantees may at their option exercise, transfer or assign these rights, or any one or more of them, at any time or times in the same way and manner as though directly reserved by or granted to them or it in this manner as thought directly reserved by or granted to them or it in this instrument. Such assignee shall be subject to the same duties, obligations and restrictions as are here imposed upon the Association with respect to such rights, reservations and privileges.

Article XIX

No Personal Liability

No member of the Board, officer of the Association, member of the DRC, member of any committee of the Association, whether such committee is specifically described in this Declaration or hereafter created by the Association or Manager, if any, or the Developer shall be personally liable to any Owner, Member, or to any other party for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, failure to act, or negligence of any such Board to Developer, officer or committee member of the DRC and, further, neither the DRC nor any member thereof shall be liable to the

Association, prejudice suffered by or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, (b) the construction or performance of any work upon the property, (c) the execution and filing of any estoppel certificate, whether or not the facts therein are correct, or (d) any other act, action or conduct of such party. Such limitation of liability shall apply in all cases, provided that such person has, on the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

Article XX

To Observe All Laws

The Association shall at all time observe the State, County and other laws, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby. Each of the various provisions of this Agreement and of the covenants, restrictions, rights, duties and obligations herein created or imposed are each separate and distinct of the others. The invalidity or unenforceability of any part hereof shall not affect the remainder.

Article XXI

Association to Notify Members of Address

The Association shall notify all Owners as it may exist from time to time, insofar as the addresses of such Owners are listed with said Association, of the official address of said Association, the place, time and purpose of the regular and special meetings of the Association, and the place where payments shall be made and other business in connection with said Association may be transacted, and in case of any change of such address, the Association may be transacted, and in case of any change of address, the Association shall notify all the Owners, insofar as their addresses are listed with the Association, of the new address.

Article XXII

Land of Person not Bound, if any

If for any reason this Declaration shall be ineffective or not binding as to any Lot, tract, homesite or other part of the Property or is not enforceable against any Owner or Member, then as to that land or Owner or Member nothing herein shall in any way alter, change, terminate or affect any of the assessments, restrictions, limitation, covenants or agreements which were effective with respect to said land, owner or Member immediately prior to the effective date of this Declaration.

Article XXIII

Equal Opportunity Housing

Section 1. covenants of Owners. Any person when he becomes an Owner or Resident agrees that neither he nor anyone authorized to act for him will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the property covered by the deed to any persons because of race, color, religion, sex, age (if old enough to contract) or national origin or because such person receives financial assistance from the local, state or Federal government. This covenant shall run with the land and shall remain in effect without limitation in time. Any restrictive covenant on the Property relating to race, color, religion, sex, age (if old enough to contract) or national origin is recognized as being illegal is specifically disclaimed.

Section 2. Covenants for Lessee. All owners shall treat all applicants for leasehold interests in a uniform manner and shall award leases according to objective standards. No decision on any applicant for a leasehold interest shall be made on the ground of the applicant's race, color, religion, sex, age (if old enough to contract) or national origin. All lease agreements, to prohibit discrimination in subleasing, shall contain substantially the following clause:

“The tenant covenants and agrees that it will no sublet to or assign the demised premises or any part thereof, or transfer possession of occupancy thereof in any manner whatsoever, without the prior written consent of the lessor. Further, the tenant covenants and agrees that when prior written consent of the lessor is obtained, or in the event the subletting or assignment is to be arranged through public advertisement or listing of any kind, the tenant will treat all applications for sublease or assignment interest in a uniform manner and will award leases according to objective standards. No discrimination shall be made on the ground or the applicant's race, color, religion, sex, age (if old enough to contract) or national origin.”

Article XXIV

Limitation on Association Power

During the Development Period, the Association may not use its resources not take a public position in opposition to the general Development Plan or to changes thereto proposed by the Developer. Nothing in this section shall be construed to limit the rights of Members acting as individuals or in an affiliation with other Member of groups.