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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
of  
THE VILLAS AT THE CROSSINGS**

96307

THIS DECLARATION, made this 27<sup>th</sup> day of October, 1998 by  
SUMMIT POINTE, LC, a Limited Liability Company hereinafter referred to as "Developer".

**WITNESSETH:**

**WHEREAS**, Developer is the owner of certain real property in the CITY OF  
O'FALLON, County of St. Charles, State of Missouri, which is more particularly described as  
follows:

See Exhibit A attached hereto and incorporated herein by reference.

**NOW, THEREFORE**, Developer hereby declares the following:

The properties described in this Declaration shall be held, sold and conveyed subject to  
the following easements, Covenants, Conditions, and Restrictions, which are for the purpose of  
protecting and enhancing the value and desirability of, and which shall run with and encumber  
the real property above described and any additions thereto, and be binding on all parties having  
any right, title, or interest in the above described properties or any part thereof, and being  
binding on additional land added subject to these Covenants, Conditions and Restrictions  
pursuant to Article entitled, "STAGED DEVELOPMENTS," and such parties, their heirs,  
successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

**Section 1.** "Association" shall mean and refer to THE VILLAS AT THE  
CROSSINGS HOMEOWNERS ASSOCIATION, a Missouri not-for-profit corporation, its  
successors, and assigns.

**Section 2.** "Owners" shall mean and refer to the record owner, whether one or more  
persons or entities, of a fee simple title to any Lot or Unit which is a part of the Properties,  
including contract sellers, but excluding those having such interest merely as security for the  
performance of an obligation.

The Developer shall be considered, and is the "Owner" of all Units, Lots and Building  
Lots, until conveyed to purchasers.

**Section 3.** "Property" or "Properties" shall mean and refer to that real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by reason of the Article entitled "STAGED DEVELOPMENTS."

**Section 4.** "Common Elements", included in the Common Elements of the development are:

(a) the "property," (excepting the building "units"); and the common elements shall include, without limitation, all easements appurtenant, open parking areas, access ways, walkways, sidewalks, play areas, lawns, landscaped and planting areas, yards, and any lots hereafter added by reason of the Article entitled "STAGED DEVELOPMENTS";

(b) All sanitary and storm sewer facilities, and all utilities installations, lines and connections for gas, electricity, light, telephone, water and plumbing, cable television wires, except those within the Lots; Except such as are subject to municipal ownership or jurisdiction and facilities owned by public utility company;

(c) All apparatus and installations, now or hereafter erected and intended for common use;

(d) All auxiliary buildings, parks, swimming pools, recreation buildings, if any, and any other structures, which may, at any time, be erected on the Property;

(e) All other appurtenances not herein specifically designated;

(f) Gutters and downspouts;

(g) Notwithstanding anything heretofore set forth in this section, Common Elements shall not include any item that solely serves a particular Unit (except gutters and downspouts) including, but not limited to plumbing, wiring, hot water heaters, furnaces, air conditioning equipment and exhaust fans. The responsibility for maintaining, repairing, and replacing any such item, shall be the sole responsibility of the particular Owner receiving the sole service of such item. The Common Elements shall include all outside parking spaces (excluding driveways) and the patios and outside decks. The Association shall be responsible for maintaining, repairing, and replacing such parking spaces, patios and decks. To the extent that any of the aforementioned items, except outside parking spaces, decks and patios are covered by an insurance policy carried by the Association, the relevant Owner or Owners shall be responsible for the payment of the

deductible amount under said policy, and the Association shall apply the policy's proceeds to any repair or replacement;

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(h) The definition of "Common Elements" is for purposes of this declaration only and "Common Elements" shall not be construed according to the Uniform Condominium Act of Missouri, Mo. Rev. Stat. Sections 448.1-101-.4-120 (Supp. 1984).

**Section 5.** Any recreation facilities which may be subsequently built by the Association, shall be part of the Common Elements. The Developer is not furnishing any such facilities.

**Section 6.** "Building Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties which describes the property upon which a building or buildings containing multiple units is intended to be constructed.

