

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
MISSOURI RESEARCH PARK
ST. CHARLES COUNTY, MISSOURI**

As of April 21, 2005

**THE CURATORS OF THE UNIVERSITY OF MISSOURI, Grantor
227 University Hall
Columbia, Missouri 65211**

Legal Description: See Exhibit A hereto

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR MISSOURI RESEARCH PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR MISSOURI RESEARCH PARK (this "Declaration"), made as of the 21st day of April, 2005, by **THE CURATORS OF THE UNIVERSITY OF MISSOURI**, a body politic and corporate (the "University" and "Grantor").

RECITALS:

A. The University is the owner in fee simple of the area included in Missouri Research Park Plat One recorded in Plat Book _____, pages _____ at the St. Charles County Office of Recorder of Deeds (the "Property").

B. The University has established the Property within a research park known as Missouri Research Park (the "Research Park"). The Research Park has been developed pursuant to the provisions of Section 172.273 of the Revised Statutes of Missouri, which provides that "The Curators of the University of Missouri may establish research, development and office park projects, in order to promote cooperative relationships and to provide for shared resources between private individuals, companies and corporations, and the University of Missouri, for the advancement of the University in carrying out its educational mission and such projects are declared to be in furtherance of the purposes of the University."

C. The University desires to adopt certain controls and guidelines in order to (1) preserve confidence that the overall quality of development within the Research Park will be permanently protected, (2) maintain a consistently high quality of architectural and landscape design, integrated into a carefully preserved and sensitively enhanced natural setting, and (3) ensure that all building and land uses within the Research Park are consistent with the provisions of Section 172.273, and enhance the value of the investments made by Tenants and Owners in improvements within the Research Park.

D. The University shall be vested with the ownership of the Common Areas (as defined below) and shall have the power of maintaining, operating and administering the Common Areas and facilities and administering and enforcing this Declaration and collecting and disbursing the assessments and charges hereinafter created.

NOW, THEREFORE, the University hereby declares that the Property is and shall be held, transferred, sold, conveyed, leased and occupied subject to the covenants, hereinafter set forth.

ARTICLE I DEFINITIONS

In addition to the terms defined in the recitals and elsewhere in this Indenture, unless the context otherwise requires, when used herein the following terms shall have the following meaning:

"Building" means each and every building constructed on any Lot, including parking structures.

"Common Areas" means, collectively, all portions of the Property (including, without limitation, sidewalks, streets, roads, access roads, parking areas and all improvements and landscaping on such streets, roads, access roads and parking areas) now or hereafter owned by the University (or its grantees from time to time of the Common Areas) for the common use and enjoyment of the Tenants and Owners for the uses designated or approved by the University, including but not limited to (i) sidewalk, street and road rights-of-way, (ii) wetlands/floodways, (iii) stormwater detention areas, (iv) parks, trails or recreation areas, (v) landscaped and open areas designated as Common Areas on the plat, and "Common Area" shall mean any portion of the Common Areas.

"Design Review Committee" means a committee of three or more members appointed by the President of the University to perform the duties described in the Declaration.

"Developed Lot" means any Lot on which a Building may be constructed and which has been subdivided in accordance with this Declaration and is shown on the Subdivision Plat.

"District" means the Cottleville Community Fire Protection District.

"Drainage Facilities" means all ponds, swales, lines, conduits, pipes, water detention and retention basins and other storm water detention improvements located on the Property as the same may be improved, modified or altered after the date hereof.

"Executive Director" means the individual appointed by the president of the University to supervise the administration and development of the Park.

"Government Authority" means any Federal, State of Missouri, County of St. Charles, or agency thereof having jurisdiction over the Property or any portion thereof or any aspect of the development thereof. The foregoing shall not be construed as in contravention of the provision of Section 172.273.3 that "Lands and improvements utilized as a part of [research, development and office park] projects, so long as they remain a part of a project, shall not be subject to local zoning or local regulatory ordinances."

"Improvements" means and refers to any man-made changes in the natural condition of the land, including, without limitation, structures and construction of any kind, type or nature, whether above or below the land surface such as any Building, parking area, fence, wall, sign, retention pond, addition, alteration, screened enclosure, sewer, grading, landscaping, exterior illumination, any changes in any exterior color or appearance and including both original and all later exterior construction or exterior improvement on any Lot.

"Law" means any applicable law, statute, rule, regulation, ordinance, code, order or judicial interpretation of, or binding on, any Government Authority.

"Lot" means any plot of land shown on the Subdivision Plat.

"Occupant" means any Person legally entitled to occupy all or any portion of a Lot.

"Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, as shown in the Recorder's Office but excluding those having such interest merely as security for the performance of an obligation.

"Penalty Rate" shall mean twelve percent (12%) per annum.

"Person" means any individual, trust, trustee, partnership, corporation, association, limited liability company, real estate investment trust, governmental entity, educational institution, religious organization or other legal entity.

"Property" means that certain real property located in the County of St. Charles, State of Missouri consisting of approximately acres, more or less, more particularly described on Exhibit A attached hereto, as the same may be expanded or contracted from time to time pursuant to the provisions of this Declaration.

"Recorder's Office" means the Office of Recorder of Deeds for St. Charles County, Missouri.

"Subdivision Plat" means Missouri Research Park Plat One dated April 21, 2005 and recorded in Plat Book _____, page _____ of the Recorder's Office.

"Tenant " means the person(s) and/or entitie(s), holding the leasehold title to any Lot, excluding those having such interest merely as security for the performance of an obligation.

"Utilities" means all utility services, including without limitation, gas, water, sewer, electricity, steam, telephone and cable television and data wire service; and **"Utility"** means any one of such services or the provider thereof, as the context indicates.

**ARTICLE II
PROPERTY SUBJECTED TO THIS DECLARATION**

2.1 The Property is hereby encumbered and subjected to this Declaration and to all easements, restrictions, agreements, reservations and conditions herein and plats and easements previously recorded. This Declaration is for the mutual benefit and protection of the University and all Owners, Tenants and Occupants.

2.2 The University shall have the right (but not the obligation), from time to time, to amend the description of the Property covered by this Declaration (to add to, or subtract from, the property covered by this Declaration) by recording any such amendment in the Recorder's Office. From and after the recording of any such amendment, the term "Property", as used herein, shall mean and refer to the amended description of the Property.

2.3 The rights, privileges, obligations, duties, responsibilities, liabilities and burdens of each Owner and Tenant to abide by all provisions of this Declaration, including, without limitation, payment of general and special assessments as provided in this Declaration, shall be personal to each Owner and Tenant and may be enforced by or against any Owner and Tenant; provided, however, that if ownership of any Lot is conveyed, then the grantor under such conveyance shall be relieved of any personal liability for obligations which accrue under this Declaration after such transfer and the grantee of such conveyance shall become the Owner for all purposes thereafter.

2.4 If the University adds additional lands to the Property pursuant to the University's rights under Section 2.2 hereinabove, then the University shall have the right, but not the obligation, to subject such additional lands to this Declaration and, further, to impose additional restrictions, covenants, conditions and easements on said lands beyond those provided herein by recording an amendment hereto in the Recorder's Office. Nothing in this Declaration shall obligate the University to subject any such additional lands to this Declaration or to any other restrictions, covenants, conditions or easements. Following the execution, delivery and recording of any amendment to this Declaration subjecting additional lands to this Declaration, the land added thereby shall be deemed to be subject to this Declaration and the then and future Owners and Tenants thereof shall in all respects be fully subject to this Declaration and all rights, privileges, obligations, duties, liabilities, responsibilities, burdens and restrictions, including, without limitation, the right to vote for Members and the obligation to pay assessments as though said land had originally been included in and subject to this Declaration.

**ARTICLE III
COMMON AREAS**

3.1 **Maintenance.** In order to ensure that the high quality of development planned for the Research Park is maintained, the University retains the following rights:

(a) The University shall have the right to maintain all designated Common Areas and roadways, and, for this purpose, to enter into contracts for maintenance and replacement of landscaping, snow removal, and the repair of improvements within the Common Areas. The University shall also have the right to enter into contracts for trash collection, fire protection, security, and other services that it deems beneficial to all Owners and Tenants in the Research Park.

- (i) The University shall bill a pro-rata share of the cost of such services to the site user, plus an administrative service fee of fifteen percent (15%) of the amount billed to offset the cost incurred in negotiating and administering service contracts.
- (ii) Each site user may contract with the University's service contractor(s) for landscape, snow removal and other maintenance services.
- (iii) In the event that the obligations for meeting the standards of these guidelines are not kept by the site user, the University shall have the right, thirty (30) days after written notice of intent to do so has been mailed to the site user, to enter the property, perform the required maintenance and upgrading, including, but not limited to, replacement of dying landscape materials, building repairs, removal of non-conforming signs and lighting standards. The University may assess the site user for the cost of such work on the basis described in Article V.
- (iv) Unpaid financial obligations of the site user with respect to maintenance charges shall become a lien on the fee or leasehold interest of the Lot Owner or Tenant.

