

DECLARATION OF TRUST

AND

PROTECTIVE COVENANTS OF TIARA at the ABBEY

THIS DECLARATION OF TRUST AND PROTECTIVE COVENANTS OF

TIARA AT THE ABBEY, is made this \_\_\_\_ day of \_\_\_\_\_, by TIARA AT THE ABBEY, INC., a Missouri Corporation ("Grantor"), 6435 Old Lemay Ferry Road, Imperial, MO. 63052.

WHEREAS, Grantor is the owner of that tract of real estate situated in Jefferson County, Missouri, platted to be a subdivision under the name of "TIARA at the ABBEY", the legal description of which is attached hereto as Exhibit "A" Phase I, and,

WHEREAS, it is the purpose and intention of this Declaration of Trust to preserve the subdivided tract of land to be known as TIARA at the ABBEY as a restricted neighborhood, and create a means of cooperation between present and future lot owners and homeowners in said subdivision among themselves and under certain circumstances with lot owners and homeowners in adjacent and adjoining lands, all in the interest of fostering and enhancing their health, safety, and welfare and for the establishment of a harmonious atmosphere and common interest, facilities, and recreation activities directed to making for a wholesome spirit of neighborly understanding and cooperation; protect the same against certain uses by the adoption of a neighborhood plan and scheme of restrictions to all of said land described in Exhibit "A" of Phase I and mutually to benefit, guard, and restrict future residents of TIARA at the ABBEY and to foster their health, safety, and welfare; and,

WHEREAS, all reservations, limitations, conditions, easements, and covenants hereby contained and termed restrictions are jointly and severally for the benefit of all persons who may purchase, hold, or own from time to time any of the several lots or parcels subject to the provisions of the Declaration.

WHEREAS, Pursuant to its general plan to make of said subdivision a desirable residence section, said Grantor desires to make provisions whereby said boulevards, avenues, streets, and drives, and walks shall be properly maintained, improved, protected, preserved, and managed. And to properly restrict said lots to uses consistent with said general plan.

NOW, THEREFORE, in consideration of the premises and of the benefits that shall accrue to any owner of any lots or parcels in TIARA at the ABBEY. Grantor does for itself, its successors and assigns, and for and on behalf of all persons who may hereinafter derive title to or otherwise hold through it, its successors or assigns, any of the lots or parcels of land now platted under the name TIARA at the ABBEY together with any other lots or parcels of land made expressly subject to the provision of the Declaration by separate instrument hereafter to be recorded, which lots or parcels of land shall as a matter of convenience only in this Declaration be described under the name TIARA at the ABBEY. It being the grantors intent that this land may be made subject to this Declaration as described herein as follows, to wit:

A) All community center, paths, parks, playgrounds, common

property, street, drives, right-of-way, public easements, storm water, sewers, and drainage facilities, if any, contained in this said land covered by this Declaration, and not otherwise dedicated or conveyed on the plat or plats of the aforesaid property;

B) Easements in, over, upon, and, across such portions of said land as may be now or hereinafter designated as follows:

The rights, benefits, and advantages within said subdivision of having ingress and agree to and from, over, along, and across such common property, streets, drives, right-of-way, public utility easements, storm sewers, and drainage facilities and appropriately beautifying, maintaining, improving, rebuilding, reconstructing, adding to or otherwise changing or altering the same; also of constructing, maintaining, reconstructing and repairing sewer, gas, and water pipes and connective therewith on same; also of using the same and of regulating the use there of in the interest of health, welfare, and safety of present or future residents of said subdivisions; and of laying, constructing, maintaining and operating thereupon, either above or underground, suitable supports or conduits for telephone and electric wires and suitable pipes, conduits or other means of conducting steam, electricity, gas, water, sewage, or other useful agencies.

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Exhibit A

#### LEGAL DESCRIPTION

I.

#### DESIGNATION AND SELECTION OF THE TRUSTEES OF

#### TIARA at the ABBEY HOMEOWNERS ASSOCIATION

The initial Trustee hereunder shall be Clyde Johnson, William P. McKenna, and Jill Johnson. Designated herein as Trustees, who by their signature consents to this instrument, and consents to serve in such capacity. The Trustees named above shall serve as such until one replacement or replacements are (is) appointed, or the lots in TIARA at the ABBEY, including additions hereto, have been sold and conveyed. At that time, additional Trustees representatives of the homeowners shall be elected by the purchasers of the developed lots to serve as additional Trustees. When all of the lots in said subdivision have been sold, the initial Trustees shall resign, and all the lot owners shall elect additional Trustees from the lot owners, which shall constitute the number of five (5) Trustees elected under this Declaration.

The owners of lots in TIARA at the ABBEY shall cause an annual electing to be held to fill vacancies caused by the expiration of the terms office of the three (3) Trustees named above or after the resignations of any of the above Trustees, and the elected terms of three (3) years, the terms of the original appointed Trustees to be

established so that the terms shall terminate one (1) each year, which the longest elected Trustee's term expiring one (1) year from the date the initial Trustee resigned, so that annually thereafter lot owners shall elect one (1) trustee to a term of three (3) years. Thereafter, the office of Trustees, on becoming vacant for any reason whatsoever, shall be filled by election of the lot owners within the subdivision. No Trustee may be elected or hold office unless he is the legal owner of one or more lots in TIARA at the ABBEY with the exception of the original Trustees named herein.

At any meeting called to elect successor Trustees, the owner or owners of said lots are entitled to one vote for each full lot owned which vote may be cast in person. A majority of all votes cast at any meeting to elect a successor Trustee shall have the power to elect a new Trustee and each successor Trustee shall be elected separately. All notices of such election meeting shall be delivered in person or sent by first class mail to all recorded owners of lots in TIARA at the ABBEY at least ten (10) days prior to the date fixed for such meetings. The notice shall specify the time, place, and purpose of the meeting, and the place must be in Jefferson County, Missouri. Whenever any initial or successor Trustee resigns, refuses to

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act, becomes disabled or dies, the then remaining Trustees shall appoint a successor to fill the unexpired term of such Trustee so replaced. If no election is held to fill the office of a Trustee whose term has expired, he shall continue to serve until his successor has become elected or appointed as herein provided. The Trustees shall meet from time to time as they shall determine. Any actions of the Trustees shall be taken by majority vote of the members.