**Section 7.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties which contains a legal boundary of the individual Lots and describes the portion of the Properties, upon which a single Unit, including driveway, is intended to be located; and is expected to have a boundary defined by the driveway and the front exterior surface of the building and the outside sidewall of an end Unit, and a distance of twelve feet (12') beyond the rear exterior wall as set out on the plat, and the width of the driveway, and the centerline of any party walls forming the outside perimeter of the Unit, or as otherwise described as a Lot by the plat. It is anticipated that the Properties will first be platted showing Building Lots. Upon completion of construction of the building or building units the initial subdivision of the Properties will be filed which will show the precise boundaries of the individual units and the Common Elements. The portions of the Building Lot, which are not part of the individual Lots shall from time to time, be dedicated to the Association by the Developer free and clear of encumbrances as Common Elements.

**Section 8.** "Developer" shall mean and refer to Summit Pointe, LC, a Limited Liability Company, or its successors and assigns if such successors and assigns should acquire any undeveloped Building Lot from the Developer for the purpose of development.

**Section 9.** "Unit" shall mean the portion of any building or improvement located on any Lot forming a functional dwelling Unit to be used as a personal residence including the driveway and shall include all of the floors, ceilings, balconies, doors, roofs, walls, mechanical systems (heating and air conditioning systems, plumbing, electric and gas systems), windows, foundation, and the portion of all party walls adjacent to such Unit to the centerline of such party wall, but shall not include the gutters and downspouts. A Unit becomes a Unit upon completion of its construction and upon recording of the plat designating the Unit boundaries.

**Section 10.** There is dedicated to the City of O'Fallon an easement over the common areas as may be required for any City access or maintenance.

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**Section 11.** The maintenance of the common area shall be the obligation of the Home Owners Association.

**Section 12.** From and after the final approval of the final plat or plats, and acceptance thereof by the City of O'Fallon, Summit Pointe, LC, a Limited Liability Company shall not deviate from the planned development in accordance with the final plats.

## ARTICLE II PROPERTY RIGHTS

### **Section 1.** Ownership of Common Elements.

- (a) Fee simple title to the Common Elements within each lot shall be conveyed by the Developer to the Association immediately following the approval by the City of the Resubdivision of that lot, by separate conveyance of record which areas may in such conveyance be described by metes and bounds, or by reference to this instrument as the "Common Elements" of The Villas at The Crossings or by any other means of description that the Developer may choose, including a plat. The title to each part of the Common Elements so conveyed by express grant shall be vested in the Association, or its successors or assigns under this instrument.
- (b) In the event that the Homeowners' Association is dissolved, the residents shall still be responsible for the maintenance of any storm water management systems or areas held in common. Any conveyance or change in ownership of any Lot shall convey with it ownership in the Common Properties, and no interest in the Common Properties shall be conveyed by an Owner except in conjunction with the sale of a Lot. The sale of any Lot shall carry with it all the incidents of ownership of the Common Properties although such is not expressly mentioned in the deed of conveyance; provided, however, that no right or power conferred upon the Directors shall be abrogated.
- (c) Developer reserves an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Developer's obligations hereunder.

**Section 2. Owner's Easement of Enjoyment.** Every Owner shall be a member of The Villas at The Crossings Homeowners Association. Subject to the provisions of the Declaration, every Owner shall have a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot or Unit, subject to paying the annual assessments, as provided for under the article entitled "Covenant of Maintenance Assessments" and the following provisions:

(a) Fee Ownership of the Common Elements shall vest in the Association and not in the unit owners;

(b) the right of the Association to charge reasonable admission and other fees for the use of any Recreation Facility that may be situated upon the Common Elements, if any;

(c) the right of the Association to suspend the voting rights and right to use the Recreation Facilities by an Owner, his guests, tenants, or invitees for any period not to exceed sixty (60) days for any infraction of the use restrictions contained herein, the By-Laws of the Association, or any of its published rules and regulations;

(d) the right of the Association to dedicate or transfer all or any part of the Common Elements to any institution, trustee, agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless a simple majority of all voting members of the Association agree to such dedication or transfer at a duly authorized meeting;

(e) all owners and their guests, tenants and invitees shall strictly comply with any use restrictions, rules and regulations of By-Laws contained in or promulgated in accordance with the Declaration of the By-Laws;

(f) the right of the individual Owners to the exclusive use of the parking spaces as provided in the article entitled "PARKING AND PATIOS;"

**Section 3. Owner's Easements of Enjoyment.** Every owner of a unit shall have a right and easement of enjoyment in and to the Recreation Facilities (if any should be erected) of the Common Elements.