(b) The right, from time to time, to dedicate, transfer or grant easements over all or any part of the Common Areas to any Government Authority or Utility for such purposes and upon such conditions as the University may determine.

(c) The right to amend this Declaration, either by specific amendment or by adding any additional covenants, restrictions or easements on any plat of all or any part or parts of the Property now or hereafter placed of record; provided, however, that any such amendment or plat hereafter placed of record shall not affect any part of the Property whose Owner does not execute the same.

(d) The right (but not the obligation), from time to time, to establish, modify, amend and rescind reasonable rules and regulations regarding the use and enjoyment of the Common Areas.

(e) The right, from time to time, to amend all existing easements and restrictions of record affecting all or any portion of the Common Areas and the right to grant additional easements affecting the Common Areas or any part thereof.

(f) The right (but not the obligation), from time to time, to borrow money for the purpose of acquiring, leasing or improving the Common Areas and in aid thereof to mortgage or otherwise burden or encumber the same, but any such mortgage shall be subject to any and all easements upon or affecting streets, roads, walkways and recreational facilities, and stormwater control system.

(g) The right (but not the obligation), from time to time, to take such steps as are reasonably necessary to protect the Common Areas against foreclosure.

(h) The right (but not the obligation), from time to time, to suspend the enjoyment rights of any Owner or Tenant with respect to the Common Areas for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations.

3.2 Use. The Common Areas shall be for the use and benefit of the University, the Owners, the Tenants, and their respective agents, employees, tenants, contractors and invitees for the purposes referred to in Section 3.1 above. The Common Areas shall be used by each Person entitled to its use in such a manner as shall not abridge the equal rights of other Owners to the use and enjoyment thereof. Each Owner shall be liable to the University for any and all damage to the Common Areas and any personal property or improvements located thereon, caused by such Owner or Tenant, its agents, employees, tenants, contractors, subcontractors, invitees, licensees, lessees and contract purchasers, and the cost of repairing same shall be a lien against such Owner's Lot or Lots, as provided in Article V. The use of the Common Areas shall be restricted to ingress and egress, utility purposes, parking, landscaping, drainage, security, safety, recreation and lighting purposes or any other common use which the University may designate in any amendment to this Declaration or on any plat establishing one or more Lots.

3.3 Rules and Regulations. No Owner or other permitted user shall violate the reasonable rules and regulations for the use of the Common Areas, as the same are from time to time adopted, amended or restated from time to time by the University.

ARTICLE IV POWERS AND DUTIES OF THE UNIVERSITY

4.1 Powers and Duties. The University shall have the powers and duties set forth herein, including the right to enforce the provisions of this Declaration, and the right to levy and collect assessments for expenses relating to the Common Areas, and such additional rights as may be reasonably implied therefrom.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Annual Assessments. The Grantor may levy lawfully annual assessments to promote the health, safety and welfare of the Owners and Tenants of the Research Park and for the maintenance of the Common Areas, the replacement of improvements thereon, and the carrying out of the other responsibilities and obligations of the Grantor under this Declaration. Without limiting the generality of the foregoing, such funds may be used for services and facilities related to the use and enjoyment of the Common Areas, including the costs of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision of same; defraying the cost of administering the covenants, conditions, restrictions and easements contained in this Declaration; the payment of taxes and assessments and collect made or levied against the Common Areas; the procurement and maintenance of bonds and insurance; the employment of attorneys, accountants, engineers, architects, and other professionals to represent the University when necessary or useful; the maintenance, landscaping and beautification of the Common Areas and such public lands as may be designated by the University and as may be permitted by the Government Authority controlling such public land; the engagement of security personnel to provide services which are not readily available from any Government Authority; and such other needs as may arise. Notwithstanding anything to the contrary in this Declaration, nothing contained herein shall constitute a representation or assurance by the Grantor as to any Owner, Tenant or any other person that the Common Areas or any portion of the Property or any other matter or thing tended by the Grantor will be safe, sanitary and free of defects or will otherwise not cause injuries to persons or damages to property; and the Grantor hereby disclaims any and all liability with respect thereto, to the maximum extent permitted by law. The Grantor shall not be deemed to be an insurer or indemnitor with respect to any injuries or damages suffered by any person.

5.2 Maintenance of Common Area and Landscaping. All of the Common Areas and Improvements within the Common Areas and all personal property owned by the University in connection with its rights, duties and obligations under this Declaration shall be maintained by and at the expense of the University, as the case may be, with funds provided by the assessments, unless otherwise specifically set forth herein. Without limiting the generality of the foregoing, the University's maintenance responsibilities shall extend to and include maintenance for all identification sign(s) for the Research Park, indicating the location of and/or entrance to the Property and any central directories; planting and maintaining wooded and landscaped areas; and sweeping, striping, lighting, improving and maintaining streets and roads. In the event that the need for maintenance or repair of the Common Areas or any personal property owned by the University with respect to its rights, duties and obligations hereunder is caused by the willful or negligent act of an Owner or Tenant, its tenants, licensees or invitees, the cost of such maintenance or repair shall be due and payable from the Owner or Tenant, and shall be secured by a lien against such Owner's Lot or Tenant's leasehold interest as provided in Section 5.8.

5.3 Special Assessments for Capital Improvements and Major Repairs. In addition to the annual assessments authorized above, the University may levy, in any

assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of reconstruction, repair or replacement of capital improvements upon the Common Areas, including fixtures and personal property related to the Common Areas. Written notice of each special assessment and the due date thereof shall be sent to all Owners and Tenants subject thereto at least thirty (30) days in advance of the due date.

5.4 Reserves. The University, in its sole and absolute discretion, may establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements within the Common Areas and any other improvements which the University is obligated to maintain hereunder. The reserve fund shall be funded as part of the annual assessment levied by the University.

5.5 Due Dates. The Grantor shall fix the amount of the annual assessment against such Lot in advance of each annual assessment period. Written notice of the annual assessment, and the due date for payment, shall be sent to every Owner and Tenant subject thereto. Unless otherwise or from time to time directed by the Grantor, assessments shall be paid to the Grantor on an annual basis within thirty (30) days after the date of such notice. The due date for special assessments shall be as established by the Grantor.

5.6 Rate and Collection. For the purpose of carrying out the general obligations and powers of the University as set forth in this Declaration, the University shall have the right to levy an annual general assessment against each Owner or Tenant of each and every Lot for the purposes set forth in Section 5.1 in an amount equal to its pro-rata share of the Total Annual General Assessment (defined herein), and such pro-rata share shall be determined pursuant to the provisions of this Article V. The annual general assessment to be levied for all of the Property shall be estimated by the University as of the beginning of each calendar year (the "Total Annual General Assessment") and shall be based upon the University's good faith estimate of the actual costs to be incurred in such calendar year in carrying out the duties and responsibilities hereunder. Additionally, the University may levy special assessments at any time during a calendar year (or within thirty (30) days after the end of such calendar year) after the determination by the University of the Total Annual General Assessment for the purpose of carrying out the general obligations and powers of the Association as set forth herein, and to pay for any and all actual expenses incurred or to be incurred by the University for such calendar year pursuant to the provisions hereof. The assessments, charges and liens provided for or created by this Declaration shall not apply to the Common Areas or to any property dedicated to and accepted for maintenance by a public or governmental authority or agency, or to unimproved Lots owned by Grantor.

5.7 Pro-rata Share. The pro-rata share of the Total Annual General Assessment to be paid by each Owner or Tenant shall be determined as provided herein. The pro-rata share for each Owner or Tenant shall equal the Total Annual General Assessment multiplied by a fraction, the numerator of which is the acreage of the Lot(s) owned by such Owner or leased by such Tenant and the denominator of which is the sum of the total

aggregate acreage of the platted lots within the Property. All determinations of acreage shall be rounded to the nearest tenth of an acre.

5.8 Lien Rights.

(a) **Creation of the Lien and Personal Obligation of Assessments.** The Owner or Tenant of any Lot by acceptance of a deed or lease therefor, whether or not it shall be so expressed in such deed or lease, is deemed to covenant and agree to pay to the University (i) annual assessments or charges and (ii) special assessments; such assessments to be established and collected as provided herein. The annual and special assessments, together with interest at the Penalty Rate, costs, and reasonable attorneys' fees incurred in collecting same, shall be a charge on, and a continuing lien upon, the Lot (or leasehold estate, as the case may be) against which each such assessment is made. Each Lot (or leasehold estate) shall stand as security for any expense due the University and for any other sums due hereunder from its Owner (or Occupant, as the case may be) to the University, and in connection with such Lot. Each such sum, together with interest, costs, and attorneys' fees, shall also be the personal obligation of the person who was the Owner (or Occupant) of such Lot at the time when the assessment fell due. If any Lot is owned (or leased) by more than one Owner or Tenant, as the case may be, the rights of the University hereunder may be enforced against any and all such Owners or Tenants, jointly and severally. The personal obligation for delinquent assessments shall not pass to an Owner's or Tenants successors in title unless expressly assumed by such successors, provided, however, that the lien therefor shall remain valid and in full force and effect.

