

Declaration
of
Covenants, Conditions and Restrictions
for
Cimarron Trails

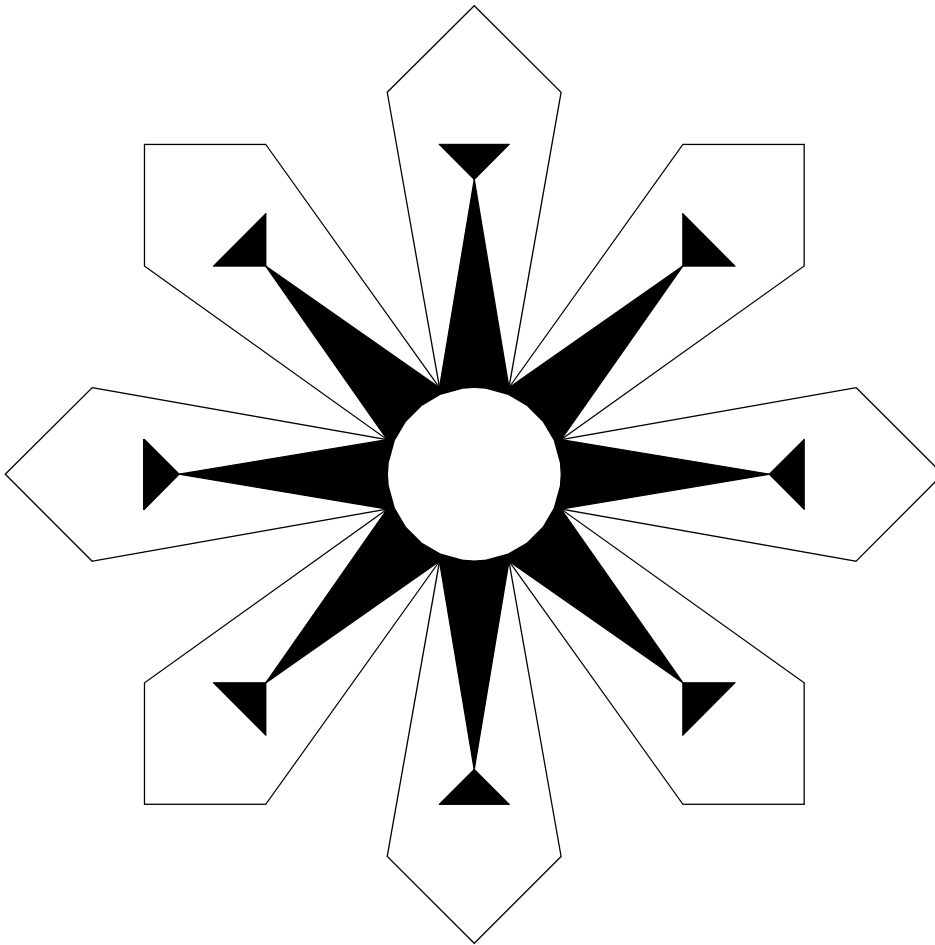


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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CIMARRON TRAILS**

THIS DECLARATION AND DEDICATION, made this 20th day of April, 1982, by Southwest Tracor Homes, Inc., a corporation existing under the laws of the State of Missouri.

WITNESSETH:

WHEREAS, Southwest Tracor Homes, Inc. (hereinafter referred to as "Declarant") filed with the Recorder of Deeds of Cass County, Missouri, at Harrisonville, a plat of the subdivision known as CIMARRON TRAILS - 1st Plat, a subdivision in the City of Belton, Cass County, Missouri in Plat Book 9 at Page 1 on April 19, 1982; and

WHEREAS, said CIMARRON TRAILS - 1st Plat, is composed of the following described lots and tracts in said subdivision, to-wit:

Block 3, Block 4, Lots 1 through 12 inclusive; Block 5, Lots 1 through 16 inclusive; Block 6, Lots 1 through 14 inclusive; Block 7, Lots 1 through 22 inclusive; Block 8, Lots 1 through 12 inclusive; and Block 9, Lots 9 through 12 inclusive; all a Part of the East ½ of Section 10, and a Part of the Northwest 1/4 of Section 11, Township 46, Range 33, in Belton, Cass County, Missouri; and

WHEREAS, Declarant anticipates recording additional plats to the said subdivision of CIMARRON TRAILS (the "Subdivision"); and

WHEREAS, all of the streets and roads shown on said recorded plat for use by the public have been dedicated to the public; and

WHEREAS, Declarant is the owner of all of the Blocks and Lots so shown on said recorded plat and now desires to place certain restrictions on the real property therein known as:

Block 4, Lots 1 through 12 inclusive; Block 5, Lots 1 through 16 inclusive; Block 6, Lots 1 through 14 inclusive; Block 7, Lots 1 through 22 inclusive; Block 8, Lots 1 through 12 inclusive; and Block 9, Lots 9 through 12 inclusive; all a Part of the East ½ of Section 10, and a Part of the Northwest 1/4 of Section 11, Township 46, Range 33, in Belton, Cass County, Missouri (the "Properties"),

all of which restrictions shall be for the use and benefit of Declarant as the present owner thereof and for its future grantees and assigns, it being Declarant's intention to sell, transfer and convey all lots and residential living units located within the Properties subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, the Declarant, for itself and its successors and assigns, and for its future grantees, hereby agrees that all of the lots in the Properties, as shown on the above-described plat, shall be and they hereby are restricted as to their use in the manner hereinafter set forth, and that said lots shall be held, transferred, sold, conveyed, and occupied, subject to the covenants, conditions, restrictions, easements, charges and liens as set forth in this Declaration, in order to protect the value, desirability and attractiveness of the same. Said easements, covenants, restrictions and conditions shall run with the herein described Properties and shall be binding upon all parties having or acquiring any right, title or interest in the Properties, or any part thereof, and shall inure to the benefit of each owner thereof. Every conveyance of any real estate located within the enumerated Blocks on the above mentioned plat encompassing the Properties shall be and is subject to these covenants, conditions, charges, liens, restrictions and easements.

ARTICLE ONE

Definitions

The following words, when used in this *Declaration*, or any supplemental *Declaration*, shall have the following meanings:

1.1 "*Owner*" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot within the Properties or any residential living unit which is situated on the Properties, including contract sellers, but excluding and not referring to those having such interest merely as security for the performance of an obligation, until such excluded person shall have acquired title thereto pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.2 "*Properties*" shall mean and refer to that certain real property hereinbefore described as the included Blocks 2, 4 through 9 inclusive, 11 through 15 inclusive and 17 through 23 inclusive, of Cimarron Trails and such additions thereto as may hereafter be brought hereunder.

1.3 "*Lot*" shall mean and refer to any plot of land shown upon the recorded plat of the Properties on which there is located one residential living unit.

1.4 "*Street*" shall mean any street, road, drive or avenue of whatever name, as shown on said plat.

1.5 "*Outbuilding*" shall mean an enclosed, covered structure, not directly attached to the residential living unit to which it is appurtenant.

1.6 "*Declarant*" shall mean and refer to Southwest Tracor Homes, Inc., its successors and assigns.

1.7 "*Residential Living Unit*" or "Unit" shall mean and refer to one single family residential unit designed and intended for use and occupancy as a residence by a single family which may be joined together with at least one additional single family residential unit by a common wall, roof and foundation.

1.8 "*Duplex*" shall mean and refer to one building designed to contain, and containing, two residential living units.

ARTICLE TWO

Persons Bound by Restrictions; Property Subject to this Declaration; Additions

2.1 *Persons Bound.* All persons, corporations, trusts, partnerships or other entities who or which may own or shall hereafter acquire any interest in any of the above-described lots hereby restricted, shall be taken to hold and agree in covenant with the owners of all other of said lots, and with their respective successors and assigns, to conform to and observe the following covenants, restrictions, and stipulations as to the use thereof and the maintenance and repair of residences and improvements thereon for a period of time ending on December 31, 2030, provided, however, that each of said restrictions shall be renewable in the manner hereinafter set forth.

