Declaration of Restrictions and Homes Association Declaration

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DECLARATION OF RESTRICTIONS
AND
HOMES ASSOCIATION DECLARATION
OF
CLAY MEADOWS

THIS DECLARATION is made on this 15th day of February, 1993, by Robertson Properties, Inc., a Missouri Corporation.

WITNESSETH:

WHEREAS, Robertson Properties, Inc., hereinafter called "Developer" is the owner in fee simple of certain real property located in Liberty, Clay County, Missouri, known by official plat designation as Clay Meadows First Plat, pursuant to a plat recorded in Plat Cabinet D, at Sleeve 12 in the office of the Recorder of Deeds of Clay County, Missouri, including Lots 1 to 25, inclusive, Clay Meadows First Plat, a subdivision of land in Liberty, Clay County, Missouri, and as shown in Exhibit "A" hereto, and

WHEREAS, Robertson Properties, Inc., is now developing the above described land and desires to create and maintain a residential neighborhood possessing features of more than ordinary value to said community, and

WHEREAS, it is the desire and intention of the developer to sell the property described above and to impose on it mutually beneficial restrictions under a general plan or scheme of improvement for the benefit of all of the lands in the tract and the future owners of those lands;

NOW, THEREFORE, Robertson Properties, Inc., hereby declares that all of the property described above is held and shall be conveyed, hypothecated or encumbered, leased, rendered, used, occupied and improved, subject to the following limitations, restrictions, conditions and covenants, all of which are declared or agreed to be in furtherance of a plan for the subdivision, improvement, sale of land, maintenance of the property, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the land and every part thereof. All of the limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all of the parties having or acquiring any right, title or interest in the above described lands or any part thereof.

ARTICLE I

DEFINITION

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

1. "Association" shall mean and refer to Clay Meadows Homeowners Association.

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2. "Common Areas" shall mean all real and/or personal property which the Association and/or the developer owns for the non-exclusive common use and enjoyment of the owners of lots in Clay Meadows.

3. "Developer" shall mean Robertson Properties, Inc., its successors and assigns, if any.

4. "Lot" shall mean and refer to any lot shown on Clay Meadows First Plat, together with any lot added to this Declaration as provided by Article II.

5. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any which is a part of the subdivision, including the developer, and including any individual(s) or corporation acquiring title by foreclosure or other process of law.

6. "Member" shall mean every person or entity holding membership in the association, and shall include all owners of lots.

7. "Clay Meadows" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration and any supplemental Declaration or Declarations, under the provisions of Article II hereof, and shall include the real property described therein.

8. "Corner Lot" shall be deemed to be any lot as platted or any tract of land as conveyed, having more than one street contiguous to it.

9. "Outbuilding" shall mean an enclosed, covered structure, not directly attached to the residence to which it is appurtenant.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION, ADDITIONS THERETO, DELETIONS THEREFROM

1. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Liberty, Clay County, Missouri, and comprises all of the lots, tracts and easements shown and/or platted within or upon the property legally described as: All of Lots 1 through 25, inclusive, Clay Meadows First Plat, a subdivision of land in Liberty, Missouri, according to the recorded plat thereof.

2. The Developer shall be entitled at any time, and from time to time, to plat and/or re-plat any or all of the property, and to file subdivision restrictions and/or amendments thereto, with respect to any undeveloped portion or portions of or additions to Clay Meadows, First Plat.

3.Additional Land.

Developer may, but shall have no obligation to, add at any time or from time to time, to the scheme of this Declaration, additional land, provided only that:

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(a) Any portion of the additional land from time to time added shall be contiguous to the property then subject to this Declaration;

(b) Any portion of such additional land shall be platted as single family residential lots and/or common areas;

(c) Any common areas included shall be transferred to the Association on or before the date the last lot is sold;

(d) Upon the addition of additional land, the owners of the property therein shall be and become subject to this Declaration and shall have all privileges and obligations set forth in this Declaration, including assessment by the Association for their pro-rata share of Association expenses.

The addition at any time, or from time to time, of all or any portion of additional land to the scheme of this Declaration shall be made and evidenced by the filing in the office of the Recorder of Deeds of Clay County, Missouri, a supplementary Declaration with respect to that portion of the additional land to be added. Developer reserves the right to so amend and supplement this Declaration without the consent or joinder of the Association or any owner and/or mortgagee of the land in Clay Meadows.