(b) **Notice of Lien.** To secure any sum payable by an Owner or Tenant to the University under the terms of this Declaration, the University shall be entitled to file in the Recorder's Office, a notice of its claim of lien by virtue of this contract with the Owner or Tenant. Said notice shall state the sum payable and shall state that it also secures interest on such sum payable at the Penalty Rate and attorneys' fees and costs incurred in its preparation, recordation, and enforcement and shall contain a description of the Lot (or leasehold estate) against which enforcement of the lien is sought. The lien herein provided shall date from the time that the obligation or expense is incurred, but shall not be binding against creditors until said notice is recorded.

(c) **Foreclosure.** The amount secured by the lien herein provided shall be due and payable thirty (30) days after Notice of the Assessment per Section 5.5 and if not paid, said lien may be enforced in the same manner as special assessments are enforced under applicable law, and/or bring suit on the personal obligation of the Owner or Tenants. The amount due and secured by said lien shall bear interest at the Penalty Rate, and in any action to enforce payment, the University shall be entitled to recover costs and attorneys' fees, which shall also be secured by the lien being enforced. The defaulting Owner or Tenant shall continue to be liable for assessments levied by the University during the period of foreclosure, and if the University is foreclosing the lien, then all assessments levied through the date a judgment of foreclosure is entered shall be secured by the lien

foreclosed. The University shall have the right to bid at any foreclosure sale and acquire title to the Lot or leasehold estate being sold.

(d) **Other Remedies.** Each Owner and Tenant hereby acknowledges that a violation of one or more of the foregoing restrictions or obligations may cause the University to suffer material injury or damage not compensable in money and that the University shall be entitled to bring an action for specific performance to enforce compliance with these restrictions or to enjoin the continuance of any breach of violation hereof.

(e) **Remedies Cumulative.** The University shall have the right, at its sole option, to enforce any one or more of the remedies contained in this section or any other rights or remedies to which the University may be entitled by applicable law, whether or not set forth herein. All remedies provided herein or by applicable law shall be cumulative and not mutually exclusive.

5.9 Subordination of the Lien to Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any deed of trust encumbering the fee or leasehold interest in a Lot. No sale or transfer other than in connection with a deed of trust foreclosure or deed in lieu of foreclosure shall release any Lot from liability for assessment payments thereafter becoming due or from the lien thereof.

5.10 Creation of Leasehold Estate. All creations of leasehold estates affecting any Lot shall be reported by the Owner upon completion of the transaction to the University, by written notice indicating the Lot involved, the Owner and the Tenant, together with a memorandum recorded in the Recorder's Office summarizing the lease terms. Until such notice is delivered, the Owner shall remain primarily responsible for the compliance of all matters required of it as an Owner hereunder.

ARTICLE VI DEVELOPMENT CONTROL AND PLAN REVIEW

6.1 Design Review Committee. In accordance with the review procedures described in this section and applying its judgment on the intent of the Master Development Plan, the Design Review Committee will review all development proposals. As the design for the building and site evolves, each development proposal will be reviewed by the Design Review Committee. The Design Review Committee may retain the services of professional technical advisers in the fields of engineering, architecture, landscape architecture and/or planning, and code compliance to assist in evaluating submissions on the basis of design and other technical considerations. The Office of Facilities Planning and Development of the University or successor office shall be responsible for coordinating the review and approval process for the Research Park. This coordination includes receipt of submissions, communication of Design Review Committee responses and comments, coordination of meetings, and monitoring of and compliance

with the Declaration and the Master Development Plan before, during and after construction.

6.2 Pre-Design Conference. Before the application for review of a development proposal is initiated, the Design Review Committee will meet with the applicant, the applicant's architect and other consultants to clarify mutual design objectives, the characteristics of the particular lot, and technical issues related to design review procedures. At this meeting, the applicant will provide a topographical survey at the scale of one inch equals forty feet and an outboundary plat of the subject parcel. The preliminary planning survey, which is not intended for construction, will contain the following information:

- (a) Property boundaries, including relationship to adjacent land and access roads.
- (b) Topography within site boundaries, shown by two-foot contour intervals.
- (c) Locations of existing utilities, easements, and other existing improvements on or adjacent to the site.

6.3 Development and Submission of Preliminary Plans. Prior to submitting the preliminary plans for approval, the applicant shall submit conceptual and schematic drawings for review by the University as they evolve. Submission of preliminary plans by the applicant should consist of three (3) sets of drawings, outline specifications, photographs or other materials detailing the lot, site and building information described below. Each drawing shall include the project name, name of consulting firm(s), date (latest revision); scale (where appropriate) and north arrow (where appropriate). The drawings to be submitted shall include:

- (a) Site Plan showing building, walks, parking areas, service areas, entrance drive, and signage. Dimensions and other related site development information and calculations should also be included.
- (b) Clearing, grading and drainage plans showing proposed clearing limits, existing and proposed contours at two foot (2') intervals, existing vegetation to be protected or removed, and drainage plan with erosion control measures indicated, including percentage of slope for side slopes and flow lines of proposed drainage swales.
- (c) Landscape and irrigation plan showing preliminary massing and type of plant material (e.g., evergreen, shade trees) and areas to be irrigated.
- (d) Elevations of building(s) from all sides at an appropriate scale to indicate the placement and massing of the building(s). The following building details

should be provided: (i) height of all improvements, (ii) location of all exterior building openings, and (iii) notation of exterior building materials, colors and textures.

(e) Cross sections of the site at a minimum scale of 1" = 16' in longitudinal and transverse directions, indicating the relationship of the building and site grades to the street, adjacent properties and edges of wooded areas, sufficiently complete and accurate to permit analysis of visual screening, tree protection and landscape architectural design.

(f) Signage plans for the major entrance sign and building identification sign, if any, including dimensioned location, materials, lettering, color and informational lighting, and elevations of the prototype for on-site directional signs showing format, letter face and colors.

(g) Expansion plans identifying initial and ultimate improvements, including buildings, paved areas, grading and landscaping.

(h) Calculations for building density, site coverage and parking, showing basis for determining parking spaces (use/floor area or number of employees).

(i) A description of proposed operating characteristics in sufficient detail to identify the extent of noise, odor, glare, vibration, smoke, dust, gases, radiation, hazardous wastes or liquid wastes that may be created.

6.4 Review and Approval of Preliminary Plans. After review of the preliminary plans submission materials, the Design Review Committee will meet with the applicant and architect/engineering consultants to discuss the design of the project. The applicant will receive written notification of the approval or rejection of the preliminary plans by the Design Review Committee.

6.5 Development and Submission of Construction Documents. After approval of preliminary plans, sealed construction documents shall be developed and submitted for approval by the University. As the construction documents are being developed, the applicant should notify the University in writing in the event of any changes in the approved design concept, as illustrated in the preliminary plans or changes in the project scope. Information provided by the construction documents should include construction drawings and specifications describing all proposed improvements to the site.

6.6 Review and Approval of Construction Documents. Approval or rejection of the construction documents by the University will be based on a review of their compliance with the Master Development Plan, the Declaration and Design Guidelines, and applicable codes and regulations. Plans shall also be subject to the codes and regulations of the District. The University will meet with the applicant and the applicant's architect to discuss the construction documents. The University will return to the applicant one complete set of the approved construction documents signed by the Executive Director.

Grading and construction shall not begin prior to written approval from both the University and the District.

Construction documents submitted for approval shall include the following statement signed by the responsible professional consultant:

"I hereby certify that these drawings and/or specifications have been prepared by me, or under my supervision. I further certify that to the best of my knowledge these drawings and/or specifications are as required by and in compliance with the Building Codes of the University of Missouri."

Signature: _____

No Building or Improvements shall be erected, placed or altered on any Lot in the Research Park until the plans and specifications for such Building or Improvements and the grading and damage plans for such Building Site have been approved in writing by the Grantor as to conformity and harmony of external design with existing Buildings and Improvements on the Property and as to location of the Building and Improvements on the Building Site, giving due regard to the anticipated use thereof, the effect thereof on adjoining structures, uses and operations, and the topography, grade and finished ground elevation.

6.7 No Liability. Neither the Grantor nor its successors or assigns shall be liable in damages to anyone submitting plans for approval, or to any owner of land affected by this Indenture , by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval or disapproval of any such plans. Every person who submits plans to the Grantor for approval agrees, by submission of such plans and specifications, and every owner or tenant of any Lot agrees, by acquiring title thereto or an interest therein, that it will not bring any action or suit against the Grantor to recover any such damages.

6.8 Subsequent Approvals. Any additions to or changes in use from those shown on plans and specifications previously approved by the Grantor shall require the review and approval of the Grantor pursuant to this Article. The Grantor is empowered at the expense of the concerned Owner or Tenant to abate and compel the removal of any construction commenced with out the approval required herein. All expenses (including attorneys' fees) incurred by the Grantor in removal of any such construction shall constitute a lien against the concerned Building Site enforceable as other equitable liens under Missouri law, but shall not be included in the assessment hereunder.