2.2 *Property Subject.* The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this *Declaration* as of the date of this *Declaration* will be known and described as Blocks 2, 4 through 9 inclusive; 11 through 15 inclusive; and 17 through 23 inclusive; Cimarron Trails Subdivision, Belton, Cass County, Missouri, as identified on the above mentioned Subdivision Plat of the said Cimarron Trails Subdivision, as recorded in the office of the Recorder of Deeds for Cass County, Missouri, at Harrisonville.

2.3 *Additions to Subject Property.* The Declarant, its successors and assigns, shall have the right to subject additional land to the terms and conditions of this *Declaration* at any time. The additions of additional land to this *Declaration* shall be made by filing of record a supplemental *Declaration of Covenants, Conditions and Restrictions* with respect to the additional property which shall extend the terms and conditions of the covenants and restrictions of this *Declaration* to such additional property. Said Supplemental Declaration may contain such complimentary additions and modifications of the covenants, conditions and restrictions contained in this *Declaration* as may be necessary to reflect the different character, if any, of the added properties. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants, conditions and restrictions established by this *Declaration* against the original submitted land.

ARTICLE THREE

Architectural Control

Except for the original construction and the repair or replacements thereof by Declarant, no improvement, whether a building, fence, wall, roof or other structure shall be commenced, erected or maintained on any lot, nor shall any exterior addition to or change or alteration thereof (including, without limitation, any change in exterior color or change to any

driveway or other paved area) be made until the plans and specifications for the same, showing all construction details including the nature, kind, shape, height, materials, color, floor plans and location and approximate cost of the same, shall have been submitted to and approved in writing by the Declarant or its successors or assigns. For these purposes, as well as for the purpose of enforcing all other rights and restrictions herein contained, the Declarant may transfer said rights to a Homes Association to be formed for the Properties, the same to be composed of owners of all lots in said Properties. Upon such transfer, the transferee shall succeed to the rights of approval or rejections herein granted to Declarant. Such approval or denial thereof shall be based upon Declarant's opinion as to the suitability and desirable nature of same. In the event the Declarant fails to approve or disapprove such plans and specifications within thirty (30) days after said plans and specifications have been submitted to it, approval will be deemed to have been granted.

Declarant shall have the right to deny approval of any plans or specifications so submitted which are not, in its sole opinion, suitable or desirable for aesthetic or any other reasons, and shall have the right to take into consideration the harmony and conformity of the structure with the surrounding structures and the suitability of the same with the surrounding area and topography and the effect of such structure or building as seen from adjacent or neighboring properties. Any subsequent replacements, alteration, repainting or improvements of any building, fence, wall or other structure, also shall be subject to such prior approval of the Declarant.

Notwithstanding the foregoing, no approval of any proposed fence on any lot shall be given by Declarant, which proposed fence is more than six (6) feet in height, or which is to be placed on any utility easement mentioned herein, or which does not include an unlocked gate for ingress and egress over all portions of a lot or which is intended for any area between the front of a residential unit and the adjacent street. Additionally, no such approval shall be given of any request to change the color or type of material of any exterior wall or roof of any Unit unless the request for approval be submitted by the owner(s) of, and for such a change to, both Units of a duplex building in the Properties.

Upon the approval by Declarant of any duly submitted plans and specifications, the owner submitting same shall secure all required permits and approvals by the applicable governmental agency authorized to issue same.