**Section 4. Encroachment.** Through construction, settlement, or shifting of any building, should any part of any building encroach upon any part of the Common Elements or upon any other unit, perpetual easements for the maintenance of such encroachments and for the use of the space required thereby, are hereby established and shall exist for the benefit of the Owners; provided, however, that no easement shall be created in the event the encroachment is due to the willful conduct of the Owner. All easements and rights herein established shall run with the land and inure to the benefit of, and be binding upon the Developer, his successors or assigns, and any Owner, purchaser, mortgagee, or other person having an interest in any portion of the properties.

**Section 5. Easements in Gross.** The Property shall be subject to a perpetual easement in gross to the Association, its successors, and assigns, for ingress and egress to perform its obligations and duties as required by this Declaration. Should it be necessary to enter a Unit or Lot in order to maintain, service, improve, repair, or replace any Common Elements, employees, agents and workmen shall be entitled to entrance by exhibiting to the Owner an order from the Association. The Association shall specifically have the authority to enter any Unit or Lot, for the purposes of repairing, maintaining, servicing, improving, or replacing the roof, pipes, and wires within any Unit or Lot which services another Unit or Lot. Nothing in this subsection shall be construed to require the Association to maintain, repair or replace anything which serves only one Unit.

**Section 6. Streets.** All streets and adjacent sidewalks shall be and are hereby dedicated for public use.

**Section 7. Personal Resident.** Each Unit shall be used for single family residential purposes only, and no trade or business that requires direct walk-in client contact or detracts from the residential character of the community may be carried on therein. A "single family" residence means a single housekeeping unit operating on a non-profit, non-commercial basis between its occupants.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

**Section 1.** Every Unit Owner and the Developer shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from ownership of any Unit or Lot.

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

**Class A.** Class A members shall be all Unit Owners and shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

**Class B.** The Class B member shall be the Developer which shall be entitled to a number of votes equal to three times the number of Class A votes in addition to those votes granted pursuant to Section 3 hereof. The Class B membership and votes shall dissolve on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal ninety percent (90%) of the total Units shown on any recorded subdivision maps subject to this instrument but owned by Owners other than the Developer; or
- (b) December 31, 2001

**Section 3.** In the event that a Building Lot, which is a portion of the Properties, has not been subdivided into individual Units by a recorded resubdivision map, the Developer, for purposes of this Article and in addition to any other Unit owned by the Developer, shall be deemed to own one (1) Unit for each Unit planned for such Building Lot. The Developer shall be entitled to one additional vote for each Lot owned.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1.** Creation of the Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed for a Unit, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for any purpose approved by the Association, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used generally to promote the recreation, health, safety, and welfare of the Owners other than the Developer, and may be used for the improvement and maintenance of the Common Elements and the exterior of all buildings; for those items mentioned in Article V, payment of taxes, for the cost of all insurance carried by the Association as set out in Section 10 of this Article, for the provision of utilities in the Common Elements, for the administration and management costs of the Association, for legal, accounting, and auditing fees of the Association, and to build the reserves of the Association.

**Section 3. Establishment of Assessment.**

(A) By December 1st of each year, the Board of Directors shall estimate the total amount necessary to pay wages, and for materials, insurance, water, sewer charges, services and supplies which it anticipates will be required during the ensuing calendar year together with a reasonable amount which it considers to be necessary as a reserve for any future needs, for contingencies and for replacements and, or about December 15th of each year, shall notify the Owner of each Unit in writing as to the amount of such estimate, with the particulars therein itemized. The estimated cash requirements shall then be assessed against the Owners of the Units according to each Owner's Allocated Interest. On the first day of each month of the following year, each Owner shall be obligated to pay to the Board of Directors, or as the Board of Directors may direct, one-twelfth (1/12th) of the assessment made hereunder.

(B) In the event that, at any time during the year, the Board shall determine that its December 1st estimate is insufficient to meet current operating expenses, the Board may revise the budget for the balance of the calendar year to such an amount as is actually necessary to pay wages and for materials, insurance, water, sewer charges, services and supplies, together with a reasonable amount which it considers necessary as a reserve for future needs, contingencies, and replacements; and, in such event, the Board shall, within fifteen (15) days of the revision, notify the Owner of each Unit, in writing, as to the amount of the revised budget, with the particulars therein itemized. The cash requirements shall then be assessed against the Owners of the Unit according to each Owner's Allocated Interest. On the first day of each month thereafter, each owner shall be obligated to pay to the Board of Directors, or as the Board may direct, an amount equal to a fraction, the numerator of which shall be one (1) and the denominator of which shall be the number of months remaining in the then current year, of the assessment made hereunder.