6.9 Building and Materials and Construction. It is the intent of this Indenture that all Buildings and other Improvements within the Property shall be constructed of attractive exterior materials of high quality. In its review of submissions, the Grantor shall evaluate the construction standards and building materials for all proposed construction to insure that they are in conformance with the general objectives enumerated herein.

Exterior mechanical and electrical equipment, including roof top equipment and trash containers, shall be so placed or screened that in the opinion of the Grantor the predominant design lines of the Improvements continue without visual distraction or interruption. If the function of the Improvements dictates placement of such equipment in such a manner or location that the exterior walls are unable to screen the equipment from view, they shall be separately screened using compatible materials or suitable landscaping, and the height of such screening shall be at least equal to the height of the equipment to be screened. Accessory buildings, enclosures, appurtenant structures or extensions from any Building shall be of similar or compatible materials, design and construction. Once approved, exterior finishes shall not be altered without the express consent of the Grantor.

6.10 Exterior Colors. The exterior finishing colors on all structures as originally provided or originally approved by the Grantor shall be maintained and shall not be changed without the approval of the Grantor.

6.11 Landscaping.

(a) All Building Sites shall be landscaped in accordance with plans to be submitted to and approved in writing by Grantor prior to improvement of the Building Site. Such landscaping plans shall include information regarding the type and location of all sodding, seeding, trees, hedges and shrubs, and information regarding other customary landscape treatment for the entire site, including fences, walls and screening. All landscaping plans shall also include an underground lawn sprinkling system. All landscaping shall be undertaken and completed in accordance with such approved plans and said plans may not be altered, amended or revised without prior written approval by the Grantor.

(b) All landscaping required hereunder or otherwise to be provided on any Building Site shall be completed within sixty (60) days after the substantial completion of construction of any Improvements to be constructed on the Building Site; provided, however, if weather conditions do not at such time permit, such landscaping shall be completed as soon thereafter as reasonably practicable. If any Owner fails to undertake and complete its landscaping within the time limit set forth herein, Grantor may, at its option, after giving such Owner ten (10) days' prior written notice, undertake and complete the landscaping of the Building Site in accordance with the approved landscaping plan, unless within said ten (10) day period the Owner shall proceed and thereafter pursue with diligence the completion of such approved landscaping. If Grantor undertakes and completes such landscaping, the cost of such landscaping shall be assessed against the Owner, and if said assessment is not paid within thirty (30) days after written notice of such assessment from Grantor, said assessment and costs of collection and enforcement (including attorneys' fees) shall constitute a lien on the Building Site equal in priority to the lien provided in Section 5.8 hereof, and enforceable in the same manner as therein provided, but shall not be included in the general assessment hereunder.

ARTICLE VII

MAINTENANCE; DAMAGE; INSURANCE

7.1 Care and Appearance of Lots. Each Owner or Tenant shall maintain each Lot owned or leased by such Owner or Tenant and all Improvements thereon in good repair and in a neat, safe and first-class condition, and in compliance with all applicable Laws. In addition, each Owner or Tenant shall maintain any grassy strips with any public right-of-way abutting its Lot in the same manner as the grassy areas within its Lot. The foregoing maintenance obligations of Owners or Tenants shall include, without limitation, the following:

- (a) Removing promptly all litter, trash, refuse and wastes;
- (b) Mowing of lawns no less often than when the grass is more than five (5) inches high; if the Lot is unimproved, weeds must be kept cut below twelve (12) inches;
- (c) Pruning of trees and shrubbery, and promptly replacing dead plant material;
- (d) Watering, fertilizing, and spraying for control of insects and fungus;
- (e) Keeping exterior lighting, signs and mechanical facilities in working order;
- (f) Keeping lawn and landscaped areas alive, free of weeds and attractive;
- (g) Keeping parking areas, driveways and roads in good repair;
- (h) Complying with all governmental, health, police and fire requirements, statutes and regulations;
- (i) Striping and sealing of parking and driveway areas;
- (j) During construction, insuring that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and keeping trailers and any other temporary structures in a neat and orderly manner;
- (k) Keeping all site irrigation and drainage systems in good repair and working order;
- (l) Painting of all exterior painted surfaces at least once every three (3) years, unless a waiver is obtained from the University; and
- (m) Erosion control to protect storm drainage systems.

Upon an Owner's or Tenant's failure to do so, the Grantor may, at its option, after giving the Owner or Tenant thirty (30) days' written notice sent to the Owner's or Tenant's last known address, make or cause there to be made repairs and/or improve the appearance of the Improvements in a reasonable and workmanlike manner, with funds of the Grantor. The Owner or Tenant of such Improvements shall reimburse the Grantor for any work above performed, together with costs of collection, including reasonable attorneys' fees, (which may include funds received by virtue of assessments), and to secure such reimbursement, the Grantor shall have a lien upon the Owner's Lot or Tenant's leasehold estate, as the case may be, enforceable as provided in Section 5.8 hereof.

7.2 Utilities, Equipment and Fixtures. All fixtures and equipment serving only one Lot, including without limitation, utility lines, pipes, wires, conduits and the like, shall be maintained and kept in good repair by the Owner or Tenant of the Lot served by such equipment and fixtures. In the event any such equipment and fixtures installed within the Property serve more than one Lot, whether or not within a Lot, the expense of maintaining and repairing same shall be shared equally by the Owners or Tenants of the Lots served by same. Notwithstanding the foregoing, in the event any such equipment or fixtures damaged as a result of the actions of any person or entity other than the Owners or Tenants responsible for repairing same, the person causing the damage shall be liable for all expenses incurred by the Owners or Tenants in repairing same. No Owner or Tenant shall do or allow any act, or allow any condition to exist, that will impair the structural soundness or integrity of any Building or impair any easement established or referenced herein, or do any act or allow any condition to exist which will or may adversely affect any Building or any Owner of a Lot or Tenant of a leasehold or create a hazard to persons or property.

7.3 Damage and Reconstruction. In the event any Building is damaged or destroyed by casualty or otherwise, the Owner or Tenant shall promptly clear all debris resulting therefrom and rebuild or repair the damaged Building. Any repair, rebuilding or reconstruction of Buildings on account of casualty or otherwise shall be substantially in accordance with the plans and specifications for such Buildings as originally constructed or with new plans and specifications approved by the Design Review Committee.

7.4 Insurance. Liability insurance coverage may be obtained in such amounts as the University may determine from time to time for the purpose of providing liability insurance coverage for the Common Areas as a common expense of all Owners and Tenants. Each Owner or Tenant shall at all times maintain, for each Lot owned or leased, as the case may be, adequate casualty insurance to provide for complete reconstruction of all Improvements on such Lot after casualty, and liability insurance coverage in such amounts as may be required by the University from time to time. Each Owner or Tenant shall cause the University to be named as an additional insured as to liability insurance obtained by the Owner or Tenant, shall cause the certificate issued to provide the University with not less than ten (10) days advance written notice of termination, cancellation, or non-renewal, and shall provide the University with evidence of the insurance required hereunder, and each renewal of same. Upon any Owner's or Tenant's failure to obtain the required insurance,

the University may, after three (3) days written notice, procure the required insurance, and the cost thereof shall be immediately due and payable by the defaulting Owner or Tenant and shall bear interest and be secured by a lien as provided in Section 5.8 hereof.

7.5 Waste and Refuse. No waste material or refuse shall be dumped upon or permitted to remain on any part of a Lot outside the Buildings constructed thereon. All waste materials shall be contained in appropriate receptacles in accordance with all applicable laws and ordinances, and shall be screened by a six (6) foot high sight-proof fence. No trash containers may be placed in the area between the front wall or walls of a Building and any street or road.

7.6 Environmental Matters. Except in accordance with and as permitted under applicable laws and ordinances, no hazardous materials (as the same are from time to time defined in applicable federal or state laws or regulations) will be stored, used, treated, disposed of or released upon any part of the Property.

7.7 Resubdivision. Once a Lot has been purchased from Grantor, such parcel of land shall be considered a single unit, and it shall not be resubdivided, or a portion of the land sold, leased, or rented, unless prior written approval is given by Grantor.

ARTICLE VIII GENERAL USE RESTRICTIONS

8.1 Permitted Activities. The University has established the following criteria for defining land and building uses appropriate to the mission and environment of the Research Park:

(a) Laboratories and related facilities intended for basic and applied research, development of technology-based products and services, or testing of technology-based products and services.

(b) Facilities intended for production or assembly of products of a technological nature, provided that this production is supported by on-site research or product-development activities.

(c) Pilot plants in which prototype production processes can be tested and used for assembly of products of a technological nature.

(d) Corporate, regional and divisional headquarters of technology-based or knowledge-driven companies and organizations.

(e) Technology-dependent or computer-based facilities dedicated to the processing of data or analysis of information, provided that these information services are supported by on-site research or product development.

(f) Offices and related facilities of not-for-profit research or educational institutes, as well as professional, training, research, scientific or engineering associations.