ARTICLE III

PERSONS BOUND BY THESE RESTRICTIONS

All persons and corporations who now own or shall hereafter acquire any interest in the above described lots hereby restricted shall be taken to hold and agree and covenant with the owner of said lots and with its successors and assigns to conform to and observe the herein stated covenants and restrictions and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending on December 31, 2018, and unless amended or modified as provided herein, these covenants and restrictions shall be automatically renewed for successive periods of 25 years each.

ARTICLE IV

USE RESTRICTIONS

1. Residential Use. The property subject to these covenants and restrictions may be used for single family residential living units and for no other purpose, provided however, that the Developer reserves the right to maintain a residential real estate sales office upon any of the herein restricted lots owned by it for the purpose of promoting, advertising for sale, showing and selling lots, either improved or unimproved, within Clay Meadows.

(a) No tents, trailers, vans, shacks, tanks, outbuildings, or temporary or accessory buildings or structures shall be erected or permitted to any lot or common area without the written consent of the developer and/or of the Association after developer has conveyed the last lot which developer owns in Clay Meadows.

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(b) No radio or television aerial or antennae or microwave dish may be kept or maintained on any of the lots hereby restricted except within the confines of a dwelling unit erected thereon.

(c) No wild, semi-wild or domestic mammals, reptiles or birds may be kept or maintained upon any of the lots hereby restricted without the consent in writing of developer or the Association, except that no more than two dogs, two cats, two rabbits, or two birds, or any combination of the foregoing specific animals listed in this exception not exceeding the aggregate of two, may be kept on any such lots without such consent.

(d) No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the lots hereby restricted without the consent in writing of the Association, provided, however, that permission is hereby granted for the erection and maintenance of not more than two (2) advertising boards on each tract as sold and conveyed, which advertising boards shall be not more than four square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease the lot or tract upon which they are erected; and provided further that nothing in this section shall be construed to prohibit the erection of subdivision entrance structures by the developer, its grantees, assigns or licensees at such place or places as it may determine, which structures mayor may not display the name of said subdivision.

(e) No automotive repair or rebuilding or any other form of automotive manufacture, whether for hire or otherwise, shall occur on any of the lots hereby restricted except that automotive repairs on a non-commercial basis and not for hire may be conducted in any enclosed garage built on said premises and permitted under the other provisions of these restrictions. No automobile, truck, motorcycle, motorbike, motor scooter, boat, airplane, house trailer, boat trailer, camping trailer, mobile home or vehicle of any other type or description may be stored on any of the lots or streets hereby restricted except that such storage (except storage for hire) shall be permitted within the confines of any building built on any of the lots hereby restricted and permitted under other provisions of these restrictions. Nothing in this section, however, shall be so construed as to prohibit the regular parking of not more that two (2) automobiles, but not including a pickup truck with camper, in running condition, and in reasonable state of repair and preservation on any driveway permitted to be maintained on any of the lots hereby restricted.

(f) No air conditioning apparatus or unsightly projections shall be attached or affixed to the front of any residence.

(g) All exterior basement foundations and walls which are exposed in excess of twelve (12) inches above final grade level shall be painted the same color as the house or covered with siding compatible with the structure.

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(h) No building, fence, structure, wall, shrub, or hedge, shall be erected, constructed, planted or maintained on any of the lots hereby restricted without approval as to material, design, shape, location, species, and height by the architectural control committee, and said architectural control committee shall have complete discretion with regard to such approval.

(i) No above ground swimming pool may be maintained on any of the lots hereby restricted.

(j) No tank for the storage of fuel may be maintained above the surface of the ground on any of the lots hereby restricted without the consent of the architectural control committee.

(k) All doors on garages located on the lots hereby restricted shall be kept closed except when opened for the purpose of parking or removal therefrom of motor vehicles.

(l) No exterior clotheslines or poles may be erected or maintained on any of the lots hereby restricted.

(m) No exterior Christmas lights and/or decorations may be erected or maintained on any of the lots hereby restricted except during a 75-day period beginning November 15th of each calendar year.

(n) No garage, porch or basement sales may be conducted on any of the lots hereby restricted without the prior written consent of the Association.

(0) Dogs shall be confined and no dog shall be allowed to run at large on the property hereby restricted.

(p) No rubbish, trash, garbage or other waste materials shall be kept or permitted on any lot or on any common area except in sanitary containers located in appropriate areas concealed from public view.

(q) Nothing shall be used, permitted, or maintained on any lot or on the common areas which may be or become nuisance to the neighborhood. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the architectural control committee, which shall render a decision, in writing, which decision shall be dispositive of such dispute or question.