Notwithstanding any other provision herein, the Board shall make suitable provision for compliance with all subdivision and other ordinances, rules and regulations of the City of O'Fallon, or any other municipality of which the property may become a part, and for such purposes shall not be limited to any maximum assessment.



(C) Exempt Property. All properties owned by Declarant, from completion of construction until such time as the property may be occupied or conveyed to an individual owner, shall bear an assessment equal to fifty percent (50%) of the assessment paid by individual Owners. If the partial assessment paid by Declarant is less than the full replacement reserve portion of the assessment for each Unit,, or if there is an operating deficit for the Association in any month, the Declarant shall pay such full replacement reserve portion of the assessment and/or shall pay such operating deficit. Declarant's obligation to pay assessments and/or the aforesaid replacement reserve portion thereof and operating deficits of the Association shall commence sixty (60) days after closing on the first sale of a Unit in the Condominium, and shall continue on a monthly basis as due. Declarant's obligation to pay operating deficits shall terminate upon Declarant's releasing control of the Condominium.

(D) Accounting and Shortages. By June 15th of each year, the Executive Board shall supply to all owners an itemized accounting of all income and expenses of the preceding calendar year. Any Common Surplus, as shown in such accounting, less reserves for future needs and contingencies, shall be credited according to each Owner's Allocated Interest to the next monthly installments due under the current year's estimate, until exhausted. One-sixth (1/6th) of any net shortages will be added, according to each Owner's Allocated Interest, to the installment due in each of next six (6) succeeding months after the rendering of the accounting.

(E) The final budget for the Association for the next succeeding fiscal year shall be composed either (i) of the aggregate of those items approved by a majority of the members of the Association present and voting thereon at such meeting as provided for by Section C and D or (ii) the original budget proposed by the Board of Directors and presented to the members under Section B hereof.

(F) On or before December 1 each year, the Board of Directors of the Association shall notify each Owner subject to assessment, in writing, of the amount of the estimate established pursuant to subparagraphs (B) or (C) and (D) hereof, if different from the preceding annual assessment. The estimate shall be divided by the total number of Owners subject to assessment, and the result shall constitute the next annual assessment for each Owner.

**Section 4. Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment for any purpose whatsoever, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5.** Notice of Quorum for any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 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 the majority of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the 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 sixty (60) days following the preceding meeting.

**Section 6.** Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and shall be collected on a monthly basis, or for such other period as may be determined by the Board of Directors.

**Section 7.** Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on a monthly basis with respect to any Owner on the first month following the recordation of the deed from the Developer by which the Lot is transferred to the Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The monthly due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid.

**Section 8.** Effect of Non-payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the monthly due date shall pay a late charge fee of Twenty Five (\$25.00) Dollars. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. If an Owner does not pay a monthly installment of the annual assessment by 5:00 p.m. on the fifteenth (15th) day of the month after the month in which the installment was due, the Board may, at its option, declare any remaining balance of the annual assessment for the year to be due and payable and take any and all action necessary to collect the same.

**Section 9.** Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Owner from liability for any assessments thereafter becoming due or relieve the Owner's Lot from the lien thereof.

**Section 10. Insurance.** The Association shall procure and maintain adequate liability and hazard insurance on all property owned by the Association. The Association is authorized and required to procure and maintain liability and hazard insurance on all building structures, components, and systems being a part of the Unit or Lot (or a replacement of any part of a Lot), but excluding personal property contents not constituting a part of the Unit. If insurance upon any property other than the Property owned by the Association is procured and maintained by the Association, it shall be procured and maintained in a manner which provides substantially equal benefits to all Owners.

#### **ARTICLE V EXTERIOR MAINTENANCE**

The Association shall be responsible for maintenance to the Common Elements. In addition, the Association shall be responsible for exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces, including patio walls, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include driveways, glass surfaces of exterior doors, garage doors, and windows, or the screened surfaces or interior surfaces of screened in decks or patios.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, the Owner's family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Owner is subject. An Owner shall not have the right to paint, repair, maintain, or otherwise cover the exterior portion of the building on any Lot except the glass portions of any door or window.