(g) Corporate and professional training facilities, provided that these facilities maintain ongoing cooperative relationships with the University's Continuing Education or Extension Programs.

(h) Services and retail uses incidental to, and in support of, any uses permitted in Sections 1 through 7 above, such as hotels, conference centers, restaurants, banking facilities, day-care centers, and recreational facilities.

(i) Incidental operations required to maintain or support any uses permitted in Sections 1 through 7 above, such as maintenance shops, hazardous-materials handling facilities, water-treatment facilities, and machine shops.

(j) Any other facilities reasonably related to the intended mission of the Research Park, provided these uses are specifically approved by the University of Curators of the University of Missouri, pursuant to the provisions of Section 172.273 of the Revised Statutes of Missouri, as amended from time to time.

8.2 Excluded Activities. No building or land in the Research Park shall be used for:

(a) Distribution or warehouse operations, except as such operations are incidental to an approved production or information-service operation

(b) Facilities of the type that could cause an operational nuisance, such as excessive noise, odors, dust, fumes, smoke, or emission of environmentally hazardous effluents or gasses.

(c) Information-service or data-processing facilities that are in support of strictly "internal" corporate management functions, such as accounting, payroll, information systems, or communications, except as such facilities are incidental to a corporate, regional or divisional office of an approved company or organization

ARTICLE IX CODES AND STANDARDS

9.1 Scope and Jurisdiction. All projects shall be designed and constructed per the codes and standards of the University and the District in effect from time to time. In case of conflict, the most restrictive code shall apply unless otherwise specified by the University. The University, as the initial "authority having jurisdiction," has established the codes and standards for the Research Park to be those provisions contained in the latest revised editions of the NFPA Code and the BOCA basic codes, and all other codes, referenced therein including, but not limited to:

(a) Building Officials and Code Administrators ("BOCA") International Inc. Basic Building Code.

(b) BOCA Basic Plumbing Code.

(c) BOCA Basic Mechanical Code.

(d) National Fire Protection Association (NFPA) Code.

(e) American National Standards Institute (ANSI) A117.1 or ADA Accessibility Guidelines for Buildings and Facilities.

The University is the "authority having jurisdiction" and may waive specific code requirements where it has precedent to do so. The University's general policy is not to grant code deviations. The foregoing is subject to the Intergovernmental Agreement between the University and St. Charles County, Missouri.

9.2 Fire Protection District Review. All building plans and specifications, and any hazardous materials emergency plans shall be reviewed by the District for compliance with the building code enacted by the District.

9.3 Accessibility. Facility designs shall not build in barriers for disabled individuals. Provisions for disabled accessibility shall be designed per ANSI 117.1 or the ADA Accessibility Guidelines for Buildings and Facilities, or successor thereto, whichever provides the greatest degree of disabled accessibility.

9.4 Conformance. The Owner is responsible to design and construct the facility in conformance with the University Building Codes. Further, the Owner's professional design consultant shall certify the facility has been designed and constructed in conformance with the University Building Codes (See Section 6.6).

9.5 Construction Procedures and Approvals.

(a) **Trenching or Blasting.** No site user shall use explosives for the purpose of constructing foundations, trenches, etc., without the express permission of the University. Such explosives shall only be used by licensed personnel to ensure that adjoining buildings do not suffer structural damage resulting from actions of the party utilizing the explosives. Any site user utilizing explosives will inform adjacent building owner/occupants within the blasting area of their use and time of explosion.

(b) **Project Supervision.** An applicant shall agree to allow the University's project construction manager, and the University's agents, free access onto its Lot for the purpose of assuring the University that the facility is being constructed in accordance with the approved construction documents.

(c) **Maintenance Escrow.** Prior to commencing construction, the general contractor or construction manager will be required to submit a cashier's check in the amount of \$5,000.00 made payable to The Curators of the University of Missouri. This money will be held and, if necessary, be used for repairs in the event the contractor or subcontractors are responsible for damage done to either common ground (e.g., streets, berms, existing utilities, landscaping) or adjacent sites. At the completion of the project, and upon final inspection and approval by Research Park officials, all remaining moneys will be promptly refunded.

(d) **Contractor Responsibility.** During construction, it will be the responsibility of the contractor and all subcontractors to maintain siltation control devices along the main road of the park, and in any other areas, that are determined necessary through review and approval by Research Park officials. It will be the responsibility of the contractor to maintain a clean work site, including the maintenance of the access roads leading to the site. During all stages of construction, especially grading, the contractor must maintain the cleanliness of the main road. To this end, it will be expected that at least once per week a thorough cleaning of the road be done either by washing or broom cleaning, and that at least once per month a power sweeping of the road be completed. During the grading phase of the contract, the contractor must clean the road at the completion of each and every work day.

(e) **Deficiencies.** During construction, periodic inspections will be made by the University, and notification of deficiencies will be sent to the contractor. The contractor will be given a reasonable time to remedy deficiencies; however, should the contractor fail to respond accordingly, the corrective work will be completed by others and payment for this work will come from the funds available in escrow.

(f) **Construction Parking.** All construction parking must remain on the Lot under construction. It will be the responsibility of the contractor to provide adequate space for and maintenance of a suitable area for parking of workers. Unless prior approval is given by the Landlord, no parking will be permitted offsite or on the street. Any vehicle parked in violation of these conditions will be subject to towing.

(g) **Site Cleanup.** It will be the responsibility of the contractor to maintain a clean work environment on the entire site. Appropriate cleanup should be performed daily to prevent trash from spreading to adjacent sites. Proper trash containment is required.

(h) **Issuance of Certificates of Compliance.** Upon final inspections and approvals by the University, the University shall issue temporary or final Certificates of Compliance. No building shall be occupied without such Certificates of Compliance and occupancy permits from the District.

(i) **Architect Certification.** Prior to the issuance of a Final Certificate of Compliance, the University will require a certified copy of the Architect's final inspection list of items to be completed or corrected. The inspection list must specify that all items have been duly inspected and approved by Architect and are in conformance with the construction documents submitted prior to construction. The inspection list must be signed and dated by the Architect.

ARTICLE X DEVELOPMENT DESIGN STANDARDS

10.1 Minimum Lot Size. The minimum lot size for development is two acres (87,120 square feet).

10.2 Setbacks. Unless otherwise specified in these standards, no structure of any kind and no part thereof, may be sited within the setback lines described below. Dimensions are from the legal lot line as illustrated on the subdivision plat. The University retains the right to waive setback requirements.

(a) **Front Setbacks.** A building must be set back a minimum of thirty (30) feet from any Research Park street right-of-way. An additional five (5) foot setback shall be added for each story above the first story of a building. As an alternative, the minimum thirty (30) foot setback line may be maintained if each story above the first floor is stepped back a minimum of five (5) feet from the floor below it.

(b) **Side Setbacks.** The sideyard of each lot must be a minimum of fifteen (15) feet from the property line. Side setbacks abutting residential or interstate highway property shall meet the same requirements as the rear setback described in Section 10.2(c) below.

(c) **Rear Setbacks.** The rear yard of each lot must be a minimum of fifteen (15) feet from the property line. The rear yard of each lot must be a minimum of fifty (50) feet from the property line when a lot or intervening open space reserve is adjacent to a residential property or the Highway 40/61 (I-64) right-of-way, reduced by the width of any open space reserve which separates the lot from such property or right-of-way.

(d) **Setbacks from Wooded Areas.** All proposed construction shall be outside the drip line of existing wooded areas.

(e) **Exceptions.** The following improvements are expressly excluded from these setback restrictions:

- (i) Steps, walks and driveway access to the site.
- (ii) Landscaping, including landscaped earthen berms.

- (iii) Planters, not to exceed four (4) feet in height or two (2) feet in height where they would interfere with visual safety at site access points.
- (iv) Illumination.
- (v) Identification graphics.

10.3 Density of Development. The density of development will be subject to design review by the University. It will be evaluated with the objective of creating a campus-like environment. A floor area ratio (F.A.R.) of .25 will be used as a general guideline in evaluating proposed projects, computed as follows:

$$\text{Floor Area Ratio} = \frac{\text{Gross Building Area (all floors)}}{\text{Total Site Area}}$$

This ratio will be subject to change by the Design Review Committee if warranted on specific projects.

10.4 Minimum Open Space and Landscaped Areas. The amount of undeveloped open space and developed landscaped areas (including plazas or similar type areas) will be subject to design review by the University. Landscape plans will be evaluated with the objective of creating a campus-like environment. As a goal, a minimum of 30% of the site (preferably 35%) should be open for landscaping and, therefore, should not be covered by buildings or paving for access, circulation, loading and parking. It could be anticipated that larger lots would exceed these goals.

10.5 Building Height. Building height will be subject to design review by the University and evaluated in concert with the overall architectural character of each building and the relationship of the building to existing and proposed development within the Research Park.