(r) Nothing shall be altered in, constructed on, or removed from any of the common areas except on written consent of the Association.

(s) No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any lot or any common area.

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ARTICLE V

BUILDING RESTRICTIONS AND ARCHITECTURAL CONTROL

No improvement or structure of any kind, including, without limitation, any residence, building, fence, wall, swimming pool, tennis court, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object, or other improvement shall be commenced, erected, placed or maintained upon any lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications, and location of the same shall have been submitted to and approved in writing by the architectural control committee. All plans and specifications shall be evaluated as to harmony of external design and location in relation to the surrounding structures and topography and harmony of external design with existing structures in the subdivision; and as to location of the building with respect to topography and finished ground elevation.

The architectural control committee shall initially consist of two members, namely: James D. Robertson and James M. Streu, the developer shall have the right to appoint all of the members of the architectural control committee as long as it has not sold on a "first sale" basis, all of the lots in Clay Meadows, as initially plated and/or additions thereto. If said authority and right to appoint all of the members of the architectural control committee, as well as to otherwise enforce the provisions of these restrictions, is not sooner assigned or delegated by the Developer, all such rights and entitlements shall, in all events, be deemed immediately and automatically assigned and transferred to CLAY MEADOWS HOMEOWNERS ASSOCIATION, upon the occurrence of any of the following event:

(1) When Developer has sold, on a "first sale" basis, all of the lots within said subdivision, as initially platted or with additions thereto accomplished by subsequent plattings.

Upon expiration of the developer's right to appoint the members of the Architectural Control Committee as heretofore provided, or upon written notice of the developer to the Association of intent to turn over architectural control to the Association, members of the Architectural control committee shall be appointed by the Board of Directors of the Association, shall be a member of the Association, and serve at the pleasure of the Board.

Any person requesting approval of the architectural control committee shall submit complete building plans, specifications, plot plans, grading plans, landscaping plans and location of the buildings with respect to topography and finished ground elevations. Approval of said plans and specifications may be withheld because of failure to comply with any of these restrictions, or because said plans fail to include such information as may be reasonably requested by the committee, or because of objection to the design and appearance of the proposed structure, or its failure to conform with existing structures upon their lots or because the location, grading plan, landscaping plan, color

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scheme, finish, design, proportions, style of architecture, height, or appropriateness of the proposed structure is inharmonious with the general plan of improvement of said property or other structures located on the lots in the vicinity of the lot on which said building or structure is proposed to be placed or maintained. The architectural control committee shall approve or disapprove said plans within 30 days after their submission. Failure of the committee to disapprove plans after 30 days shall constitute automatic approval. Upon approval by the committee of plans for construction or alteration of any structure, a copy of such plan as so approved shall be deposited for permanent record with the committee, and a copy of such plans, bearing the written approval of the committee, shall be returned to the owner of the lot upon which the structure is or will be placed. The committee may promulgate rules governing the form and content of the plans to be submitted for its approval, and may issue statements of its policy with respect to approval or disapproval of details or other matters, which may be presented to it for approval. Such rules and policy statements may be amended or revoked by the committee at any time and no inclusion in, omission from or amendment of such rule or statement shall be deemed to bind the committee as to its approval or disapproval of any feature or matter subject to its approval or to waive the exercise of the committee's absolute discretion as to any such matter. Approval for use on any lot of any plans or specifications shall not be deemed a waiver of the committee's right in its discretion to approve such plans, features or elements which are subsequently submitted for approval for use on any other lot or lots.

If any structure shall be altered, erected, placed or maintained upon a lot otherwise than in accordance with the plans and specifications approved by the committee pursuant to the provisions contained herein, such alteration, erection and maintenance shall be deemed to have been undertaken in violation of these restrictions and without approval required herein. Any approved work of construction or alteration shall be erected and completed diligently in accordance with the plans so approved and completed within 12 months after the date of such approval. Failure to so complete such work shall cause such approval to be automatically withdrawn unless the committee extends such approval in writing for an additional period not to exceed 6 months. After such automatic withdrawal of approval, the structure being constructed or altered shall not then or thereafter be occupied or permitted to remain on a lot for a period longer than 3 months.