Construction or alterations in accordance with plans and specifications so approved shall be commenced within two (2) months following the date upon which the same are approved, and shall be substantially completed within six (6) months following the date of commencement or within such longer period as the Declarant shall specify in its approval. In the event construction is not commenced and completed respectively within said periods, then such approval of the plans and specifications shall be conclusively deemed to have lapsed and compliance with the provisions of this Article Three shall again be required. There shall be no deviation from plans and specifications so approved without the prior consent in writing of the Declarant. Approval for use on any lot of any particular plans and specifications or design shall not be construed as a waiver of the right of the Declarant to disapprove such plans and specifications or any elements or features thereof in the event such plans and specifications are subsequently submitted for use upon any other lot or lots. Notwithstanding the foregoing, exterior painting and the erection for change to a fence must be commenced within thirty (30) days of approval thereof and completed within sixty (60) days of such approval.

Upon the completion of the construction or alteration of any building, fence, wall or other improvements or structure in accordance with plans and specifications approved by the Declarant, the Declarant shall, at the request of the Owner thereof, issue a certificate of compliance which shall be prima facie evidence that the building, fence, wall or other improvements or structures referred to in said certificate have been approved by the Declarant and constructed or installed in full compliance with the provisions of Article Three of this *Declaration*.

In the event any building, fence, wall or other improvements or structure or painting thereof shall be commenced, erected, placed, moved or maintained upon any lot, otherwise than in accordance with the provisions and requirements of this Article Three, then the same shall be considered to have been undertaken in violation of this Article Three and without the approval of the Declarant required herein. Upon written notice from the Declarant, such building, fence, wall or other structure or improvements shall be promptly removed or returned to its former status or such work completed in accordance with approved plans and specifications. In the event the same is not so removed and returned to its former status, or the violation is not otherwise corrected or terminated within fifteen (15) days after notice of such violation is delivered to the owner of the lot upon which such violation exists, then the Declarant shall have the right, through its agents and employees, to enter upon such lot and to take such steps as may be necessary to remove or otherwise terminate such violation and the cost thereof may be assessed against the lot upon which such violation occurred, and when so assessed, a statement for the amount thereof shall be rendered to the owner of said lot at which time the assessment shall be come due and payable and a continuing lien upon such lot, and a binding personal obligation of the owner of such lot. The Declarant shall have the further right, through its agent, or employees to enter upon and inspect any lot or unit at any reasonable time for the purpose of ascertaining whether any violation of any of the provisions of this Article, or any of the other provisions or requirements of this *Declaration*, exist on such lot or, in or on such unit; and neither the Declarant nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE FOUR

Use

4.1 *Single Family Residence Use Only.* None of the lots hereby restricted may be improved, used or occupied for other than private residence purposes. Any building erected or maintained on any of the lots hereby restricted shall be designed for occupancy as a single family living unit. No business Outbuilding shall be erected, nor business of any nature conducted, on any lot, nor shall anything be done thereon which may be or become a nuisance to the neighborhood, provided, however, that the Declarant reserves the right to maintain a residential real estate sales office upon any of the lots owned by it for the purpose of promoting, advertising for sale, showing, and selling lots.

4.2 *Prohibited Uses in General.* No noxious or offensive activity may be carried on or permitted on any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood; nor shall any part of the premises be used for business, professional, commercial, religious or institutional purposes, provided, however, the foregoing restrictions shall not apply to the business activities or the construction and maintenance of residential buildings by the Declarant, its successors or assigns, in furtherance of its powers and purposes as herein set forth.

4.3 *Temporary Structure.* No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other Outbuildings shall be placed upon or used on any lot at any time as a residence or for any other purpose, either temporarily or permanently.

4.4 *Outbuilding Prohibited.* No building or other detached structures appurtenant to the residence may be erected or placed upon any of the lots hereby restricted without the prior consent in writing of the Declarant, its successors or assigns.

4.5 *Sodded Yards.* The entire front yard and side yards of every lot shall be sodded with grass.

4.6 *Signs.* No sign of any kind shall be displayed to the public view on any lot, other than one professional sign of not more than one (1) square foot in size, for the sole purpose of advertising a unit for sale or rent. This restriction shall not apply to the activities of Declarant, its successors or assigns, in furtherance of its powers and purposes herein set forth.