10.6 Exterior Appearance of Buildings.

(a) **Architectural Character and Materials.** The Architectural character of each proposed building or structure shall be contemporary, rather than traditional in style. Eclectic styles such as gothic or colonial will not be permitted. Architectural designs will be evaluated in terms of the sensitive integration of form, textures and colors with the particular landscape and topographical character of each site and adjacent sites. To maintain a high standard of construction and appearance and to provide architecturally unified and interesting design, the exterior walls of each building are to be constructed of durable, permanent materials, tastefully handled (carefully selected brick, treated concrete, glass and other architectural panels). No temporary or flammable material will be approved.

(b) **Screening of Mechanical or Electrical Equipment and Vents.** Major systems requiring large components (e.g., air-conditioning, storage tanks, etc.) should be located in mechanical rooms within the buildings. Alternatives, including those required to meet mandated health and safety standards, might include an exterior location at, or depressed below, ground level, as necessary to limit heights to a maximum eight feet overall above grade, with screening on all sides, or be fully recessed into roof wells, with allowance for future equipment. Surface-mounted roof equipment should be concealed with screening which is low profile and completely integral with the overall architectural design of the building. Vertical roof projections, such as vents, stacks or roof-mounted equipment should be organized and screened in a manner integral to the architectural form of the building. Of particular concern to the University is the complete concealment from visual impact—from on or off the site—of: (1) storage tanks, (2) air conditioning or other mechanical equipment, (3) duct work, (4) cooling towers, (5) generators, (6) transformers, (7) all but small flues and vents, (8) temporary buildings and (9) any other non-architectural appurtenance.

(c) **Auxiliary Buildings.** Mechanical equipment and auxiliary buildings, if otherwise acceptable, should be located within the building setback lines. Proper spacing for landscaping is important. Auxiliary building design shall be correlated with design of main building(s). Metal prefabricated or similar "stock" structures are not acceptable. Portable storage containers may be considered on a temporary basis only.

10.7 **Utilities.**

(a) **Underground Utilities.** Water mains, sanitary sewers, gas mains, electric and telecommunications service will be located underground in the street right-of-way or easements provided in the open space system and either adjacent to or within the Lot area. The Grantor shall have the right to grant other Owners or Tenants of Lots easements for utilities within the setback area of any Lot.

(b) **Utility Contacts.** The site user must coordinate hookups with the utility companies.

(c) **Responsibility for Damage to Utilities.** The site user is responsible for utility location, for prompt and proper repair of damages caused by his project work, and for all work, coordination and payment for the repair, movement or alteration of any portion of the existing Research Park infrastructure.

10.8 **Parking and Loading Area.**

(a) **Parking Ratios.** The number of acceptable parking spaces and loading spaces per building will be approved by the University on an individual basis. All parking, loading and unloading areas must be sufficient to serve the activities being conducted on the parcel. If parking requirements increase as a result of a change in use or

in number of employees, additional off-street parking shall be provided to satisfy the intent of this section. However, general minimum guidelines are as follows:

- (i) Three (3) spaces per 1,000 s.f. of gross building area (G.B.A.) for service center/high tech buildings.
- (ii) Four (4) spaces per 1,000 s.f. of G.B.A. for office buildings.
- (iii) Four and one-half (4.5) spaces per 1,000 s.f. of G.B.A. for retail/commercial buildings.

In cases where activities cannot be classified in the categories listed above, parking will be calculated on the following basis:

- (i) One parking space for 1.5 general office, manufacturing, technical or research persons.
- (ii) One parking space for each management person.
- (iii) One visitor space per ten management persons.

(b) **Location of Parking and Loading Areas.** Parking and loading will not be permitted on adjacent streets. Each site will provide adequate off-street parking for employees, visitors and company vehicles. Parking areas should be located at the sides or rear of Buildings. However, where appropriate, parking may be allowed in front of the building if set back a minimum of fifteen (15) feet from public street right-of-way and if landscaping provisions are made to screen parking from view from the street.

Service and loading areas should be located at rear or side of a building and should allow for easy access, while minimizing travel through parking areas or access drives.

(c) **Screening.** Parking and service and loading areas should be screened from view from any adjacent property, street or public way by use of earth berms, landscape plants, suitable fencing or designs combining these elements.

(d) **Layout of Parking Areas.** Parking areas must be designed and landscaped so as to break up the monotony of a single large paved area, and to provide for stacking plowed snow. No contiguous open parking area will exceed one-half acre without being subdivided with islands containing trees or other landscape materials, using a minimum ratio of one 180 square-foot planting area per 20 parking spaces. The following additional criteria should be applied to the layout of parking areas:

- (i) All parking areas and drives shall be paved with concrete, asphalt, brick or other approved materials, have a concrete

curb and gutter, and be properly marked. The tops of curbs shall be at natural grade.

- (ii) No parking will be permitted closer than 20 feet to a building.
- (iii) Lighting of parking and walkways is to be done in a manner such that there is minimal glare. Indirect methods of illumination that highlight the structures and landscape elements, such as uplighting or downlighting of trees, light washes across building facades and indirect source luminaries, are recommended.
- (iv) Roadways accessing parking areas should be separated from internal drives and parking lots using landscaped areas, raised walls, or other visual dividers.
- (v) Adequate loading, trash storage and maneuvering areas will be provided for each building and separated from the parking areas with appropriate screening or planting.
- (vi) The suggested parking module is at least 180 square feet per space (10' x 18' x or 9' x 20'), with 24' aisles for a 90-degree system. An equivalent layout as appropriate to site conditions and landscaping concept may be acceptable.
- (vii) The number of access drives per building is subject to design review, with the intent to minimize the number of drives provided.
- (viii) Disabled parking shall be located as near to the main building entrance as possible. The number and width of disabled parking spaces should meet the ADA Accessibility Guidelines for cars and vans.

(e) **Maintenance.** All parking areas and drives shall be properly maintained by the Owner or Tenant in a slightly and well-kept condition including, but not limited to, the repair of any fractures, cracks, potholes or fissures.

10.9 Disabled Accessibility. All sites and buildings should be accessible to disabled individuals in compliance with ADA Accessibility Guidelines for new buildings.

10.10 Signs. All exterior signs will be subject to design review and must be designed in keeping with the architectural character of the Research Park.

(a) **Identification Signs.** One identification sign may be erected at the entrance to each lot in an area to be approved by the University. The size, color, location, design, format and materials of the sign will be consistent with the lot design and building architecture. No flashing or moving elements shall be permitted. All illuminated signs shall be illuminated internally. A small-scaled identification sign may be placed on the building or in a free-standing position related to the principal entrance. It may not project above any roof or canopy elevations and may not appear above the first floor level.

(b) **Directional Traffic and Parking Control Signs.** Any directional, traffic or parking control signs on a lot will be reviewed by the University with the intent that the signs will be restricted to the minimum necessary, will be visually unobtrusive and will be consistent with other Research Park signage in format, lettering and coloring. Traffic and parking signs shall use the international pictographic system, as modified for consistency with the design concept.

(c) **Construction Signs.** One construction sign denoting the architect, engineer, contractor, other related professionals, and construction lender will be permitted on a lot during the construction period. Maximum size shall be 96 s.f. (8.92 square meters), and shall not be more than 12' (3.66 meters) above ground level. Location of the construction sign is to be shown on the site plan and approved by the University.

(d) **Limitations.** Signs containing moving devices, flashing lights, or banners are prohibited. No portable or temporary signs, other than construction signs will be allowed.

(e) **Flags.** Flags may be installed only as follows: The flag of the USA, State of Missouri, official government seal or corporate logo.

10.11 Storm Drainage. On-site storm-water drainage and/or detention plans will be subject to design review and must be approved by the University.

10.12 Landscape Design.

(a) **General Design Guidelines.** Landscape designs should adhere to the following criteria:

- (i) All unpaved ground (excluding vacant lots) will be landscaped in a manner that is complementary to the architecture, provides the required screening and forms an attractive transition to the natural landscape features of the site. Landscaping will consist of an effective combination of street trees, trees, grass, ground cover and shrubbery.
- (ii) Landscape elements shall relate to architectural design elements. Landscape materials are considered to be a strong

unifying element and, therefore, should reflect the physical, functional and aesthetic qualities of the site.

- (iii) Landscape treatment shall not interfere with sight line requirements at street or driveway intersections.
- (iv) Use of plants known to produce materials which interfere with modern mechanical devices (such as cottonwood or sycamore) or which cause other maintenance problems should be avoided. Deciduous hardwoods, native to this area, are preferred for large or tall tree needs.

(b) **Preservation of Existing Vegetation.** A premium will be placed on preservation of natural vegetative cover. It is desirable to preserve the intrinsic environmental values and continuity of existing mature native tree cover wherever possible. Disturbance of existing vegetation during construction should be limited to the immediate construction area to minimize erosion, destruction of wildlife habitat or damage to existing trees, shrubs, and ground cover.