#### **ARTICLE VI PARKING AND PATIOS**

Each Unit shall have two (2) inside garage parking spaces which shall not be a Common Element. A patio or deck shall be an assigned space so that the Owner of the Unit has one (1) patio space (except for walk-out Units which will have a patio and deck) which shall be common area to be maintained by the Association. All parking spaces and patios which are not assigned for the exclusive use of an Owner shall be open for the use of any other Owner or his guest.

**ARTICLE VII  
ARCHITECTURAL CONTROL**

**Section 1. Applicability.** The following provisions shall apply exclusively to Owners other than the Developer. The Developer, even though an Owner for certain purposes of this Declaration, shall not be required to comply with any provisions of this Article VII entitled "Architectural Control".

**Section 2. Additions, Changes, or Alterations.** No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and locations in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board who may be compensated at the discretion of the Board, except that no Board member may be compensated for such efforts. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with fully.

**Section 3. Fees for Review.** If the Architectural Committee receives compensation for its efforts, the Board of Directors may establish a reasonable fee for review of any proposed changes.

**Section 4. Guidelines.** The Architectural Committee may adopt reasonable guidelines to facilitate the review of proposed changes.

**ARTICLE VIII  
PARTY WALLS**

**Section 1. General Rules of Law to Apply.** Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 2. Sharing of 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.

**Section 3.** 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 the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to their use thereof. Any such use shall be without prejudice to the right of any of those Owners to call for a larger contribution from the others under any rule of law which provides for liability or negligent or willful acts or omissions. To the extent that any of the aforementioned items are covered by an insurance policy carried by the Association, the relevant Owner or Owners shall be responsible for the payment of the deductible amount under that policy, and the Association shall apply the policy's proceeds to any repair or replacement.

**Section 4.** Weatherproofing. Notwithstanding any other provision of this Article, 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.

**Section 5.** Right to Contributions Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 6.** Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

**ARTICLE IX  
STAGED DEVELOPMENTS**

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The Developer may make additions to or amend, from time to time, the subdivision map or maps of the Properties, and of any additions to the Properties, and may cause such additions or amendments to be recorded, without the consent of any Owner. Any such additions to the Properties shall be subject to this Declaration by reference hereto on any such subdivision map, all for the purpose of carrying out a general plan of development with respect to such properties.

**ARTICLE X  
USE RESTRICTIONS**

**Section 1. Residential Uses.** Only attached single family dwelling units shall be erected on any Lot. No use shall be made of any Unit except as is incidental to the occupation thereof for residence purposes by one private family residing in an attached single family dwelling.

**Section 2. Fences.** No fence or wall of any kind shall be erected, begun, or permitted to remain upon any Lot or Unit of the Properties unless approved by the Board of Directors of The Villas at The Crossings Homeowners Association. No fence may be erected other than a six foot high privacy fence around the patio, the specifications of which shall conform with the specifications set out on Exhibit B attached hereto and hereby made a part hereof. In the event that any fence deteriorates or falls into disrepair, and the owner of the lot on which the fence is located fails to repair or remove same after notice from the Board of Directors, the Board of Directors, its agents, employees or contractors shall have the absolute right to enter upon the lot involved, without being deemed guilty or liable for any manner of trespass, and repair or restore such fence and charge the cost of same to the then owner of the lot on which the fence is located and impose a lien on such lot until payment. The procedures hereinabove set forth for the collection of delinquent assessments shall be applicable to enforcement of the aforesaid charges.

**Section 3. No Commercial Activities.** No commercial activity that requires direct walk-in client contact or detracts from the residential character of the community including but not limited to the operation of daily child care, garage sales, yard sales, moving sales, or auctions shall be conducted on any Lot or in any Unit, but nothing herein shall prohibit the carrying on of promotional activities by the Developer.

**Section 4. Livestock.** 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 any Lot or in any Unit; and no more than a total of two dogs, cats, or other such pets may be kept or maintained on any Lot or in any Unit. No

tethering of pets, outdoor dog kennels, dog houses, dog runs, dog pens or wireless fencing system shall be permitted on any lot in the subdivision

**Section 5.** Parking of Motor Vehicles, Boats, and Trailers. No trucks, or commercial vehicles, boats, house trailers, boat trailers, recreational vehicles, and trailers of every other description shall be permitted to be parked or to be stored on the exterior of any Lot or Unit except only during periods of approved construction of the Lot. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery, or other commercial services. Parking of recreational vehicles will be allowed for the purpose of loading and unloading not to exceed a (24) twenty-four hour period.