II.

#### RESERVATIONS OF EXPENDITURES

Grantor reserves the right to receive and retain any monetary consideration which may be refunded or allowed on account of any sums previously expended, deposited, or subsequently provided by it for joint main sewers, gas pipes, water pipes, conduits, holes, wires, street lights, roads, streets, recording fees, subdivision fees, consultation fees, or other fees, charge costs, and expenses incurred with respect to the creation of any subdivision of the tracts of land to known collectively as TIARA at the ABBEY. The rights reserved to Grantor under this Article may be assigned by it in whole or in part.

III.

#### DUTIES AND POWERS OF TRUSTEES

Grantors hereby invests the Trustees and their successors in trust with the following rights, powers, responsibilities, and authorities described in this instrument, to wit;

1. To prevent any infringement and to compel the performance of any restriction set out in this Declaration or established by law. In the event the Trustees are successful in such action has been maintained shall be obligated to pay all expenses of the Trustees in maintaining such action, including a reasonable attorney's fee, which expenses become a lien against the land of such owners to be collected, with interest, in the same manner as provided in Article IV., Section H. This provision is intended to be cumulative and not to restrict the right of any owner or parcel to proceed in his/her own behalf. The power and authority herein granted the Trustees is intended to be discretionary and not mandatory.

2. To clear up rubbish and debris, remove grass and weeds

from, and to trim, cut back, remove, replace, and maintain trees, shrubbery, and flowers upon any vacant or neglected lots or parcels in TIARA at the ABBEY or any common areas, or any easement areas upon which monuments or fences exist.

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3. To consider, approve, or reject any and all plans and

specifications submitted to and becoming the permanent property of the Trustees and their successors, for any and all buildings and structures, fences, detached buildings, out buildings,

accessory buildings, swimming pools, tennis courts, or other recreational facilities, and all lighting thereof, and all exterior television and/or radio antennas or satellites proposed for construction on any lot or parcel or proposed additions to such buildings and structures or alterations in the external appearance of any buildings or structure, fence, detached building, accessory building, swimming pool, tennis court, and all recreational facilities and all lighting fixtures, lamps, and appliances for the lighting thereof and any exterior television and/or radio antennas and/or satellites or other structure which may be erected or structurally altered unless with written approval of the Trustees of the plans and specifications thereof and the grade proposed thereof is first obtained, whose approval shall not be reasonably withheld.

The Trustees shall further have the power to prohibit the construction of any of the above described structures and facilities on or within a particular lot or the location of any such facilities or structures and/or the plans and specifications for the construction thereof. The Trustees shall have the power to prohibit entirely the construction of any exterior television and/or radio antenna providing that they find in their sole judgement and discretion that an interior television and/or radio antenna sufficient for normal home use and reception can be constructed within the residence constructed on a lot. Further, after completion of the building or structure, the front and side facades and exterior surfaces and areas (including roofing and related surfaces) of the residences constructed in TIARA at the ABBEY may not be physically or structurally changed, resurfaced, or otherwise altered without written approval of the Trustees. In the event the Trustees fail to approve or disapprove within thirty (30) days after building plans or other specifications for such buildings or structures have been submitted to them for approval, they shall be conclusively presumed that such approval was obtained.

4. All residences shall be maintained in good condition, repaired in a timely manner, and decorated in a uniform fashion, as to color, texture, and material.

5. In the event any owner shall fail to maintain or repair the facades and exterior surfaces, the Trustees shall have the right and license to enter such owner's premises and complete such maintenance or make such repairs and recover from such owner the cost of such maintenance or repair, together with costs of collection and reasonable attorney's fees.

6. To require a **refundable \$500.00 deposit** in connection with the proposed erection of any building or structure, fence, decorative outbuilding, swimming pool, tennis court, driveway, exterior television and/or radio antennas, or other structure on any lot or parcel in order to provide that upon completion of

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such construction projects, all debris shall be removed from the

site and from adjacent areas, and that any and all damages to streets and other improvements in the subdivision shall be repaired. **The lot owner is responsible for this deposit.**

7. To provide said subdivision with adequate fire and police protection and for the collection of trash, rubbish, or garbage, and to otherwise provide for the public health, safety, and welfare of lot owners and to enter into contracts for such purposes covering such periods of time as they consider advisable, but in no event shall the Trustees be obligated to do so or to continue to do so if such services are provided by a governmental body.

8. To receive, hold, convey, dispose of, and administer for the purpose mentioned in this Declaration any gift, grant, conveyance, or donation of money or real or personal property.

9. The Trustees in exercising the rights, powers, and privileges granted to them, and in discharging the duties imposed upon them by the provision of this Declaration, may from time to time enter into contracts, employ agents, attorneys, accountants, servants, clerks, or other employees labor as deemed necessary or advisable, and to institute and prosecute such suits as deemed necessary or advisable, and to defend suits brought against them or against their officers, directors, or employees.

10. Each of said Trustees and their successors duly elected and appointed accept the trusts upon conditions only that each of said Trustees shall be responsible only for his/her willfully wrongful acts of willful default and not one for the other/others and upon the further condition that no trustee hereunder shall ever be held personally liable for injuries to persons or property by reason of any act or acts of omission or commission by such Trustees, respectively or collectively. Nothing herein contained shall be taken to compel the Trustees to make any payment or incur any liability in excess of the amount which shall, for the time being, be in their hands as the result of assessments against lot owners herein provided.