4.7 *Livestock and Poultry - Pets.* No animals, livestock, fish, poultry or birds of any kind shall be raised, bred or kept on any lot; except that dogs, cats or other commonly accepted household pets may be kept in reasonable numbers provided that such pets are not kept, bred, or maintained for any commercial purposes.

4.8 *Garbage and Refuse Disposal.* No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on any lot except in containers, which containers shall be kept in closed garage or carport closed storage area, screened from the view of neighboring units until the date of pick-up thereof. All such containers shall be kept in a clean and sanitary condition. No rubbish, trash, garbage or other materials shall be burned on any lot or any adjacent land or streets. Incinerators of every kind shall be prohibited.

4.9 *Sight Distance at Intersection.* No fence, wall or hedge planting which obstructs sight-lines and elevation between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitation shall apply on any lot within ten (10) feet of the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain in such distances of said intersections unless the foliage line is maintained at significant height to prevent obstruction of sight-lines.

4.10 *Above-Ground Swimming Pools Prohibited.* No above-ground swimming pool may be maintained on any of the lots.

4.11 *Automobile Repairing and Storage of Automobiles, Boats, Trailers and Other Vehicles.* No automotive repair or re-building or any other form of automobile 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 or carport built on any lot and permitted under other provisions of these restrictions. Boats, trailers, mobile homes, trucks larger than three quarter ton and like vehicles shall not be stored or parked on any lot or on any adjacent street, except for temporary loading or unloading. No vehicle, boat, aircraft, trailer or other means of transportation, storage or transport shall be kept at any time on any portion of a lot except upon the paved driveway thereon and in the garage or carport thereon.

4.12 *Garage Doors.* Any doors on garages located on the lots hereby restricted shall be kept closed except when open for the purpose of parking or removal therefrom of motor vehicles.

4.13 *Antennas.* No radio or television antenna, dish, disc or other receiving or transmitting device shall be affixed to or placed upon an exterior wall or roof of a unit, nor placed free-standing on any lot, without the prior written consent of the Declarant, its successors and assigns.

4.14 *Bicycles, Tools & Toys.* Bicycles, tricycles, tools, toys and other personal property shall be properly stored in garage or carport except when being used.

ARTICLE FIVE

Party Walls, Common Roofs and Foundations

5.1 *In General.* The rights and duties of the owners of lots with respect to walls erected between adjoining residence units and common roofs and foundations of individual buildings containing residential living units shall be governed by the following:

(a) Each wall which is constructed as a part of the original construction or replacement thereof, any part of which is located on a dividing line between separate lots shall constitute a party or common wall. With respect to any such wall, each of the adjoining owners shall assume the burdens and be entitled to the benefits of the restrictive covenants, contained in this Article Five. To the extent not inconsistent herewith, all general rules of law regarding party walls of each owner shall be applied concerning such walls.

(b) Each foundation and roof which is constructed as a part of the original construction of a two-family structure or any replacement thereof shall constitute a common foundation and a common roof respectively. With respect to any such common foundation or common roof, each of the adjoining owners shall assume the burdens and be entitled to the benefits of the restrictive covenants contained in this Article Five. To the extent not inconsistent herewith, all rules of law regarding party walls shall be applied concerning such common foundations and common roofs.

(c) In the event any such party wall, common foundation, or common roof is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his or her family so as to deprive the other adjoining owner of the full use and enjoyment of such wall, foundation or roof, the first mentioned owner shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining owner.

(d) In the event any such party wall, common foundation or common roof is damaged or destroyed by some cause other than the act of one of the adjoining owners, his agent, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event, both owners shall equally bear the responsibility and pay the costs to rebuild or repair the same to as good condition as formerly.

(e) Notwithstanding any other provision of this Article Five, an owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(f) 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.