Any residence erected in Clay Meadows shall contain a minimum of 1,200 square feet of enclosed floor area. Any residence of one and a half stories or two stories in height erected on any said lots shall contain a minimum of 900 square feet of such enclosed floor area on the first floor thereof. The words "enclosed floor area" as used herein shall mean and include in all cases, areas on the first and second floor of the residence enclosed and finished for all year occupancy, computed on the outside measurement of the residence, and shall not mean or include any areas in basements, garages, porches or attics; provided however, that certain interior areas of the second floor need not be immediately finished for occupancy if the residence is so designed and built that such areas can be finished at a later date without any structural changes being made in the exterior of the residence. The architectural control committee shall have the

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absolute and incontestable right to determine whether the enclosed floor area of any split level or bi-level residence and/or the enclosed floor area on the first floor thereof, meets the minimum requirements provided for hereunder and such determination shall be final.

The exterior walls of all buildings, structures, and appurtenances thereof, shall be of brick, stone, woods shingles, wood siding, wood paneling, plate glass, Masonite, or a combination thereof. Manufactured stone and lava rock for exterior walls must be approved by the architectural control committee. Windows, doors and louvers shall be of wood or colored metal and glass. Roofs shall be covered with asphalt shingles, woods shake shingles, slate or tile. Any building products which may come into general use for dwelling construction in this area after the date of these restrictions shall be acceptable if approved in writing by the architectural control committee. All wood and masonite exteriors, except roofs, shall be covered with a workmanlike finish of paint, stain and/or weather preservative, unless another finish is approved in writing by the architectural control committee.

No building shall be permitted to stand with its exterior in an unfinished condition for longer than nine (9) months after commencement of construction. In the event of fire, windstorm or other damage, no building shall be permitted to remain in the damaged condition longer than six (6) months. Any owner of a structure in violation of this section may, in the discretion of the architectural control committee, be assessed a fine of from $1.00 to $100.00 per day for every day the violation continues. The fine approved for herein, if not paid when due by said owner, shall become a lien upon the real estate upon which the structure in violation of this section is located, provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage or deed of trust now existing or which may hereafter be placed upon said real estate, and further provided that such lien shall be discharged and not enforceable against any mortgagee acquiring title by sale or foreclosure under any first mortgage or Deed of Trust lien now existing or which may hereafter be placed upon said real estate.

The entire front, rear and side yards of every lot in Clay Meadows and the unpaved portion of street easements contiguous thereto shall be sodded with grass at the earliest time after construction of a dwelling on said lot as weather will permit, and in no instance will seeding or plugging be considered a substitute for such original sodding without the consent in writing of the architectural control committee.

The front line of each structure shall be set back according to the setback lines as indicated on the recorded plat.

No building or other permanent structure shall be erected or maintained part of any area indicated as "easement" but the owner of said lot may erect a fence or hedge along the property line within such easement, subject to approval of the architectural control committee and subject at all times to the prior right to use such area for public or quasi-public purposes. The right is

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reserved to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained within the areas indicated for such purposes on the plat as "easements", sewers or other pipelines, conduits, wires, and any other method of conducting or performing any public or quasi- public utilities, including cable television service, with the right of access at any time to the same for the purpose of repair and maintenance.

ARTICLE VI

COMMON PROPERTIES

Subject to the transfer provisions (as to lender acquisition or sale) as set forth in the preceding Article V, Developer may retain the legal title to common areas so long as it owns at least one (1) lot in Clay Meadows. On or before conveyance by Developer of the last lot in Clay Meadows, Developer shall convey the common areas to the Association, subject to taxes for the year of conveyance, and to restrictions, conditions, limitations, reservations and easements of record; subject however, to a reservation hereby perpetually reserved to the Developer, its successors and assigns, of the right to use and enjoy the same non-exclusive common utility easements, easements of drainage and ingress and egress easements and use easements for the benefit of additional lands owned or to be owned by the Developer which are added to Clay Meadows as additional lands as provided in Article II.

The owners of lots in Clay Meadows as it may exist from time to time, shall have the exclusive right to the use of all common areas as designated on the plat of Clay Meadows or as may be designated on subsequent plats of Clay Meadows, or as may be created by separate document filed for that purpose with the Recorder of Deeds of Clay County, Missouri. The Clay Meadows Homes Association shall have the right and power to make reasonable rules and regulations which shall govern the use of said common areas. No land shall be entitled to any of the benefits, improvements or services provided by the Association unless the owner or owners thereof shall have subjected their land to the terms of this Declaration and to the assessments herein provided for.

