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| <b>1. Title of Document:</b>                | <b>Indenture of Trust and Restrictions for Village Point</b>                                       |
| <b>2. Date of Document:</b>                 | <u>December 12</u> , 2019  |
| <b>3. Grantor(s):</b>                       | <b>Payne Family Homes, LLC</b>   |
| <b>4. Grantee(s):</b>                       | <b>Village Point Association</b>   |
| <b>5. Grantee's Mailing Address:</b>        | <b>c/o Payne Family Homes, LLC<br/>10407 Baur Boulevard, Suite B<br/>St. Louis, Missouri 63132</b> |
| <b>6. Legal Description:</b>                | See <u>Exhibit A</u> annexed to the document   |
| <b>7. Reference(s) to Book and Page(s):</b> | N/A  |

This cover page is attached solely for the purpose of complying with the requirements stated in §§ 59.310.2; 59.313.2 RSMo 2001 of the Missouri Recording Act. The information provided on this cover page shall not be construed as either modifying or supplementing the substantive provisions of the attached Indenture of Trust and Restrictions for Village Point. In the event of a conflict between the provisions of the attached Indenture of Trust and Restrictions for Village Point and the provisions of this cover page, the attached Indenture of Trust and Restrictions for Village Point shall prevail and control.

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**INDENTURE OF TRUST AND RESTRICTIONS FOR VILLAGE POINT,  
CITY OF ST. PETERS, ST. CHARLES COUNTY, MISSOURI**

THIS INDENTURE OF TRUST AND RESTRICTIONS FOR VILLAGE POINT (the "Indenture"), made and entered into this 12 day of December, 2019, by and between Payne Family Homes, LLC, a Missouri limited liability company (hereinafter referred to as "Grantor"), and Village Point Association, a Missouri nonprofit corporation, hereinafter referred to as "Association" or, for purposes of recording in the St. Charles County Records, "Grantee".

**WITNESSETH THAT:**

WHEREAS, Grantor is the owner of a tract of real property (the "Property") located in the City of St. Peters (the "City"), County of St. Charles, State of Missouri, as more particularly described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, pursuant to Section 405.250 of The Code of City of St. Peters, the Board of Alderman for the City has approved the subdivision and development of the Property pursuant to the City's Planned Urban Development District Ordinance into fifty seven (57) single family residential lots under the name "Village Point" (sometimes hereinafter referred to as the "Subdivision"); and

WHEREAS, common ground has been or will be reserved on the plat(s) of the Subdivision, and there has been or will be designated, established and recited on such plat(s) certain easements which are for the exclusive use and benefit of the residents of the Subdivision; and

WHEREAS, Grantor, being the owner of the entire tract, may desire, from time to time, to encumber and dispose of parts thereof; and

WHEREAS, it is the purpose and intention of this Indenture to protect the Property against certain uses; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained (sometimes hereafter termed "restrictions") are jointly and severally for the benefit of all persons who may purchase, hold or reside upon the Property.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements made by the parties hereto each to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto COVENANT and AGREE to and with each other, collectively and individually, for themselves, their heirs, successors and assigns, and for and on behalf of all persons who may hereafter derive title to or otherwise hold through them, together with their heirs, successors and assigns, any of the lots and parcels of land in the Subdivision, all as hereinafter set forth:

ARTICLE I.  
DEFINITION OF TERMS.

The following terms when used in this Indenture (unless the context requires otherwise) shall have the following meanings:

1. "Association" shall mean and refer to Village Point Association, a Missouri nonprofit corporation, and its successors and assigns.
2. "Board" or "Directors" shall mean the Board of Directors of the Association.
3. "Board of Alderman" shall mean and refer to the Board of Alderman of the City.
4. "City" shall mean and refer to the City of St. Peters, Missouri, a municipal corporation and political subdivision of the State of Missouri.
5. "Common Ground" shall mean and refer to all real property and the improvements thereon owned and all easements, licenses and other rights held by the Association for the common use and enjoyment of the Owners including, without limitation, open spaces, streets, walkways, storm water controls and drainage facilities (including detention basins, bio-retention basins and/or water quality areas and facilities), sanitary sewers and facilities, water mains, fire hydrants, irrigation systems, retaining walls, subdivision entrance ways and monuments, street lights, street signs and other such areas and facilities as may be shown on the Plat(s) and provided in the Subdivision; provided, however, nothing hereinabove contained shall be deemed a representation that any of the enumerated facilities are or will be included in the Subdivision or that any such facilities will be constructed upon Common Ground.
6. "Consumer Price Index" shall mean and refer to the Consumer Price Index For All Urban Consumers, All Items, U.S. City Average (1982-84=100), published by the Bureau of Labor Statistics, United States Department of Labor.
7. "County" shall mean and refer to St. Charles County, Missouri, a political subdivision of the State of Missouri.
8. "County Records" shall mean the office of the Recorder of Deeds for St. Charles County, Missouri, or such other place as may be designated as the official location for recording deeds, plats and similar documents affecting title to real estate situated in the County.
9. "Grantor" shall mean and refer to Payne Family Homes, LLC, a Missouri limited liability company, its successors and assigns including, without limitation, any builder or developer who purchases vacant Lots or parcels of land within the Subdivision for the purpose of building residences thereon for sale to third persons and any lender who succeeds to Grantor's rights hereunder.
10. "Indenture" shall mean and refer to this Indenture of Trust and Restrictions for Village Point, City of St. Peters, St. Charles County, Missouri, as from time to time amended.

11. "Living Unit" shall mean and refer to any structure constructed upon a Lot in the Subdivision designed and intended for independent residential use.

12. "Lot" shall mean and refer to any plot of land, with the exception of Common Ground, shown on the Plat(s). As shown on the Plat(s), the Subdivision has been designed such that the Lots extend one (1) foot around the front porch, rear deck or patio and side foundation walls of the Living Units.

13. "Member" shall mean and refer to a member of the Association.

14. "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot, including contract sellers but excluding those having such interests as security for the performance of an obligation and excluding Grantor.

15. "Person" shall mean and refer to a natural person, a corporation, a limited liability company, a partnership, a trustee or any other legal entity.

16. "Plat(s)" shall mean the record plat(s) of the Subdivision as approved by the City and recorded in the County Records.

17. "Prime Rate" shall mean for any day, the highest rate from time to time reported in the Money Rates column or any successor column of The Wall Street Journal (the "Journal"), currently defined as being the base rate on corporate loans posted by at least seventy five percent (75%) of the nation's thirty (30) largest banks, even if such rate was never actually charged by such bank. In the event the Journal publishes more than one rate, the highest of such rates shall be the "Prime Rate", or if the Journal publishes a retraction or correction of the rate, the new rate shall be the "Prime Rate". In the event the Journal ceases published the Prim Rate, the "Prime Rate" shall mean the from time-to-time publicly announced floating prime rate of interest charged by Bank of America, N.A., St. Louis, Missouri, or its successors.

18. "Property" shall mean and refer to the real property described on Exhibit A attached hereto and incorporated herein by reference.

19. "Record", "Recording" or "Recorded" shall mean and refer to the filing of a legal instrument in the County Records.

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (i) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, and (ii) the words "hereof", "herein" and "hereunder" and words of similar import shall be construed to refer to this Indenture as a whole and not to any particular provision hereof.

## ARTICLE II. DURATION OF TRUST

The trust created under this Indenture shall continue until such time as the Plat(s) may be vacated by the Board of Alderman or its successors, after which time fee simple title to the Common Ground shall vest in the then record Owners of all Lots in the Subdivision as tenants in common; provided, however, that all of the rights, powers and authority conferred upon the Association shall continue to be possessed by the Association. The rights of said tenants in common shall only be appurtenant to and in conjunction with their ownership of Lots in the Subdivision, and any conveyance or change of ownership of any Lot shall carry with it ownership in Common Ground so that none of the Owners of Lots and none of the owners of Common Ground shall have such rights of ownership as to permit them to convey their interest in the Common Ground except as is incident to the conveyance of a Lot, and any sale of any Lot shall carry with it without specifically mentioning it all the incidents of ownership of the Common Ground.