11. At the discretion of the Trustees, in the interest of health, welfare, and safety of the owners of the lots in TIARA at the ABBEY, now or in the future subject to this Declaration, provided that the same is not prohibited by any Federal, State, County, or municipal regulation, the Trustees shall have the right and power to provide and maintain lights on streets, gateways, and entrances; to erect and maintain directional, street, and other signs; to repair, oil, maintain, repave and reconstruct paved streets or roads, lanes, pedestrian ways, parkways and common grounds; to plant, care for, maintain, spray, trim, and protect streets, shrubbery and vegetation on streets, public property, and elsewhere in the interest of health, welfare, and safety within the land subject to this Declaration, unless provided by a governmental body.

12. To establish, operate, conduct, regulate, improve, maintain, repair, add to, or reduce common property and any buildings and facilities as may exist or be established thereon;

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to make rules and regulation, not inconsistent with the law and this Indenture for the use and operation thereof and in every and all respects govern the operation, functioning, and government thereof.

IV.

#### ASSESSMENTS

The Trustees are hereby authorized, empowered, and granted the right to make assessments upon and against lots and parcels of TIARA at the ABBEY for the purposes herein stated and at the rate hereinafter provided, and in the manner and subject to the provisions of this instrument:

A. It shall be the duty of every owner to pay his/her proportionate share of the expenses of administration, maintenance, and repair of TIARA at the ABBEY and of the other expenses provided for herein. Said assessment of ninety-five dollars (\$95.00) shall be for the purpose of providing funds to carry out the general duties and powers of the Board of Trustees as herein described and for the future purpose of enabling the Board of Trustees to defend and enforce restrictions accurately; to maintain and operate the common property, parks, parkways, paths, easements, sewers, utilities, parking areas, trees, and other facilities and to dispose of garbage and rubbish or otherwise properly protect the health, safety, and general welfare of the property

owners and to perform any of their duties or rights hereunder, except as expressly limited hereunder. Unsold lots or those owned by builders designated by Developer are not subject to association assessments. Each owner shall be responsible for payment of the assessment as set forth below. Payments thereof shall be in such amounts and at such times as may be determined by the Trustees, as hereinafter provided.

The assessment shall be payable in equal shares per lot by each owner of TIARA at the ABBEY, notwithstanding the fact that some expenses may benefit fewer than all owners.

If any expense is caused by the negligent or intentional act, admission or omission of any owner or his/her employees, agents, guests, or invites, such expense may be assessed exclusively against his/her respective lot.

B. Prior to June 1 of each year, the Trustees shall adopt a budget necessary for the payment of the cost of wages, materials, insurance, services, and supplies which will be required during the subsequent calendar year and for the rendering of all services including maintenance and repair of TIARA at the ABBEY, together with a reasonable amount considered by the Trustees to be necessary for a reserve for contingencies and replacement, within thirty (30) days after adoption of any proposed budget, the Trustees shall provide a summary of the budget to all owners and shall set a date for a meeting of the owners to consider

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ratification of the budget, which date shall be not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting two-thirds of the aggregate ownership reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the Trustees. If such project and the assessment so stated be approved, either at a meeting of the lot owners duly called and held in this manner provided, or by a majority vote of all the lot owners present, the Board of Trustees shall notify all lot owners of the additional assessment, and the original assessment per lot per year for general purposes shall not apply. Any estimated cash requirements contained in the budget may be addressed by the Trustees to the owners in equal shares. Thereafter, on or before the first day of March, each year, each owner shall be obligated to pay the Trustees, or as they may direct, the full assessment of the owner's yearly share.

Any special assessment can be made against those lots on which there is situated a resident ready for occupancy, or against all lots that have been sold. Each owner is thus obligated to pay such special assessment within ninety (90) days. On or before the date of the annual meeting in each calendar year, the Trustees shall deliver to all owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the prior annual budget, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited prorate to each owner's next installments due from owners under the current year's budget, until exhausted, and any net shortage shall be added prorate to the installments due by each owner in the next month after rendering of the accounting.

C. The Trustees shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year, shall be charged first against such reserve. If the annual assessment proves inadequate for any reason, including non-payment of any owner's assessment, the Trustees may at any time levy a further assessment which shall be assessed to the owners by a statement in writing giving

the amount and reason thereof, and such further assessment shall become effective and due payable with the

yearly maintenance payment which is due thirty (30) days after delivery or mailing of such notice of further assessment. All owners shall thereafter be obligated to pay the adjusted amount, unless two-thirds of the total ownership shall reject such assessment at a meeting of the owners called for such purpose.

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At any time after the passage of the resolution levying an assessment and its entry in its minutes, the Board of Trustees may, in addition, execute and acknowledge an instrument reciting the levy of the assessment with respect to any one or more lots and cause same to be recorded in the Recorder's Office in the County of Jefferson, State of Missouri, and the Board of Trustees may, upon payment, cancel or release any one or more lots from the liability of assessments (as shown by recorded instrument) by executing, acknowledging, and recording (at expense of the owner of the property affected) a release of such assessment with respect to any lot or lots affected.

D. Until the initial meeting of the owners and assessment by Trustees, owners, shall pay, commencing with the respective closing dates of purchase of their respective lots, as their respective monthly assessment for the Common Expenses, their prorated share of the estimated annual budget for the first fiscal year as estimated by the Declarant. Assessments for fractions of a month shall be prorated. Such estimated budget may be amended by the Declarant, if necessary, pursuant to Paragraph C. When the first Trustees are elected and take office, the Trustees shall determine the "estimated cash requirement" as hereinabove defined, for the remaining portion of the calendar year.

E. The failure or delay of the Trustees to prepare or serve the annual budget on an owner shall not constitute a waiver or release in any manner of any owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any new annual budget, the owner shall continue to pay the annual maintenance assessment at the then existing rate established for the previous year until the new annual budget is ratified by the owners.