**Section 6.** Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on any Lot without the consent in writing by the Board of Directors of The Villas at The Crossings Homeowners Association.

**Section 7.** Laundry Poles. No permanent poles for attaching wires of lines for the purpose of hanging laundry thereon shall be erected, installed, or constructed on any Lot.

**Section 8.** Antennas. No outside radio, television, or satellite antenna shall be erected, installed, or constructed on the Properties, without the written consent of the Board of Directors of The Villas at The Crossings Homeowners Association.

**Section 9.** Fuel Tanks. No fuel tank or container of any nature shall be placed, erected, installed, or constructed on any Lot, unless approved in writing by the Board of Directors of The Villas at The Crossings Homeowners Association.

**Section 10.** Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out buildings shall be used on any Lot at any time as a residence or other use, either temporarily or permanently.

**Section 11.** 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 as sold and conveyed, which advertising board shall not be more than five (5) 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. No vehicle shall be parked or displayed within the subdivision bearing a "for sale" sign or other sign indicating that such vehicle is being offered for sale.

**Section 12. Drilling and Quarrying.** No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, 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.

**Section 13. Dumping of Rubbish.** No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, all of which shall not be kept except in sanitary containers, or incinerators or other equipment for the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition.

**Section 14. Sewage Disposal.** No individual sewage treatment system shall be permitted on any Lot. All sanitary sewer lines shall connect with the central sewage disposal system provided. Water from downspouts or any surface water shall not be permitted to drain into the sanitary sewer system.

**Section 15. Water Supply.** No individual water supply system shall be permitted on any Lot, except for use in air conditioners and sprinkler systems.

**Section 16. Utility Easements.** Easements for installation of maintenance utilities and drainage are reserved to the Developer as shown on recorded plats. Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting, or other materials 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 change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Any easement area of any Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

**Section 17. Care and Appearance of Premises.** The structures and grounds on each Lot shall be maintained in a neat and attractive manner. The Villas at The Crossings Homeowners 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 Board of Directors of The Villas at The Crossings Homeowners Association, 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 or is unattractive in appearance. The Villas at The Crossings Homeowners Association shall further have the right, upon like notice and conditions, to care for vacant and unimproved property, and to remove grass, weeds, and rubbish therefrom and to do any and all things necessary or desirable in the opinion of The Villas at The Crossings



Homeowners Association 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 Villas at The Crossings Homeowners Association shall be paid to the Association upon demand and if not paid within ten (10) days thereof then they shall become a lien upon the property affected, equal in priority to the lien provided for in the Article entitled "Maintenance Assessments."

**Section 18. Lawn Ornaments and Statues.** No lawn ornaments, statues, bird baths, or fountains shall be permitted on any Lot, Lawn area, or Landscaped area. Planter boxes, flower pots, potted plants, and small statues and ornaments shall be permitted on porches, patios and decks only.

**Section 19. Seasonal Decorations.** Christmas lighting and seasonal decorations are allowed during the time frame of November 15<sup>th</sup> through January 15<sup>th</sup> of the immediate calendar year. Lights and/or decorations shall only be temporarily fastened by the use of clip-on methods. No nails, screws, or bolts that will require the penetration of any exterior building surface or use of any methods that may cause damage to the exterior building surface will be allowed.

**Section 20. Gardens.** Vegetable gardens and flower gardens shall not be permitted on any lot or lawn area. Planting of annual flowering plants shall be permitted only in mulched areas as designated on the landscaping package for the development.

**Section 21. General Plan.** All of the foregoing restrictions are intended to constitute a general plan for the benefit of and be enforceable by all present and future owners of or parties interested in any of the Lots or Units of The Villas at The Crossings or any part thereof and their heirs and assigns as well as by The Villas at The Crossings Homeowners Association.

## ARTICLE XI GENERAL PROVISIONS

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any such action instituted by the Association, acting through its Board of Directors, exclusively, the prevailing party shall have the right to collect reasonable attorneys fees and if the Association is the prevailing party it shall also have the right to recover costs of suit.