ARTICLE VII

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Every person or entity which is a record fee simple owner of a lot, including the Developer, and including any person or entity acquiring title by Trustee's Sale, foreclosure or other process of law shall be a member of the Association, provided that any such person or entity who holds such interest only security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Owners shall include the owners of lots of additional land that may from time to time be made subject to the terms and provisions of this Declaration in the manner provided for in Article II. The Association shall be the sole judge of the qualifications of its members. Each

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lot as shown on the plat or any subsequent plats of Clay Meadows shall be entitled to one vote. Where one or more persons or entities own a single lot, they shall decide among themselves who shall be entitled to cast the vote for said lot. In no event shall more than one vote be cast per lot. In the event the owners are unable to agree as to who shall be entitled to cast the vote, no vote for that lot shall be counted.

ARTICLE VIII

POWERS AND DUTIES OF THE ASSOCIATION

The Association shall have the following powers and duties which it may exercise or perform whenever in its discretion it may deem them necessary or desirable, to-wit:

1. To enforce either in its own name or in the name of any owner within the district, any or all building restrictions and use restrictions, or other covenants, obligations or restrictions which may have been heretofore or may hereafter be imposed upon any of the land in such district, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, declarations or contracts in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for. Nothing herein contained shall be deemed or construed to prevent any owner having the contractual right to do so from enforcing in his own name any such restrictions.

2. To manage and control as trustee for its members all public streets, sidewalks and other public places shown on the plat of Clay Meadows and any and all improvements thereon, provided that such management and control of said places and improvements shall at all times be subject to that had and exercised by any city, county and state, or any of them, in which said places and improvements are located.

3. To provide for the collection and disposal of rubbish and garbage, when adequate services of that type are not available from any public source.

4. To care for, spray, trim, protect and replant trees on all streets and other public places where trees have once been planted, when such services are not available from any public source.

5. To manage, control, operate, maintain, construct, reconstruct, and maintain common areas as the Association deems advisable and in the interest of the members including but not limited to tennis courts and swimming pool.

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6. To mow, care for, maintain and remove all rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the subdivision neat in appearance and in good order.

7. To provide for the plowing and removal of snow from sidewalks and streets when such services are not available from any public source.

8. To provide such lights as the Association may deem advisable on streets, parking lots, pedestrian ways, gateways, entrances or other features, and in all other public and common areas, when such facilities are not available from any public source.

9. To provide for the cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways, and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.

10. To erect and maintain signs for the marking of streets and safety signs for the protection of children and other persons when such signs are not available from any public source.

11. To employ duly qualified peace officers for the purpose of providing such policy protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

12. To exercise control over such easements as it may require from time to

13. To acquire and own title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association and to pay taxes and special assessments on such real estate as may be owned by it; and to pay such taxes and assessments as may be assessed against lands in streets, common areas, and other public or semi-public places within the district.

14. To levy and collect assessments which are provided for in this Declaration.

15. To provide for the maintenance of swimming pools, play grounds, tennis courts, public and. private streets, parking areas, walks, pedestrian ways, gateways, entrances, drinking fountains and ornamental features now existing or which may hereafter be erected or created in any public or private street, common area, parking area or other public place shown on the plat or created by separate instrument from land included as part of Clay Meadows or as designated as common area on the plat of any additional land which may be later added to the district as provided herein.

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16. To make reasonable rules and regulations, which shall govern the use of common areas, including but not limited to restricting the use of common areas from those individuals or members who refuse to comply with the Association's reasonable rules, provided however, that no restriction as to use shall impair that member's right to vote in the Association, and no restriction as to use shall relieve that member's obligation to pay common assessments which are provided for in this Declaration.

17. To obtain such insurance as the Association deems advisable, including but not limited to fire and extended coverage, covering the full insurable replacement value of the common areas; liability insurance insuring the Association against any and all liability to the public, to any owner, or to the invites or tenants of any owner arising out of their occupation and/or use of the common areas; workmen's compensation insurance to the extent necessary.

18. To hire or employ such individuals, firms or management companies which the Association shall deem appropriate to carry out the duties of the Association, including but not limited to management, maintenance, accounting and legal services, and to delegate such responsibilities as it deems advisable.