F. The Trustees shall keep full and correct books of account, which shall be open for inspection by owner or any representatives of an owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the owner. Upon fifteen (15) days notice to the Trustees and payment of a reasonable fee, any owner shall be furnished a statement of his/her account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

G. All funds collected hereunder shall be held and expended solely for the purpose designated herein, and (except for such

special assessments as may be levied hereunder against less than all of the owners, and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit, and account of all of the owners.

H. If any owner is in default in the annual payment of the aforesaid charges or assessments for thirty (30) days, the Trustees may bring suit or take any other lawful action to enforce collection thereof or to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due, the costs of said suit, together with the legal interest at the

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highest rate permitted by law and reasonable attorney's fees to be fixed by the court. To the extent permitted

by law, the amount of any delinquent and unpaid charges or assessments, and interest costs and fees as above provided shall be and become a lien or charge against the lot of the owner involved when payable, and may be foreclosed by an action brought by the Trustees as in the case of foreclosure of liens against real estate. The Trustees acting on behalf of the lot owners, shall have the power to bid in the interest so foreclosed at a foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Said lien shall take effect and be in force when and as provided in the Act.

I. If, in the judgement of the Trustees, the equity interest of any owner (whether the original owner or a subsequent purchaser or transferee), in his/her lot at any time is not sufficient to assure realization (whether by foreclosure of the lien or otherwise) of all assessments, charges or other sums which may be levied by the Trustees, then whether or not such owner shall be delinquent in the payment of such levies, the Trustees shall have the right to require such owner to establish and maintain a security deposit in an amount which the Trustees deem necessary for such purposes; provided, however, that such security deposit shall in no event exceed an amount which, when added to such owner's equity interest on the purchased lot and additions, exceeds ten percent (10%) of the purchase price of such lot and additions. In the event that any owner shall fail to pay any assessments, charge or other sums which may be due hereunder or shall otherwise violate any covenants, terms, and conditions of this Declaration, the Trustees shall have the right, but not the obligation, to apply such security deposit in reduction of the alleged damages resulting from such failure or violation, which right shall be in addition to all other remedies provided for in this Declaration. Upon any sale by such owner of his/her lot, or at such time as such owner's equity in his/her lot and additions is sufficiently great to dispense with the necessity of such security deposit, any unapplied balance of said security deposit remaining to the credit of said owner shall be refunded, provided that such owner shall not be in default in any of his/her obligations under this Declaration. The Trustees shall have the right to maintain all security deposits held by them in a single bank account and shall not be required to credit interest to any owner. Said security deposit shall at all times be subject to the lien referred to above and all rights thereto shall inure to the benefit of the lot owners.

J. The Trustees may require that a reasonable security deposit be posted with the Trustees at the beginning of the lease or rental term of any lot to be leased or rented by an owner. Said security deposit shall be returned to the owner when the lot is no longer leased or rented, less any sums reasonably deducted to cover any unpaid assessments or damage to the subdivision caused by the act or neglect of the occupant of the leased or rented lot, or his/her guests or invitees.

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V.

#### Protective Covenants

Grantor does, by this Declaration, impose parcels expressly made subject to this Declaration the following restrictions and conditions, to wit:

1. These restrictions are to run with the land and shall be

binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for continuing periods of ten (10) years each unless such restrictions are modified or removed as provided below; provided, however, that nothing stated herein shall affect or limit the provisions of Article II above.

2. Notwithstanding any other provisions of the Indenture, in

the event that the trust with respect to common property is in effect at the end of twenty-five (25) years from



the date of this Indenture or, if earlier terminated, at the time of such termination, the then members of the Board of Trustees shall convey by deed all the common property, if any, to the then owners of the lots in this subdivision as joint tenants; provided, however, that all the rights, powers and authority conferred upon the Board of Trustees shall continue to be possessed by the Board of Trustees. It is the intention of this instrument that such conveyance shall constitute a change in ownership of title but shall not alter, abridge or change the powers, duties, or functions of the Board of Trustees or this Indenture.

3. No lot shall be used except for single family

residential purposes. No dwelling building shall be erected, placed, or permitted to remain on any lot other than one single

family dwelling and a private attached garage for not less than two automobiles.

4. Every building shall observe the following set back requirements: At least forty-five (45') in the front of the lot from the street pavement edge and from property line ten (10') from either side and rear lines, providing it meets requirements prescribed by ordinance of the City of Pevely. For the purpose of this covenant, eaves, steps, open porches and bay windows shall be considered as a part of a building. Variance may be approved by developer.

5. Constructed house must face road unless otherwise approved by the Board of Trustees.

6. No tri-axle trucks may be used on the roadways of the subdivision during residential construction. Violation will result in forfeiture of road deposit.

7. Any main structure or dwelling to be constructed, exclusive of basement, garage, or porches, shall have no less than eighteen hundred (1800) square feet of actual living area for a one-story house, nor less than a total of twenty-four (2400) hundred square feet of actual living space for a dwelling of two-stories, with twelve hundred (1200) square feet on main

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level. It being the intention of these restrictions that all dwellings shall be of the same quality or better than that which can be produced on the date these restrictions are recorded.

8. Plans and specifications of all contemplated buildings

must be submitted to the Board of Trustees for approval prior to the start of construction. All buildings must be constructed in

accordance with the plans and specifications so submitted and

approved. It is at the sole discretion of the Trustees to determine what types of construction and design are permitted for the time and place. Approved plans and/or specifications become the property of the subdivision Trustees or their successors.

9. Asbestos and other composite boards generally intended

for non-exposed sheathing shall not be used on any exterior exposed wall surface.

10. Types of siding and any solid color paint or coating

used on exterior of home must have color approval from Board of Trustees.

11. No residence may be occupied unless all exterior construction work has been completed.

12. Construction of each residence is to commence within thirty-six (36) months of purchase of an individual lot and **completed within six (6) months of issuance of building permit**. Whereas more than one (1) lot is owned by the same person(s) with adjoining lot lines, the thirty-six month building requirement shall apply only to one lot. Should the lot be sold, the thirty-six month building expectation would then be reinstated. Extended time may be considered by the Board of Trustees with presentation of intention and/or cause.