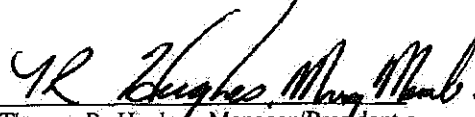
**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no ways affect any other provision which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years for three consecutive extensions. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty-five percent (65%) of the Owners, and thereafter by an instrument signed by not less than fifty-one percent (51%) of the Owners. Any amendment must be recorded. For purpose of this Section the Developer shall have the right to veto any amendments until all STAGED DEVELOPMENTS have been completed.

IN WITNESS WHEREOF, the undersigned, being the Developer has hereunto set its hand this 27<sup>th</sup> day of October, 1998.

SUMMIT POINTE, LC  
a Limited Liability Company

By:

  
Thomas R. Hughes, Manager/~~President~~

STATE OF MISSOURI )  
 ) SS:  
COUNTY OF ST. CHARLES )

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On this 27<sup>th</sup> day of October, 1998, before me personally appeared Thomas R. Hughes, to me personally known, who being duly sworn, did say that he is the Manager/President of SUMMIT POINTE, LC, a Limited Liability Company, and said Thomas R. Hughes acknowledged said instrument to be free act and deed of said Company.

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

DEBORAH L. OLSON  
Notary Public — Notary Seal  
STATE OF MISSOURI  
Lincoln County  
My Commission Expires May 17, 2001

Deborah L. Olson  
Notary Public

Deborah L. Olson  
Print Name

My Commission Expires: May 17, 2001



ENGINEERING

PLANNING

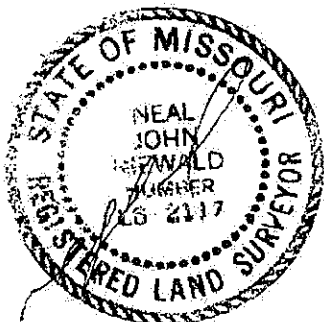
SURVEYING

BOOK 2169 PAGE 715

LAND DESCRIPTION  
BAX PROJECT NO. 97-9203D  
JUNE 17, 1998  
NJN

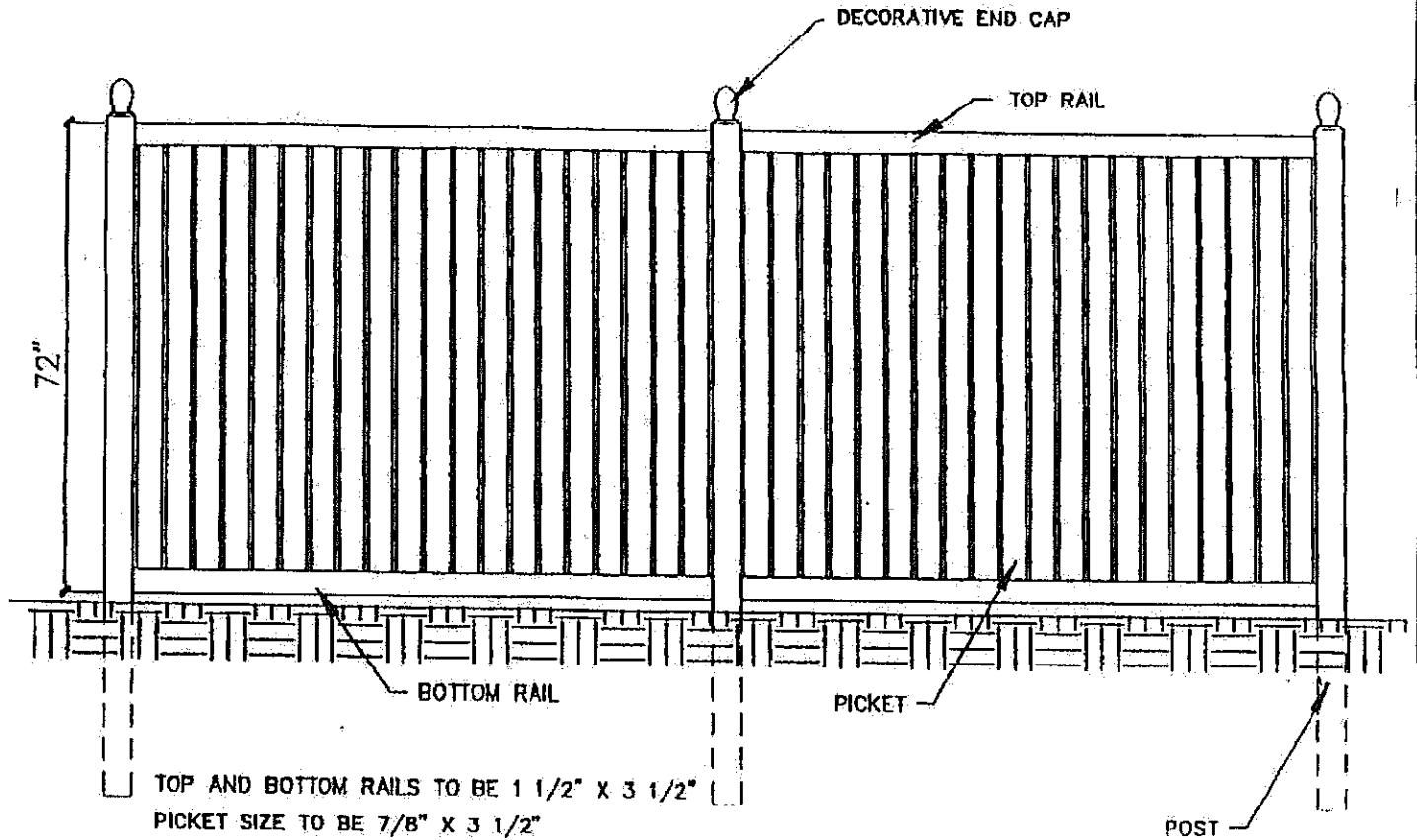
A tract of land in U.S. Surveys 63, 3070 and Section 22, Township 47 North, Range 3 East of the Fifth Principal Meridian, St. Charles County, Missouri, said tract being more particularly described as follows:

Beginning at the point of intersection of the Eastern right-of-way line of Cool Springs Road and the Northern line of a tract conveyed to M.P. Industries by deed recorded in Book 1264 Page 809 of the St. Charles County Records; thence along said right-of-way line North 00 degrees 48 minutes 41 seconds East 867.14 feet; thence leaving said line South 89 degrees 11 minutes 19 seconds East 137.26 feet; thence North 87 degrees 37 minutes 46 seconds East 92.55 feet; thence North 87 degrees 19 minutes 58 seconds East 80.15 feet; thence North 80 degrees 15 minutes 31 seconds East 84.73 feet; thence North 80 degrees 51 minutes 19 seconds East 104.49 feet; thence North 67 degrees 45 minutes 23 seconds East 160.55 feet; thence South 35 degrees 20 minutes 29 seconds East 143.66 feet; thence South 47 degrees 31 minutes 07 seconds East 100.76 feet; thence South 59 degrees 41 minutes 44 seconds East 100.76 feet; thence South 71 degrees 52 minutes 21 seconds East 100.76 feet; thence South 84 degrees 02 minutes 59 seconds East 100.76 feet; thence North 83 degrees 46 minutes 24 seconds East 100.76 feet; thence North 71 degrees 35 minutes 46 seconds East 56.74 feet; thence South 41 degrees 25 minutes 36 seconds East 240.29 feet; thence South 76 degrees 55 minutes 29 seconds East 110.37 feet; thence South 14 degrees 40 minutes 52 seconds East 200.36 feet; thence South 58 degrees 38 minutes 30 seconds East 75.52 feet; thence South 00 degrees 47 minutes 15 seconds West 299.52 feet to a point on the aforesaid North line of said M.P. Industries, Inc. tract; thence along said line, North 89 degrees 12 minutes 45 seconds West 1629.51 feet to the Point of Beginning and containing 28.428 acres as per calculations by Bax Engineering, Inc. during June, 1998.



# EXHIBIT "A"

BAX ENGINEERING CO., INC.  
1052 South Cloverleaf Drive  
St. Peters, MO 63376-6445  
314-928-5552 FAX 928-1718  
e-mail: baxeng@msn.com



TOP AND BOTTOM RAILS TO BE 1 1/2" X 3 1/2"

PICKET SIZE TO BE 7/8" X 3 1/2"

PICKET SPACING TO BE 5/8"

POSTS TO BE 4" X 4" @ 7'0" O.C. MAXIMUM

ALL FENCE MATERIAL TO BE WHITE P.V.C.

## PRIVACY FENCE DETAIL

NOT TO SCALE

EXHIBIT "B"