(c) **Lot Grading and Erosion Control.** The plan for lot grading and erosion control should take into consideration the following criteria:

- (i) Grades, berms, channels and swales should be an integral part of the grading and paving design.
- (ii) Sediment-control provisions should be incorporated in the planning or preliminary engineering stage of all projects. These erosion and siltation-control measures must be approved and in place before construction can begin. Landscaping plans will incorporate provisions for erosion control on all graded sites which will remain vacant prior to building construction.
- (iii) In all cases, the smallest practical area of land should be exposed at any one time during development or construction, and exposed soil should be replanted at the earliest possible date. Erosion and siltation-control devices should be regularly inspected and maintained during development.
- (iv) Where fill is necessary to attain the approved finish grade of any lot in the Research Park, it shall be free of waste materials and shall not contain noxious materials that will give off odors of any kind.
- (v) No top soil shall be allowed to be stripped from any lot within the Research Park and removed from within the boundaries of

the Research Park without the express written consent of the University. Top soil shall be stripped, stockpiled on the site and redistributed in landscaped areas before seeding and planting.

(d) **Land and Landscaping Maintenance.** It shall be the duty of each Owner or Tenant to keep and maintain (including necessary cutting, watering, fertilizing, aerating, spraying, pruning, weeding and replacement) the lawns, ground cover, trees, shrubbery, vines and landscaping beds on its Lot, including all easements within the Lot. Fertilizing and spraying for control of insects and fungus shall be accomplished in such a manner as to avoid contamination to the drainage system and destruction of plant materials. All dead trees shall be removed and replaced promptly. The Grantor shall have the right (upon ten (10) days' notice to the Owner or Tenant setting forth the action intended to be taken, and if at the end of such times such action has not been taken by the Owner or Tenant), at the expense of the Owner or Tenant, to remove trash or rubbish, and to cut grass, weeds and vegetation and to trim, prune or replace any hedge or other planting that in the reasonable opinion of the Grantor, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining Lots or is unattractive in appearance. The Grantor shall further have the right, upon like notice and conditions, to care for vacant and unimproved Lots, and to remove grass, weeds and rubbish therefrom and to do any and all things necessary or desirable in the reasonable opinion of the Grantor to keep such property in neat and good order, all at the cost and expense of the Owner or Tenant. All costs and expenses incurred by the Grantor hereunder shall be paid to the Grantor by the Owner or Tenant of the affected Lot upon demand, and, together with costs of collection including, but not limited to, reasonable attorneys' fees, shall become a lien upon the Lot equal in priority to the lien provided in Section 5.8 hereof, and enforceable in the same manner as therein provided, but shall not be included in the general assessment under Section 5.1 hereof.

10.13 Site Lighting. Site lighting should create safe lighting conditions for visibility, accent important elements of the landscape, create clear visual nighttime order to the site, and distinguish between various site uses such as roads, parking, walkways, recreation spaces, etc.

(a) **Type of Lighting.** Color corrected lighting, mercury vapor, metal halide, or incandescent light sources are to be used in "people oriented" places—plazas, walks, etc. Well designed soft wash light of buildings is permitted.

(b) **Minimum Lighting Requirements.** The minimum light levels accepted are:

Building entrances	-	5 FC (foot candles)
Collector roads/drives	-	1 FC
Walks	-	1 FC
Parking areas	-	0.5 FC

All wiring for lighting shall be underground.

10.14 Storage Areas and Fences. Except during construction, no outside storage or operations of any kind will be permitted on any Lot unless properly screened. Screening must be approved by the Grantor. All fire and hazard regulations must be followed regarding inside and outside storage. Screening fences, walls and vegetative buffers, at mature height, shall be at least 6 feet high or rise 2 feet above material or equipment being stored, whichever is greater. If vegetation materials are used, they must provide total visual screening. In no location on the site, may the tenant utilize an open-mesh chain-link fence. Storage of materials of 8 feet in height or more must be screened by a wall built of similar materials to those of the building. The placement of all fences and the design and materials utilized shall be subject to the approval of the Grantor.

ARTICLE XI EASEMENTS

11.1 Entry for Emergency and Government Activities. The University, the University, the Design Review Committee and all policemen, firemen, ambulance personnel, and all similar persons are hereby granted an easement to enter upon the Property (and any portion thereof including any Lot) in the exercise of the rights and duties and functions provided by this Declaration, in the event of emergencies, and in the performance of proper governmental activities.

11.2 University's Construction Activities. The University hereby reserves to itself, its successors and assigns, a nonexclusive temporary easement over any Lot for the purpose of conducting any construction activities required to develop an adjacent Lot or Common Area, provided that if such activities interfere in a material way with the operations being conducted on such Lot, such activities shall require the approval of the Owner of such Lot, such approval not to be unreasonably withheld, delayed or conditioned. This easement shall automatically terminate upon completion of the University's construction activities.

11.3 Utilities. The University hereby reserves to itself the right to grant nonexclusive easements over any Lot or the Common Areas for the purpose of installing, repairing or maintaining utility lines or areas, including but not limited to, storm water detention areas and storm water inlets, sanitary sewers, gas lines, electric lines or cables, water lines, telephone lines, television, cable, or telecommunication lines, street lights and other utilities, provided that if the granting of any such easements interfere in a material way with any Owner's or Tenant's business being operated on a Lot at the time such easement is granted, such easement shall require the approval of such Owner or Tenant, such approval not to be unreasonably withheld, delayed or conditioned.

11.4 Street Dedications. The University hereby reserves to itself the right to dedicate streets, public right-of-ways within the Property and Common Areas to appropriate governmental entities provided that if such dedication would interfere in a

material way with any Owner's or Tenant's business being operated on a Lot at the time of such dedication, such dedication shall require the approval of such Owner or Tenant, such approval not to be unreasonably withheld, delayed or conditioned. The University retains the right to extend easements off the Property to any adjoining parcel of land.

11.5 Entrance Signage. Entrance signage will be maintained by the University at the entrances to the Property.

11.6 Easement for Storm Water System and Rights to Detention. Each Owner or Tenant and all persons holding under or through such Owner or Tenant, and their respective employees, agents, customers, licensees, Occupants and invitees shall have a perpetual non-exclusive irrevocable easement in common with all other Owners or Tenants and all persons holding under or through such other Owners or Tenants, and their respective employees, agents, customers, licensees, tenants and invitees to use the storm water control system, including all detention and retention basins, as the same may exist from time to time, upon the Property. Each Owner or Tenant shall maintain and care for the drainage structures, retention basins and other storm water control system facilities located on such Owner's or Tenant's Lot, and shall take protective measures to prevent debris or waste from entering the same. Each Owner or Tenant shall be responsible for maintenance of the drainage easement channels, and other water control structures on such Owner's or Tenant's Lot, and shall insure that these areas are kept free of trash and refuse and that the grass in these areas is maintained at a height less than six inches.

11.7 Conservation Easements and Grants. The University shall have the right to grant one or more easements affecting all or any portion of the Common Areas from time to time, or to grant or convey all or any portion of the Common Areas to any public, quasi-public or other not-for-profit entity agreeing to accept such easement or conveyance, if the recipient of such easement or conveyance agrees to maintain the land covered thereby in accordance with this Declaration and all applicable Laws relating to such land. Without limiting the generality of the foregoing and by way of example, the granting of any conservation easements, or conveyances, affecting any wetlands areas or floodways included within the Common Areas shall be included within the rights reserved to the University herein. Any refunds, rebates, tax credits or deductions or other compensation derived from such grant or conveyance may be retained by the University without being obligated to account for the same to any Owner or Tenant.

11.8 Use of Easement Areas. Within any easement area, no structure, planting or other material or improvement shall be placed or permitted to remain which may damage or interfere with access to or the installation and maintenance of the easement areas or any Utilities or Drainage Facilities, or which may change the direction or obstruct or retard the flow of water through drainage channels in such easement areas, or which may reduce the size of any water retention areas constructed in such easement areas. The Owner or Tenant of any Lot subject to an easement described herein shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes or other equipment or facilities placed on, in, over or under the portion of the Lot which is subject to such easement.

11.9 Maintenance of Easement Areas. The easement rights reserved pursuant to this Article XI shall not impose any obligation on the University to maintain any easement areas or install or maintain the utilities or improvements that may be located in, on or under such easements, or which may be served by them. Subject to the terms of this Declaration regarding maintenance, the easement areas of each Lot and all above-ground improvements in such easement areas shall be maintained continuously by and at the sole expense of the Owner or Tenant of the Lot, except for those improvements for which any Government Authority or utility company is responsible. With regard to specific easements for drainage, the University shall have the right, but without obligation, to alter the Drainage Facilities therein, including slope control areas, provided any such alteration shall not materially and adversely affect the use of such Lot unless the Owner or Tenant of such Lot shall consent to such alteration. If such alteration is for the benefit of the Owners generally, or for the specific benefit of an Owner or Tenant other than the Owner or Tenant on whose Lot such alteration is to be made, then the University shall equitably allocate the responsibility for the cost of such alteration among the Owners or Tenants to be benefited by such alterations.