ARTICLE IX

METHOD OF PROVIDING GENERAL FUNDS

For the purpose of providing general funds to enable the Association to perform the duties herein provided for, all privately owned lots shall be subject to an annual assessment which may be levied by the Association from year to year and shall be paid to the Association annually in advance by the respective owners of the said assessable lands subject thereto, which said assessable land shall be deemed to be all of the above enumerated lots in the aforesaid plat of Clay Meadows on which dwellings have been erected, together with such other lots as may from time to time be added to these restrictions as provided herein and on which dwellings have been erected. The Association may from year to year fix and determine the total amount required in this general fund, and may levy and collect an annual assessment not exceeding $200.00 for each lot on which a dwelling has been erected within Clay Meadows; provided, however, that in respect to the year in which a dwelling is constructed on any certain lot covered by this Declaration, the assessment for said year shall be pro-rated on the basis of the date of occupancy of said dwelling. Non-use of the common area, whether by choice of the owner, or pursuant to association rule, shall in no way relieve the owner's responsibility for payment of any assessments set out herein.

The maximum annual assessment upon each lot as aforesaid may be increased by not more than ten percent (10%) from year to year, provided that a meeting of the members, specially called for that purpose, prior to the date on which the assessment is levied for the first year for which such increase is proposed, a majority of the members present at such meeting authorize such an increase by an affirmative vote therefore and provided further that the maximum annual

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assessment on each lot as aforesaid may be increased by an amount greater than ten percent (10%), provided that at a meeting of the members specially called for that purpose, prior to the date on which the assessment is levied for the year for which such increase is proposed, 66 2/3 of the members present at such meeting authorize such an increase by an affirmative vote therefore.

Unless the increases provided for in paragraph 2 of this Article are specifically limited by the resolutions in which they are contained, to be for a specified period, they shall be effective until rescinded by the Association, at a meeting specially called for such purpose, by an affirmative vote of two thirds of the members present, and shall thereafter be effective commencing on the first day of the next succeeding year.

Whenever the Association may deem it advisable to submit to the members a proposal for increasing or decreasing the permissible maximum amount of the annual assessment, it shall notify the members of the Association by mailing to such members at the last known address, with United State postage thereon prepaid, a notice of such meeting, giving the time and place at which it is to be held, and the fact that an increase or decrease in the amount of the annual assessment is to be voted upon at such meeting.

The first annual assessment shall be for the year 1993 beginning May 1, 1993, and it shall be fixed and levied prior to May 1, 1993, and shall be payable on May 1, 1993, and on May 1 of each year thereafter. It will be the duty of the Association to notify all owners of assessable lots whose address is listed with the Association, on or before that date, giving the amount of the assessment on each

tract owned by them and the date when such assessment is due. Failure of the Association to levy the assessment prior to January 1, of each year for the next succeeding fiscal year beginning on January 1, shall not invalidate any such assessment made for that particular year; nor shall failure to levy an assessment for anyone year affect the right of the Association to do so for any subsequent year. No failure of the Association to notify any owner, nor failure of any owner to receive notice of assessment, shall relieve any owner from the duty and obligation of paying an assessment, but may, in the Association's discretion, relieve said owner of the obligation to pay any interest or late charge thereon. All owners shall be deemed to have notice of the existence of the assessment, and shall have the duty to inquire as to the amount if notice is not received. If the assessment is made subsequent to January 1 of any year, then it shall become due and payable not later than 30 days from the date of levying the assessment. The Association may elect to permit collections in quarterly or semi-annual payments in lieu of the annual payments provided for herein.

The Association may levy a special assessment for a period not to exceed two (2) years, for the purpose of providing emergency funding, construction or reconstruction of common property elements or other purpose, at any time it seems necessary, on an affirmative vote of three-fourths of the owners present at a special meeting called for said purpose with notice to all owners mailed not more than 60 and not less than 10 days prior to said meeting. Said notice shall advise owners of the time and place for the meeting, the purpose of the meeting, and the amount of special assessment being proposed.

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ARTICLE X

LIEN ON REAL ESTATE

The assessment provided for herein shall become a lien on the real estate against which it is levied as soon as it is due and payable as above set forth, 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 and, in the event of acquisition of title by a first mortgage or Deed of Trust holder through Trustee's sale, foreclosure or other process, such lien shall be discharged as a lien against such lender acquired property. In the event of the failure of any owner to pay the assessment on or before the first day of February following the making of such assessment, then such assessment shall bear interest at the legal rate (now nine percent (9%) per annum) from the first day of January, but if the assessment is paid before February 1 (or within 30 days from the date of the assessment, if the assessment is made subsequent to December 1 for the calendar year beginning January 1) then no interest shall be charged.