13. No above ground type swimming pools shall be erected on any lot.

14. At least fifty percent (50%) brick or stone on front elevation. "Period" or "traditional" style homes as approved by developer without masonry may be permitted. "Dryvit" type systems may be considered by developer.

15. Every building shall have a pitched roof with a minimum of four feet (4') rise for each twelve feet (12') and covered by a fireproof covering. Any variance in design must be approved by Trustees.

16. As may be shown on the recorded plat of TIARA at the ABBEY easement for the installation and maintenance of utilities

and drainage facilities may be reserved on said plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

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No grade changes in topography are permitted in rights of way or utility easements.

17. No nuisance or obnoxious or offensive activities shall be carried on upon any lot or parcel, nor shall anything be done thereon which may be or may become a nuisance to adjoining land owners or residents. No building or premises shall be used for any purpose prohibited by law or ordinance, and nothing shall be done which shall be or hereafter become a nuisance to the owners or residents of lots or parcels.

18. No animals, livestock or poultry of any kind shall be raised or kept on any lot or parcel, except dogs, cats, or other traditional domestic household pets, with a limit of 2 each (i.e. 2 dogs, 2 cats) unless granted special approval by Trustees. No animal shall be allowed to run loose, and shall be restrained by a leash, or fenced, at all times. Residents shall NOT provide less than a minimum of 400 square feet approved fence area for containment of dogs.

19. For the purpose of this paragraph, a fence is defined as any structure, regardless of material or height, serving as an enclosure, barrier, or boundary of all or part of any lot or part thereof or of any structure situated thereon for any use or activity maintained thereon. The type, height, and location of all fences must be approved by the Trustees. All fences are to be well constructed and neat.

20. No tree, planting, or shrubbery fence shall be permitted within close proximity to any intersection. Foliage line must be maintained at a two foot (2') height to prevent obstruction of vision by drivers of vehicles. Tree boughs or branches may overhang such area so long as they do not extend lower than seven feet (7') from the ground. In the event of violation of this restriction, the Board of Trustees, their agents, servants, and employees shall have the absolute right to enter upon the lot involved and remove, trim, cut, or destroy any shrubbery, trees, other vegetation or other structures or obstacles in violation of this restriction. Whether occupied or not, once a lot is sold, all grass must be kept cut with the exception of heavily wooded areas or

where the terrain is left in the rough.

21. That no residence, accessory building, or any portion of any lot shall be used as a boarding house, club house, or road house, nor shall any residence, accessory building, or any lot be used or devoted to any manufacturing, industrial, or visible commercial activity whatsoever, nor shall any building or premises be used for any purpose prohibited by law or ordinance, nor shall anything be done in or on any premises which may become a nuisance, in the judgement of the Board of Trustees, to the owners or inhabitants of lots in the land subject hereto, based upon the health, welfare, and safety of said owners and inhabitants.

22. Retaining walls are subject to Board of Trustees written approval.

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23. Recreational vehicles such as three and four wheelers, dirt bikes, motorcycles, or any other type, may not be ridden within the boundaries of TIARA at the ABBEY subdivision. Street licensed vehicles may be ridden for ingress and egress only.

24. No lot shall be re-subdivided nor shall a fractional part of any lot be sold unless permitted by both the Trustees and City of Pevely.

25. No sign of any kind shall be displayed to the public view except one sign of not more than five (5) square feet advertising the property for sale, or except signs used by a builder or remodeler to advertise the property during the construction or remodeling period, respectively.

26. No unconventional forms of housing shall be permitted, including but not limited to geodesic dome homes, underground homes, or homes on stilts. It is at the sole discretion of the Trustees to determine what types of construction are unconventional for the time and place. Log homes are not permitted.

27. No building shall be erected, placed, or altered on any residential building plot in this subdivision until the external designs, grade, location, elevations, plans, and specifications thereof have been submitted as permanent record to the Trustees and shall be approved in writing by the Trustees; provided, however, that if such Trustees fail to approve or disapprove such design, grade, and location within thirty (30) days after such plans have been submitted to them, such approval will not be required; provided the external design, grade, and location of each structure shall conform to and be in harmony with existing structures in the tract.

28. No oil drilling, oil development oil refining, quarrying, or mining operation of any kind shall be permitted on any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any lot.

29. Except temporarily in connection with construction work by a contract builder, no lot shall be used for or maintained as a dumping ground for rubbish, trash, garbage, or other waste. Trees must be disposed of by general contractor and may not be disposed of on adjoining lots.

30. All trash, garbage, or other waste shall be kept at all times in sanitary containers. Receptacle or can shall be placed on the premises outside the building only upon the day of the week or month the regularly scheduled collections of the same are to take place. All incinerators or other equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. During construction, dumpsters are to be used to keep trash and building material excess picked up on a **regular** basis.

31. No burning of household trash. Only one trash collection agency, agreed upon by the majority of lot owners, will be permitted to pick up in the entire subdivision, unless

*provided by a governmental body.*

*32. Except temporarily in connection with the construction done by a builder, no structure of a temporary character, tent,*

*shack, garage, or out building shall be erected or permitted on any lot at any time as residence temporarily or permanently.*

*33. No water course of finished grade which is once approved and established shall be altered and changed without express written approval of the Trustees.*

*34. All lot owners are obligated to care for their property and keep it free from unsightly accumulations of debris and other waste matter, failure to comply with this provision shall constitute a nuisance within the meaning of this agreement. The Trustees are hereby empowered to clean up or cause to be cleaned up, the waste and debris. The owner of this same property shall be charged reasonable expenses incurred, which shall become a lien on the property until paid. The Trustees, agents, or employees shall not be deemed to be guilty or liable for any Trespass in any action pursuant to the powers herein granted.*

*35. No boats, commercial vehicles, truck-mounted campers, camping trailers, motor homes, or one of the other types of personal property similar thereto, licensed or unlicensed, may be parked, placed, or stored in view of the dwelling houses constructed in TIARA at the ABBEY, excluding personal pick-up trucks.*