ARTICLE XII MISCELLANEOUS

12.1 Term. This Declaration shall become effective upon its recordation in the Office of Recorder of Deeds of St. Charles County, Missouri, and the restrictions herein shall run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of Lots within the Property subsequently executed, and shall be binding on all parties and all persons claiming under such deeds, for a period of ninety-nine (99) years from the date this Declaration is recorded, after which time the term of this Declaration shall automatically extend for successive periods of ninety-nine (99) years each, unless prior to the commencement of any such ninety-nine (99) year period, an instrument in writing, signed by the University, has been recorded in the Recorder's Office, which instrument may alter or rescind this Declaration in whole or in part.

12.2 Amendment. This Declaration may be amended or modified as provided herein by the University only by an instrument in writing signed by the University. No amendment of this Declaration shall require an Owner or Tenant to remove any structure constructed in compliance with this Declaration as the same existed on: (i) the date on which the construction of such structure commenced; or (ii) the date on which the Owner or Tenant took title to its Lot or leasehold, if the construction of such structure commenced within ninety (90) days of its taking title; nor shall any amendment require the Grantor to relinquish any rights reserved to it under this Declaration. No amendment hereunder shall become effective prior to the time a duly executed and acknowledged copy is recorded in the Recorder's Office.

12.3 Variance. The Design Review Committee may modify or authorize a variance to all provisions of this Declaration when the following circumstances apply:

(a) When the strict application of requirements in this Declaration would impose unforeseen practical difficulties or particular hardship.

(b) The granting of a variance will not be detrimental to the interests of the University and the Owners and Tenants.

(c) In granting variances the Design Review Committee may impose such conditions as in the Design Review Committee's judgment secure the obligations of this Declaration.

12.4 Enforcement. The covenants herein set forth and the restrictions and conditions herein set forth shall operate as covenants running with the land into whosoever hands the Research Park, or any part thereof, shall come. If any person, firm or corporation, or their respective heirs, personal representatives, successors or assigns shall violate or attempt to violate any of the restrictions set forth in this Declaration, it shall be the right of the Grantor or any Owner or Tenant of a Lot to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate such restrictions, whether such proceeding is to prevent such person from so doing, or to recover damages, or against the land to enforce any lien created hereunder, and, if such person is found, in the proceedings, to be in violation of or attempting to violate the restrictions set forth in this Declaration, he shall bear all expenses of the litigation, including court costs and reasonable attorneys' fees (including those on appeal) incurred by the party enforcing the restrictions set forth herein. The University shall be not obligated to enforce any restriction or limitation set forth herein and shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than itself. Failure of the University or any other person or entity to enforce any provision of this Declaration upon breach, however long continued, shall in no event be deemed a waiver of the right to do so thereafter with respect to such breach or as to any similar breach occurring prior or subsequent thereto. Issuance of a building permit or license which may be in conflict with the restrictions set forth herein shall not prevent the Grantor or any Owner from enforcing the restrictions set forth herein.

12.5 Notice. All notices, consents, requests and demands and other communication provided for herein shall be deemed to have been properly sent when personally delivered or mailed, postpaid to the intended party at its last known address.

12.6 Severability. Invalidation of any term or provision of this Declaration by judgment or court order shall not affect any of the other provisions hereof which shall remain in full force and effect.

12.7 Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender or the neuter shall include all genders and the neuter; the use of the terms "include" and "including" shall be without limitation; and any reference to "attorneys' fees" shall mean "reasonable attorneys'

fees and costs incurred before, during and after litigation, including appellate and appearances in bankruptcy proceedings". The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof. The paragraph headings or captions used herein are for convenience only and are not part of this instrument and do not anyway limit, define or amplify the scope or intent of the terms and provisions hereof.

12.8 Assignments.

(a) The Grantor shall have the sole and exclusive right at any time and from time to time to transfer and assign to, and to withdraw from such person, firm, corporation or other entity as it shall select, any or all rights, powers, easements, privileges, authorities, and reservations given to or reserved by the Grantor by any part or section of this Declaration, on an exclusive or non-exclusive basis. If at any time hereafter there shall be no person, firm, or corporation entitled to exercise the rights, powers, easements, privileges, authorities, and reservations given to or reserved by the Grantor under the provisions hereof, the same shall be vested in and be exercised by the Grantor.

(b) Any sale, transfer or conveyance of ownership, or lease of property shall include in the sale, transfer or conveyance, or lease documents and provision that the purchaser or lessee acknowledges, understands, and agrees to be bound by the conditions, indentures, restrictions, reservations, and easements herein set forth.

12.9 Resale. In the event any Owner decides to sell a Lot prior to the construction of a Building, the University shall have the first right to purchase the Lot at the same price, terms and conditions as the Lot would be offered for sale to a third party, all of which must be reasonable under the circumstances of the market as it then exists. The University shall have thirty (30) days from receipt of notice by Owner in which to elect to purchase the Lot. In the event the University elects not to purchase the Lot, the Owner is free to sell the Lot to others within a period of six (6) months from the date of the University's decision not to purchase, but at the same price, terms and conditions as offered to the University. If Owner changes price, terms or conditions after the University's election not to purchase, or upon the expiration of the period of six (6) months from the date of the University's decision not to purchase, Owner must again offer the Lot to the University under the restated price, terms or conditions.

12.10 "Owner" to include 'Occupant'. Wherever in this Declaration the term "Owner" is used, the same shall include and refer to "Occupant" and "Occupant's" leasehold estate where applicable.

12.11 The University's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, the University makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any land now owned or hereafter acquired by the University is or will be subjected to this Declaration or any other indenture, or that any

such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect.

12.12 No Warranty of Enforceability. While the University has no reason to believe that any of the covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, the University makes no warranty or representation as to the present or future validity or enforceability of any such covenants. Any Owner acquiring a Lot in reliance on one or more of the covenants shall assume all risks of the validity and enforceability thereof and by acquiring any such Lot agrees that the University shall have no liability therefor.

12.13 Exhibits. Exhibit A attached to this instrument is hereby incorporated herein by this reference and made a part hereof.

12.14 Governing Law. This Declaration shall be governed and interpreted in accordance with the laws of the State of Missouri.

12.15 Transfer of Ownership. All sales or transfers or conveyances of ownership of any Lot shall be reported by the holder of title upon completion of the transaction to the University, by written notice indicating the Lot involved, the seller and the purchaser. Until such notice is delivered, the prior Owner or Tenant shall remain primarily responsible for the compliance of all matters required of it as an Owner or Tenant hereunder.

12.16 Litigation. If any litigation occurs under this Declaration, then the non-prevailing party in such litigation shall reimburse the prevailing party for its attorneys' fees and expenses incurred in connection with such litigation and the Court in any such litigation is authorized and directed to make a finding as to the identity of the prevailing and non-prevailing party and the amount of the reimbursement obligation herein.

12.17 Extension of Covenants to Include Additional Property. At any time hereafter, by written instrument recorded in the St. Charles County Records, Grantor may subject additional properties to this Indenture. Upon recordation of such an instrument: (a) this Indenture shall run with title to such additional property as if such property had been included in the definition of "Property" under this Indenture from the date of its inception; and (b) whenever in construing this Indenture thereafter reference is made to "Property", said term shall mean and include not only the Property described herein but also such additional properties as may be made subject hereto. Such additional properties may, but need not be, contiguous to the Property or any other properties owned by Grantor and previously made subject hereto.

12.18 Amendment. So long as Grantor shall own or retain an interest in any Building Site, this Indenture may be amended by appropriate instrument recorded in the St. Charles County Records; provided such instrument is signed by Grantor and by the

Owners of at least fifty-one percent (51%) of the square footage of platted lots in the Property.

12.19 Grantor's Plat Amendment. So long as Grantor shall own any portion of the Property, Grantor reserves the right to amend the Plat in order to add additional Building Sites to the Property; to amend any boundary lines between Building Sites in the Property; or to resubdivide existing Building Sites within the Property, provided that Grantor shall be the Owner of that portion of the Property to which Building Sites are added, amended or subdivided. The right to amend the Plat as herein provided shall remain in Grantor, and it shall not pass to or become a right of the Trustees upon their appointment or election as provided in this Indenture.

12.20 Title to Private Streets. Title to the streets not dedicated to public use shown on the Plat and the land, easements and rights of way upon which constructed is hereby reserved in the Grantor, and the Grantor is empowered to dedicate such streets and other improvements and easements which may become titled in Grantor to public use or to dedicate and convey such streets, improvements and easements to Trustees for the exclusive use and benefit of the Owners and their guests, invitees and licensees.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed this ____ day of _____, 2005.

THE CURATORS OF THE UNIVERSITY OF MISSOURI, Grantor

By: _____
Printed Name: _____
Title: _____

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2005, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of The Curators of the University of Missouri, a body politic and corporate, and that the seal affixed to the foregoing instrument is the seal of said body, and that said instrument was signed and sealed in behalf of said body by authority of its Board of Curators; and said _____ acknowledged said instrument to be the free act and deed of said body.

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

Notary Public

(SEAL)

My Commission Expires:

EXHIBIT A

Legal Description of Property