(g) In the event of a dispute between owners with respect to the repair or rebuilding of a party wall, common foundation or common roof or with respect to the sharing of the cost thereof, then upon written request of one of such owners addressed to both the Declarant and the other owner, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Declarant, or its successors or assigns. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the owners, and the third by the first two arbitrators so chosen. A determination of the matter signed by any two of the three arbitrators shall be binding upon each of the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

ARTICLE SIX

Exterior Maintenance

Subject to the terms and conditions hereof, each owner shall maintain the exterior of his or her lot and residential living unit in a good state of repair, care and maintenance, including, but not limited to, the paint, trees, shrubs, grass and other landscaping, parking areas, roofs, gutters, downspouts, and exterior surfaces of each such unit, including any necessary repairs or replacements. By way of illustration, and without intending in any way to limit the foregoing, no grass or other ground cover shall be permitted to grow more than four (4) inches high before same is properly mowed and no exterior paint shall be allowed to peel or chip before the same is repainted. The provisions of this Article Six may be enforced under any other provisions of this instrument.

ARTICLE SEVEN

Interior and Other Maintenance

Subject to the terms and conditions hereof, each owner shall be responsible for the upkeep, maintenance, repair and care of the interior of his or her residential living unit and his or her patio area, if any, and for the upkeep, maintenance, repair and care of all other areas, features or parts of his or her lot and residential living unit. An owner shall do no act nor any work that will impair the structural soundness or integrity of the two-family building or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other unit therein or its owners. The responsibility of each individual lot owner shall include the obligation to maintain, repair and replace at his or her expense all portions of the interior of the residential living unit constructed thereon, including but not limited to all appliances, heating, plumbing, electrical, air conditioning and all other fixtures, and any portion of any utility service lines or facilities located within the lot or residential living unit constructed thereon, including all patios, grass, trees, or shrubs located thereon. Each owner shall be responsible for the repair, maintenance, care and replacement of all windows and other glass surfaces, lights, doors, entryways and all other interior improvements and fixtures which are appurtenant to each residential living unit, including without limitation responsibility for all breakage, damage, malfunction and painting and ordinary wear and tear.

ARTICLE EIGHT

Easements

8.1 *Blanket Utility Easements.* There is hereby created a blanket easement in favor of the Declarant, its successors and assigns, and the providing utility or service company or entity upon, across, over and under all existing utility lines as now installed, or as installed as a part of the original construction, repair or rehabilitation of the residential living units, or replacement thereof. Said easement shall be ten feet (10') in width and extend five feet (5') on each side of the utility line as so installed. There is hereby created a further blanket easement upon, across, over and under the above submitted land, for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephone, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on said property and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of said buildings. No sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on said premises except as initially programmed or as hereafter approved by the Declarant, its successors or assigns. This easement shall in no way effect any other recorded easement on said premises.

8.2 *Encroachment Easement.* Each lot shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder thereof. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event any two-family structure is partially or totally destroyed, and then rebuilt, the owners of the residential units contained in any such structure agree that minor encroachments of parts of the adjacent units or common elements due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

8.3 *Easements for Ingress and Egress.* Declarant hereby establishes and reserves to itself, its successors and assigns, and hereby grants and dedicates to each owner of a lot and residential unit subject to this *Declaration*, an easement of ingress and egress to and from their respective lot and residential unit to a public street.

8.4 *Easement for Common Sewer Lines and Facilities; Obligations Relating Thereto.* Each lot shall be subject to a blanket easement upon, across, over and under each lot for ingress and egress for purposes of repairing and maintaining the common underground lines and facilities for sewerage and drainage now in place to serve both units of each duplex. The rights and duties of the owners of lots with respect to such common sewer lines shall be governed by the following:

- a. In the event that portion of the sewer line serving only one of the two units of any duplex becomes clogged and such clog does not affect service to the other unit, the entire cost of necessary repairs to allow service to be restored shall be paid by the owner of the unit whose service has been interrupted by reason thereof.
- b. In the event any portion of a common sewer line servicing both units of a duplex becomes clogged and such clog affects service to both units of the duplex, each owner of a unit shall pay 50% of the entire cost of necessary repairs to allow service to be resumed to both units. If, however, only one unit is occupied and the other unit is not occupied by one or more persons using such sewer line, the owner of the occupied unit shall pay the entire cost of such repairs.
- c. In the event any portion of the sewer line serving only one of the two units is required to be replaced in order to allow service to be resumed to that unit, it shall be replaced by that owner at his or her expense as a single underground service line not connected to the line serving the other unit. In such event, the replacement line

shall be located under the lot on which the unit to be served is located, or under the adjacent lot if required to secure the required percentage of fall.

ARTICLE NINE

Damage or Destruction of Property

9.1 *Repair Obligation.* In the event any unit is damaged or destroyed by an owner or any of its guests, tenants, licensees, agents or members of its family, or in the event any owner fails to comply with the obligations of maintenance, care, replacement or additions set forth in Articles FIVE, SIX, SEVEN and NINE of this *Declaration*, such owner shall, within sixty (60) days from the date of the Notice from the Declarant, correct the default described in the Notice concerning such obligation to repair or rebuild or properly maintain the exterior or interior of said lot and residential living unit, in a good workmanlike manner and in substantial conformance with the original plans and specifications used in the construction thereof. In the event such owner refuses or fails to so repair or rebuild or properly maintain so as to correct the default described in the Notice within said 60-day period, Declarant, its successors and assigns, is hereby irrevocably authorized by such owner to repair or rebuild any such building and/or adjacent property or properly maintain the same in a good and workmanlike manner in substantial conformance with the original plans and specifications thereof. The owner shall then repay the Declarant, its successors or assigns, the amount actually expended for such repairs, rebuilding or maintenance.

9.2 *Lien Rights.* Each unit owner further agrees that any such charges for repairs or other expenditures, under Article NINE, paragraph 9.1, if not paid in full within ten (10) days after completion of the work and billing to the unit owner, shall be delinquent and shall become a lien upon said owner's lot and residential living unit, until the total amount is fully paid. Said charges shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum or the highest rate of interest permitted under applicable law, whichever is the lesser. The amount of principal and interest owed by said owner to the Declarant, its successors or assigns, shall be a debt, and shall be collectible by any lawful procedure allowed by the laws of the State of Missouri.

9.3 *Legal Proceedings.* Each such owner, by his acceptance of a deed to a lot, hereby expressly vests in the Declarant, its successors or assigns, or its agents, the right and power to bring all actions against such owner for the collection of such charges and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including those specified above, and such owner hereby expressly grants to the Declarant, its successors or assigns, a power of sale in connection with the exercise or enforcement of any said lien, such sale to be permitted with or without judicial order if after twenty-one (21) days written and published notice.

9.4 *No Effect on Insurance Policies.* Nothing contained in this Article Nine shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy or policies of insurance had not this Article Nine been included herein.

9.5 *Arbitration of All Disputes.* In the event of a dispute between any one or more owners and the Declarant, its successors or assigns, or two or more owners with respect to any obligations of the owners under any sections of this Declaration, then upon written request of the owner(s) involved or the Declarant, its successors or assigns, addressed to the other party to such dispute, and to the Declarant if it not be a party to such dispute, the matter shall be submitted to three arbitrators, one chosen by each of the parties to such dispute and the third by the two first arbitrators so chosen. A determination of the matter signed by any two of the three arbitrators shall be binding upon each of the parties to such dispute, who shall share the cost of such arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