*36. No lot shall be used as a storage place for salvaged material or dismantled hereon for salvaged purposes any old machines or automobiles. Automobiles dismissed from service must be removed.*

*37. No trucks may be parked, placed, or stored on subdivision streets except during construction or during the periods of actual deliveries to any lot or parcel owner, excluding personal pick-up trucks.*

*38. Culverts and storm water drainage improvements of sufficient capacity to carry storm water, if necessary, for the proper drainage of the road and drives must be installed by the lot owner and may be directed by the Board of Trustees at the lot owner's expense. In the event of the failure of the lot owner to make such installation, the Board of Trustees, their agents, servants, and employees shall have the absolute right to enter the lot involved and install said culverts and storm water drainage improvements and charge the cost thereof to said lot*

*owner, and place a lien on this lot to secure payment of said costs.*

*39. Parking on paved driven only; no "on street" parking.*

*40. Unless accepted by a public entity, the Trustees shall maintain the entrance way or ways, common ground areas, and streets into and throughout the subdivision and are authorized to pay the costs of electricity consumed for lighting such entrance way or ways, common ground areas, and public streets with the collected assessment moneys only.*

*41. All lot owners are obligated to care for, maintain, and preserve the natural existing landscape. Lot owners in wooded*

*areas must preserve wooded areas by limiting live tree removal.*

42. All original lot owners will be furnished with a specific mailbox by Developer or Homeowners Association prior to occupancy, at no cost to them. This is the only mailbox that may be used and must be installed according to instructions provided at time of pick up. Any replacement boxes must be of similar design.

43. Every lot must be served by natural gas.

44. All front yards must be sodded **prior** to occupancy. If this cannot be done due to inclement weather, sufficient funds to cover labor and materials must be escrowed with the homeowner's association.

45. No water activity of any kind, including ice skating, will be permitted in any of the ponds.

46. During construction siltation fencing and/or straw bales **must** be used.

47. All lot owners shall be responsible for the failure of general contractors to adhere to building covenants.

VI.

### **MISCELLANEOUS PROVISIONS**

1. Grantor may, in conjunction with the conveyance of title of all of TIARA at the ABBEY or any lot or lots herein, grant and transfer the rights and powers of Grantor hereunder to the Grantee named in such Deed or other conveyance in which event the rights, powers, and obligations of Grantor hereunder, if any, shall be assumed by the Grantee or Grantees designated in such Deed or other Conveyance.

2. All the foregoing provisions and restrictions shall continue and remain in full force and effect at all times against said property for a period of twenty-five (25) years from the date this Indenture and shall be binding on all parties and all persons claiming under them, at which time said covenants shall be continued automatically without further notice, for successive period of ten (10) years each.

3. The Trustees are authorized and empowered to cooperate and to contract with the owners of adjoining or nearby tracts or with the Trustees of such tracts in the development and maintenance of facilities inuring to the benefit and general welfare of the owners and residents of TIARA at the ABBEY.

4. Enforcement of any of the covenants or conditions of this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any such covenant or condition and may be brought to restrain any such violation and to recover damages therefore or both.

5. Whenever any consent, approval, vote, proxy, or other action (whether written or oral) of the owners of any lot or parcel is required by the terms of this Declaration, such consents, approval, vote, proxy, or other action may be made or given by any one of the two or more joint tenants regardless of the type of joint tenancy, provided that all joint owners of a lot must consent to the amendment hereof and to any action under 16

Article IV., Paragraph I. If any lot is owned by a corporation

or savings and loan, any association may cast any vote or give any consent on behalf of such corporation or savings and loan association.

6. All covenants and agreements herein are expressly declared to be independent and not interdependent; nor shall any loches, waiver, estoppel, condemnation, or failure of title as to any part or lot of said tract be of any effect to modify, with respect to the remainder of said tract, saving always the right to amend, modify, or repeal as hereinabove expressly provided.

7. Amendments to this Declaration may be presented by the Trustees and require a majority vote of those present at annual or special meetings prior to being recorded

TIARA at the ABBEY

AMENDMENT TO DECLARATION OF  
TRUST AND PROTECTIVE  
COVENANTS

*THIS AMENDMENT TO INDENTURE, made and entered into this day of , 1997, pursuant to the rights and privileges granted CLYDE JOHNSON and WILLIAM P. McKENNA in a Declaration of Trust and Protective Covenants (hereinafter referred to as the Indenture) and recorded of record in Book 771 pages 2190 through 2208, in the Recorder of Deeds Office for Jefferson County, Hillsboro, Missouri.*

*WHEREFORE, the following amendments are hereby adopted:*

*Between Book 771 Page 2204 and Page 2205: Indenture page 15, after #36 and the word "removed.", the following will be inserted:*

*"37. No Trucks may be parked, placed, or stored on subdivision streets except during construction or during the periods of actual deliveries to any lot or parcel owner, excluding personal pick-up trucks.*

*38. Culverts and storm water drainage improvements of sufficient capacity to carry storm water, if necessary, for the proper drainage of the road and drives must be installed by the lot owner and may be directed by the Board of Trustees at the lot owner's expense. In the event of the failure of the lot owner to make such installation, the Board of Trustees, their agents, servants, and employees shall have the absolute right to enter the lot involved and install said culverts and storm water drainage improvements and charge the cost thereof to said lot owner, and place a lien on this lot to secure payment of said costs.*

*39. Parking on paved drive only; no "on street" parking.*

*40. Unless accepted by a public entity, the Trustees shall maintain the entrance way or ways, common ground areas, and streets throughout the subdivision and are authorized to pay the costs of electricity consumed for lighting such entrance way or ways, common ground areas, and public streets with the collected assessment moneys only.*

*41. All lot owners are obligated to care for, maintain, and preserve the natural existing landscape. Lot owners in wooded"*