On or after February 1 of each year, beginning February 1, 1993, or within 30 days from the date of levying the assessment for the calendar year during which and for which the assessment is levied, the assessment shall become delinquent and payable of both principal and interest and may be enforced as a lien on said real estate, in proceedings in any court in Clay County, Missouri, having jurisdiction of suits for the enforcement of such lien. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of non-payment 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 therein described a fee of $2.00, which fee is hereby declared to be a lien upon the real estate so described in said certificate, provided 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. 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. In the event it is necessary to bring suit to enforce such lien, the Association shall be entitled to recover its reasonable attorney's fees from the owner or owners of the property, jointly and severally, upon which lien is enforced.

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 the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of judgment establishing same.

In the event of Trustee's sale or foreclosure of the lien of any valid first mortgage or Deed of Trust now existing or which may hereafter be placed on said real estate or lot therein, such sale and/or foreclosure shall discharge the

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lien for assessments provided in this Article. However, nothing in these restrictions shall prevent the Association from instituting or prosecuting an action for collection of assessments against the record owner or owners of the property at the time the assessment was made and within five (5) years from the date said assessment was due, whether or not the lien provided in this Article has expired.

ARTICLE XI

LIMITS ON EXPENDITURES

The Association shall at no time expend more money within anyone year than the total amount of the assessment for that particular year, plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the Association except for contracts for utilities, it being the intention that the assessment for each year shall be applied as far as practicable toward the payment of the obligations of that year, and the Association shall have no power to make a contract affecting the assessment of any future or subsequent year except for utilities.

ARTICLE XII

AMENDMENTS

This instrument may be modified and amended by written consent of the owners of two thirds of the lots within Clay Meadows, as then constituted, evidenced by a declaration duly executed and acknowledged by such owners and recorded in the office of the Recorder of Deeds of Clay County, Missouri.

This Declaration may be terminated, and all of the land now or hereafter affected may be released from all of the terms and provisions thereof, by the owners of all the lots then subject thereto, executing and acknowledging an appropriate agreement or agreements for that purpose and filing the same for record in the office of the Recorder of Deeds of Clay County, Missouri.

ARTICLE XIII

BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors consisting of five (5) directors, elected by the members as provided in the Articles of Incorporation of the Association. So long as Developer owns one or more lots in Clay Meadows as it exists from time to time, Developer shall have the right to appoint three (3) members to the Board. All directors except those appointed by the Developer shall be members of the Association.

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ARTICLE XIV

MISCELLANEOUS PROVISIONS

1. Notice: The Association shall notify all owners of land in the district 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 and time of regular meetings of the Association, and the place where payment shall be made and any other business in connection with said Association may be transacted, and shall notify members of any changes thereto.

2. Owners shall list with the Association their official mailing address and if none is listed, notices from the Association shall be mailed to the street address shown on the residence in Clay Meadows. A written or printed notice, deposited in the United State Post Office, with postage thereon prepaid, and addressed to the respective owners as provided above, shall be deemed to be sufficient and proper notice for any purpose of this Declaration where notices are required.

3. Prior to the organization and incorporation of the Association contemplated by the terms of this Declaration, Developer shall have the right, at its option, to perform the duties, assume the obligations, levy and collect the assessments, and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such powers and duties were hereby given directly to Developer. Developer may, by appropriate agreement made expressly for that purpose, assign or convey to any person or corporation all of the rights, reservations, and privileges reserved by it in this section, and by such assignment or conveyance being made, its assigns or grantees may at their option exercise, transfer or assign such rights at any time or times, in the same way and manner as though directly reserved by them or it in this instrument.

4. The Association shall at all times observe state, city, 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.

5. All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding upon Developer, its successors and assigns, and all owners of lots and members of the Association.

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6. Developer shall, on or before May 1, 1993, organize, form and duly qualify the necessary corporation for the Clay Meadows Homes Association and Developer, or the Association, shall keep said organized and qualified corporation in good standing under the laws of the State of Missouri.

IN WITNESS WHEREOF, Robertson Properties, Inc., by authority of its Board of Directors, has caused these presents to be executed by its President and Secretary, and its corporate seal to be hereto affixed on the date first above written.

ROBERTSON PROPERTIES, INC.

Attest:

BY: <u>Original signature on file</u>
Signature on File with Clay
Meadows Homeowners Association
James D. Robertson, President

<u>Original signature on CMHOA documents</u>

Dee Ewing, Secretary

STATE OF MISSOUR }
} SS
COUNTY OF CLAY } On this 15th day of February, 1993, before me, appeared James D. Robertson, to me personally known, who being by me duly sworn, did say that he is the President of Robertson Properties, Inc., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said James D. Robertson acknowledged said instrument to be the free act and deed of said corporation.