ARTICLE TEN

General Provisions

10.1 *Binding Effect and Enforcement.* The covenants, conditions, charges, liens, reservations, easements and restrictions contained herein shall run with the land and shall be binding upon all persons purchasing, owning, leasing, subleasing or occupying or otherwise having any interest in any lot in the Properties, their heirs, executors, administrators, successors, grantees and assigns. After the date on which this Instrument has been recorded, these restrictions may be enforced by the Declarant, successors or assigns, or by the owners of seventy-five percent (75%) of the lots acting jointly. All instruments of conveyance of any interest of all or any part of any lot or lots may contain the restrictions herein by reference to this instrument. The terms and conditions of this instrument shall be binding upon all persons affected by its terms, regardless of whether any reference is made to this instrument in the deed or other instrument of conveyance of any lot or lots. Enforcement hereof shall be by proceedings at law or in equity against any

person or persons violating or attempting to violate any covenants, either to restrain violation, or to recover damages or for both restraint and recovery of damages; provided, however, that a violation of these Restrictions, or any one or more of them, shall not affect the lien of any mortgage now of record or which may hereafter be placed of record upon any lot or any part thereof. In the event the Declarant, its successors or assigns, employs an attorney or attorneys to enforce any lien or the collection of any amounts due pursuant to this *Declaration*, or to enforce compliance with or specific performance of the terms and conditions of this *Declaration*, the owner or owners or other parties against whom the action is brought, shall pay all reasonable attorneys' fees and costs thereby incurred by any such enforcing party prevailing any such action. Nothing herein shall be deemed to indicate or construed to mean that damages at law constitute an adequate remedy for violation of a restriction herein.

10.2 *Waiver*. The waiver of, or failure to enforce, any breach or violation or threatened breach or violation of any covenant, condition or restriction herein contained shall not be deemed to be a waiver or abandonment of same, or a waiver of the right to enforce any subsequent breach or violation of same. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce same) had knowledge of the breach or violation. No covenant, condition or restriction contained herein shall be deemed to have been waived or abandoned unless this *Declaration* is amended to delete such restrictions pursuant to Article Eleven hereof.

10.3 *Equal Treatment of Owners*. These restrictions shall be applied to all owners without discrimination.

10.4 *Severability*. The invalidity of any one or more phrases, sentences, clauses, paragraphs, sections or articles hereof shall not affect the remaining portions of this instrument or any part hereof, all of which are included herein conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs, sections or Articles contained herein should be invalid or should operate to render this instrument invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections or Article or Articles had not been included herein.

10.5 *Gender*. The singular, wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

10.6 *Topical Headings*. The marginal or topical headings of the paragraphs contained in this *Declaration* are for convenience only and do not define, limit or construe the contents of the Articles or sections of this *Declaration*.

ARTICLE ELEVEN

Duration of Restrictions - Amendment

Each of the restrictions herein set forth shall continue and be binding upon the Declarant, and upon its successors and assigns, until December 31, 2030, and shall automatically be continued thereafter for successive periods of twenty-five (25) years each, provided, however, that the owners of the fee simple title to more than seventy-five percent (75%) of the lots hereby specifically restricted, may amend this *Declaration* or may release all of the land which is hereby restricted from any one or more of the restrictions herein set forth by executing and acknowledging an appropriate agreement or agreements in writing for such purpose and filing the same for record in the Office of the Recorder of Deeds of Cass County, Missouri.

ATTEST
[seal]

[signature]
Secretary

SOUTHWEST TRACOR
HOMES, INC.

[F.B. Chris Freeman, Jr.]
President

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this [20th] day of [April], 1982, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came [F.B. (Chris) Freeman, Jr.], of [Southwest Tracor Homes, Inc.], who is personally known to me to be the said [President], and who is personally known to me to be the same person who executed the within instrument on behalf of said [Southwest Tracor Homes, Inc.], and such person duly acknowledged the execution of

the same to be the act and deed of said [Southwest Tracor Homes, Inc.]; and that he has read the foregoing *Declaration* and knows the contents thereof, and that the same is true to his own knowledge.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

[Linda S. Ray]
Notary Public

My Commission Expires:
[seal]

[Nov. 2, 1984]

[stamp, seal, and signatures of Recorder of Deeds of Cass County, Missouri; Indexed 106