*WHEREAS, the parties hereto have previously reserved the right without notice, to amend the First Trust Agreement and Indenture recorded at Book 771 Pages 2204 through 2205, and hereby are exercising that right.*

*IN WITNESSETH WHEREOF, the aforesaid CLYDE JOHNSON and WILLIAM P. McKENNA, have hereunto executed this Amendment of Indenture the day and year first above written.*

*Clyde Johnson William P. McKenna*

*6435 Old Lemay Ferry Road*

*Imperial, Missouri 63052*

*STATE OF MISSOURI }*

*} SS*

*COUNTY OF JEFFERSON }*

*On this day of July, 1997, before me personally appeared Clyde Johnson and William P. McKenna who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.*

*IN TESTIMONY WHEREOF, I have set my hand and affixed my seal, this day and year first above written.*

—  
*Jill M. Johnson*

*Notary Public*

Tiara at the Abbey

Amendment to Declaration of

Trust and Protective

Covenants

State of Missouri

THIS AMENDMENT TO INDENTURE, made and entered into this day of February, 1998, pursuant to the rights and privileges granted CLYDE JOHNSON and WILLIAM P. McKENNA in a Declaration of Trust and Protective Covenants (hereinafter referred to as the Indenture) and recorded of record in Book 783 pages 2326 through 2327 and Book in the Recorder of Deeds office for Jefferson County, Hillsboro, Missouri.

WHEREFORE, the following amendment is hereby adopted:

At Book 783 Page 2326: #37 to be removed and replaced with the following #37:

"37. No trucks larger than personal pick-up trucks may be parked on the subdivision streets or in driveways, or anywhere, in the subdivision except during construction for construction purposes. There is to be no overnight parking on streets at anytime. Tiara at the Abbey Homeowner's Association shall be authorized to tow any vehicle or trailer in violation of this covenant, at the owner's expense, both for towing and storage."

WHEREAS, the parties hereto have previously reserved the right without notice, to amend the First Trust agreement and Indenture recorded at Book 771 Pages 2200 through 2205 and are hereby exercising that right.

IN WITNESS WHEREFORE, the aforesaid CLYDE JOHNSON and WILLIAM P. McKENNA, have hereunto executed this Amendment of Indenture the day and year first above written.

-

Clyde Johnson William P. McKenna

STATE OF MISSOURI }

} SS

COUNTY OF JEFFERSON }

On this day of February, 1998, before me personally appeared Clyde Johnson and William P. McKenna who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and affixed my seal, this day and year first above written.

Jill M. Johnson

Notary Public

Tiara at the Abbey

Amendment to Declaration of

Trust and Protective

Covenants

State of Missouri



THIS AMENDMENT TO INDENTURE, made and entered into this 21<sup>st</sup> day of February, 2000, pursuant to the rights and privileges granted CLYDE JOHNSON and WILLIAM P. McKENNA in a Declaration of Trust and Protective Covenants (hereinafter referred to as the Indenture) and recorded of record in Book 771 pages 2190 through 2208 and Book in the Recorder of Deeds office for Jefferson County, Hillsboro, Missouri.

WHEREFORE, the following amendment is hereby adopted:

At Book 771 Page 2205: Indenture page 16, Item Number 44 after the word "association." And before Item Number 45 the following shall be inserted:

In the case of builders' spec homes, front yards must be sodded as soon as home is complete as determined by trustees.

WHEREAS, the parties hereto have previously reserved the right without notice, to amend the First Trust agreement and Indenture recorded at Book 771 Pages 2190 through 2208 and are hereby exercising that right.

IN WITNESS WHEREFORE, the aforesaid CLYDE JOHNSON and WILLIAM P. McKENNA, have hereunto executed this Amendment of Indenture the day and year first above written.

-  
Clyde Johnson William P. McKenna

STATE OF MISSOURI }

} SS

COUNTY OF JEFFERSON }

On this day of February, 2000, before me personally appeared Clyde Johnson and William P. McKenna who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and affixed my seal, this day and year first above written.

Jill M. Johnson

Notary Public

Tiara at the Abbey

Amendment to Declaration of

Trust and Protective  
Covenants  
State of Missouri

THIS AMENDMENT TO INDENTURE, made and entered into this 18th day of June, 2001, pursuant to the rights and privileges granted CLYDE JOHNSON and WILLIAM P. McKENNA in a Declaration of Trust and Protective Covenants (hereinafter referred to as the Indenture) and recorded of record in Book 771 pages 2190 through 2208 and Book in the Recorder of Deeds office for Jefferson County, Hillsboro, Missouri.

WHEREFORE, the following amendment is hereby adopted:

At Book 771 Page 2204: Indenture page 15, after item number 36 and before item 42. Number 37, 38, 39, 40, 41 are to be added as described below.

No trucks may be parked, placed, or stored on subdivision streets except during construction or during the periods of actual deliveries to any lot or parcel owner, excluding personal pick-up trucks.

Culverts and storm water drainage improvements of sufficient capacity to carry storm water, if necessary, for the proper drainage of the road and drives must be installed by the lot owner and may be directed by the Board of Trustees at the lot owner's expense. In the event of failure of the lot owner to make such installation, the Board of Trustees, their agents, servants employees shall have absolute right to enter the lot involved and install said culverts and storm water drainage improvements and charge the cost thereof to said lot owner, and place a lien on this lot to secure payment of said costs.

The use of liquefied petroleum gas (LPG) tanks for heating buildings, swimming pools, or other gas appliances must be approved by the Board of Trustees regarding placement and visibility from roadway. Adequate landscaping so as to block view is required. Direct burial of any tank(s) shall require suitable protection against corrosion to prevent subsequent product leakage into adjoining drainage facilities. Such protection shall require and receive Board of Trustees approval prior to installation.

The Trustees shall maintain the entrance way or ways, common ground areas, and are authorized to pay the costs of electricity consumed for lighting such entrance way or ways, common ground areas, with the collected assessment moneys only.