STATE OF MISSOURI

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, at my office in said County and State the day and year in this certificate above written

My commission expires: <u>Greg Thomson</u> Signature on file with
Clay Meadows Homeowners Association Inc.
Notary Public

<u>Greg Thomson</u>
NOTARY PUBLIC STATE OF MISSOURI
County of Clay
MY COMMISSION EXPIRES OCT. 2, 1994

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CONSENT TO DECLARATION OF RESTRICTIONS AND HOMES ASSOCIATION DECLARATION

Mark Twain Bank of Kansas City acknowledges that it is the holder of a note secured by a Deed of Trust recorded as Document number L 51014, in Book 2170, at Page 750 in the Office of the Recorder of Deeds of Clay County, Missouri. The note is secured by the property described in the above referenced Deed of Trust, which is described in Exhibit "A" attached to this Consent and the foregoing Declaration of Restrictions and Homes Association Declaration of Clay Meadows.

Mark Twain Kansas City Bank hereby consents to the foregoing Declaration of Restrictions and Homes Association Declaration of Clay Meadows.

MARK TWAIN KANSAS CITY BANK

By: *C. Duncan Burdette*
Original on file with CMHOA
Executive Vice President

STATE OF MISSOURI }
} SS
COUNTY OF JACKSON }

On this 25th day of February, 1993, before me, appeared C. Duncan Burdette to me personally known, who being by me duly sworn, did say that he is the Executive Vice President of Mark Twain Kansas City Bank, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said C. Duncan Burdette acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Kansas City, Missouri, the day and year last above written. _

My commission expires:
TERESA G.SOUTH, NOTARY PUBLIC
<u>County of Jackson, State of Missouri</u>
My Commission Expires May 17, 1996

Teresa G. South
Notary Public within and
for said County and State

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EXHIBIT "A"

A tract of land located in part of the North Half of Section 17, Township 51, Range 31, in Liberty, Clay County, Missouri, described as follows: Beginning at the Northeast corner of Lot 70, CLAYWOODS, a subdivision in Liberty, Clay County, Missouri, (the following four courses are along the Northerly line of the plat of CLAYWOODS); thence North 65 degrees 08' 16" West, 125.92 feet; thence North 24 degrees 51' 44" East, 60.00 feet to a point on a curve; thence along said curve to the rights with an initial tangent bearing of North 65 degrees 08' 16" West, a radius of 15.00 feet, an arc length of 23.56 feet; thence North 65 degrees 08' 16" West, 50.00 feet; thence North 24 degrees 51' 44" East, 40.00 feet to the P. C. of a curve; thence along said curve to the left having a radius of 319.95 feet, an arc length of 52.56 feet; thence North 74 degrees 32' 58" West, 130.00 feet; thence North 8 degrees 37' 20" East, 71.93 feet; thence North 5 degrees 10' 04" West, 234.62 feet; thence North 13 degrees 37' 50" East, 173.69 feet; thence North 29 degrees 44' 36" East, 109.91 feet; thence North 35 degrees 12' 50" East, 50.00 feet; thence North 41 degrees 46',A,4" East, 165.82 feet; thence South 48 degrees 13' 16" East, 174.01 feet; thence South 41 degrees 46' 44" West, 13.62 feet; thence South 48 degrees 13' 16" East, 82.31 feet; thence North 88 degrees 37' 14" East, 57.34 feet; thence South 0 degrees 23' 41" West, 170.00 feet to a point: on a curve; thence along said curve to the right with an initial tangent bearing of North 89 degrees 36' 19" West, a radius of 371.51 feet, an arc length of 27.92 feet; thence south 4 degrees 42' 00" West, 122.29 feet; thence South 87 degrees 10' 11" East, 121.61 feet; thence South 6 degrees 57' 42" East, 120.00 feet to a point on a curve; thence along said curve to the left with an initial tangent bearing of North 83 degrees 02' 18" East, a radius of 481.95 feet, an arc length of 13.80 feet; thence South 8 degrees 36' 10" East, 182.20 feet; thence South 81 degrees 30' 04" West, 159.47 feet; thence North 79 degrees 40' 30" West, 157.04 feet; thence South 24 degrees 51' 44" West, 175.57 feet; thence South 65 degrees 08' 1611 East, 45.92 feet; thence South 24 degrees 51' 44" West, 60.00 feet to the point of beginning.