All lot owners are obligated to care for, maintain, and preserve the natural existing landscape. Lot owners in wooded areas must preserve wooded areas by limiting live tree removal as follows:

A. One hundred percent (100%) live tree removal shall be limited to an area within twenty-five (25') from building perimeter, or submitted to Trustees for approval.

This is then to be known as Indenture page 15A.

WHEREAS, the parties hereto have previously reserved the right without notice, to amend the First Trust agreement and Indenture recorded at Book 771 Pages 2190 through 2208 and are hereby exercising that right.

IN WITNESS WHEREFORE, the aforesaid CLYDE JOHNSON and WILLIAM P. McKENNA, have hereunto executed this Amendment of Indenture the day and year first above written.

-  
Clyde Johnson William P. McKenna

Return to Covenants

Tiara at the Abbey  
Amendment to Declaration of  
Trust and Protective  
Covenants  
State of Missouri

THIS AMENDMENT TO INDENTURE, made and entered into this 7th day of February, 2008, pursuant to the rights and privileges granted Jim Lamprecht and Bill Hutchings in a Declaration of Trust and Protective Covenants (hereinafter referred to as the Indenture) and recorded of record in Book 771 pages 2190 through 2208 and Amendments in Book 783 pages 2326 – 2327, Book 889 pages 227-228, and Book 989 pages 1880-1881 in the Recorder of Deeds office for Jefferson County, Hillsboro, Missouri.

WHEREFORE, the following amendment is hereby adopted:

"All of the restrictions will be enforced by the Trustees for the benefit of the Association and the lot owners of Tiara at the Abbey. Unless specifically stated in the above covenants, violation of any covenant is subject to forfeiture of the construction deposit, when applicable, or a fifty dollar (\$50) weekly fine until such violation is corrected. Prior to any fine being levied, the following steps are to be followed:

1. If possible, personal notification via visit or phone call by trustee advising of violation.
2. If not corrected, a Certified Letter to be sent to violator including a date for violation to be rectified and/or appealed. If appealed, the time, date, and location of the next trustee meeting will also be included.
3. If appealed, the lot owner shall have the right to present their case for violation at the next regularly scheduled trustee meeting. Trustees meet once per month. Homeowner shall have the opportunity to appeal before the trustees present after which a vote will be taken amongst trustees. The President's vote shall break any deadlock or tie. Appeal votes are final without right to further appeal.

Failure to correct the violation by the date provided in the certified letter, and if not appealed, will result in the fine assessment. When violations are a continuing course of conduct, or repeat violation, then additional certified letters will not be sent prior to additional fine. Only one appeal per violation type is allowed per lot owner. If a violation is not corrected, and the appeals process has been declined or exhausted, the Trustees, at their discretion, reserve the right to begin legal proceedings to enforce restrictions without additional notification to the offending property owner. Legal proceedings undertaken to enforce provisions will result in fines, penalties, interest, and fees, including attorney's fees, charged against the lot owner which shall become a lien on the property until paid pursuant to Article III, Section 1."

WHEREAS, the parties hereto have previously reserved the right without notice, to amend the First Trust agreement and Indenture recorded at Book 771 pages 2190 through 2208

and Amendments in Book 783 pages 2326 – 2327, Book 889 pages 227-228, and Book 989 pages 1880-1881 and are hereby exercising that right.

IN WITNESS WHEREFORE, the aforesaid Jim Lamprecht and Bill Hutchings, have hereunto executed this Amendment of Indenture the day and year first above written.

---

Jim Lamprecht, Trustee Bill Hutchings, Trustee

STATE OF MISSOURI }

} SS

COUNTY OF JEFFERSON }

On this day of February 7th, 2008, before me personally appeared Jim Lamprecht and Bill Hutchings who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and affixed my seal, this day and year first above written.

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Patricia M. Schlette, Notary Public

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Tiara at the Abbey  
Amendment to Declaration of Trust and Protective Covenants  
State of Missouri

THIS AMENDMENT TO INDENTURE, made and entered into this 3<sup>rd</sup> day of December, 2008, pursuant to the rights and privileges granted Jim Lamprecht and Wes Vincent in a Declaration of Trust and Protective Covenants (hereinafter referred to as the Indenture) and recorded of record in Book 771 pages 2190 through 2208 and Amendments in Book 783 pages 2326 – 2327, Book 889 pages 227-228, Book 989 pages 1880-1881 and Document 2008R-004976 in the Recorder of Deeds office for Jefferson County, Hillsboro, Missouri.

WHEREFORE, the following amendment is hereby adopted: At Book 771 Page 2197 Article B: "June 1 of each year" to be replaced with "October 10<sup>th</sup> of each year".

WHEREFORE, the following amendment is hereby adopted: At book 771, Page 2204, number 35 is to be replaced in its entirety with the following: "No boats, trailers of any type, commercial vehicles, campers of any type, motor homes, or one of the other types of personal property similar thereto, licensed or unlicensed, may be parked, placed, or stored in view of the dwelling houses constructed in TIARA at the ABBEY, excluding personal pick-up trucks".

WHEREAS, the parties hereto have previously reserved the right without notice, to amend the First Trust agreement and Indenture recorded at Book 771 pages 2190 through 2208 and Amendments in Book 783 pages 2326 – 2327, Book 889 pages 227-228, Book 989 pages 1880-1881 and Document 2008R-004976 and are hereby exercising that right.

IN WITNESS WHEREFORE, the aforesaid Jim Lamprecht and Wes Vincent, have hereunto executed this Amendment of Indenture the day and year first above written.

---

Jim Lamprecht, Trustee Wes Vincent, Trustee

STATE OF MISSOURI }

} SS

COUNTY OF JEFFERSON }

On this day of December 3<sup>rd</sup>, 2008, before me personally appeared Jim Lamprecht and Wes Vincent who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and affixed my seal, this day and year first above written.

---

Patricia M. Schlette, Notary Public

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