## ARTICLE III. RESERVATION OF EXPENDITURES

Grantor reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided for sewers, gas pipes, water pipes, conduits, poles, wires, street lights, roads, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to the Property.

## ARTICLE IV. THE ASSOCIATION AND ITS MEMBERS

1. Function of Association. The Association is responsible for management, maintenance, operation and control of the Common Ground and for enforcement of this Indenture.
2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Article IV, Section 3 of this Indenture, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.
3. Voting. The Association shall have one (1) class of membership, and each Member shall have one vote for each Lot owned in the Subdivision, except that there shall be only one vote per Lot. No vote shall be exercised for any property which is exempt from assessment under Article IX, Section 8 of this Indenture.

ARTICLE V.  
DESIGNATION AND SELECTION OF DIRECTORS  
AND MEETINGS OF MEMBERS

1. Original Directors. The Board of Directors of the Association shall consist of three (3) Members. The original Directors shall be Joel Pottebaum, Katie Neumann and Scott Kerns, who shall serve in such capacity until their successors are elected or appointed as hereinafter provided. Should an original Director or a successor Director appointed by Grantor resign other than as required by Section 2 of this Article V, refuse to act, become disabled or die, Grantor shall have the power to appoint a successor Director who shall serve until his successor is elected by the Members in the manner hereinafter provided.

2. Successor Directors. The original Directors or their successors appointed pursuant to Article V, Section 1 of this Indenture shall serve until their successors are elected as follows:

(a) Within ninety (90) days after fifty percent (50%) **[twenty nine (29)]** of the Living Units authorized to be constructed in the Subdivision have been sold and conveyed to Owners for residential use, or at such earlier time as Grantor may determine, Grantor shall cause the resignation of one (1) of the original Directors, and a successor Director shall be elected by the then Members; and

(b) Within thirty (30) days after seventy five percent (75%) **[forty two (42)]** of the Living Units authorized to be constructed in the Subdivision have been sold and conveyed to Owners for residential use, or at such earlier time as Grantor may determine, Grantor shall cause the resignation of a second of Grantor's appointed Directors, and a successor Director shall be elected by the then Members; and

(c) The two (2) Directors elected by the Members pursuant to paragraphs (a) and (b) of this Article V, Section 2, shall serve until thirty (30) days after all Living Units authorized to be constructed in the Subdivision have been sold and conveyed to Owners for residential use, or until such earlier time as Grantor may determine, whereupon the term of such elected Directors shall expire, Grantor shall cause the resignation of the third of Grantor's appointed Directors, and the Members shall elect three (3) successor Directors. Of the three (3) successor Directors elected, the one (1) receiving the highest number of votes shall serve for three (3) years, the one (1) receiving the second highest number of votes shall serve for two (2) years, and the third shall serve for one (1) year from the date of election (the first annual meeting of the Members to be held under Section 9 of this Article V shall be held within one (1) year from the date of such election). Thereafter, all Directors shall be elected for terms of three (3) years.

3. Manner of Conducting Elections.

(a) The elections for the first two (2) successor Directors under Article V, Section 2 of this Indenture shall be by mail. Notice of call for nominations shall be sent to all Members, and shall require all nominations be received within thirty (30) days thereafter. Upon receipt, all nominations shall be compiled on an election ballot and mailed to all members, who shall have thirty (30) days thereafter to cast their votes and return their ballots to Grantor. The person

receiving the most votes shall be elected the successor Director; provided, however, if the person elected declines to serve, the person receiving the next highest number of votes shall be declared the Director. In the event of a tie, a runoff election shall be conducted by mail in the aforesaid manner. For purposes hereof, nominations and ballots shall be deemed timely received if postmarked by the United States Postal Authority no later than midnight on such thirtieth (30th) day.

(b) Except as provided in Article V, Section 3(a) of this Indenture, all elections by the Members shall be held at the annual meetings to be held pursuant to Section 9 of this Article, and shall be preceded by notice signed by the Directors then in office, or should there be no Directors, then by three (3) such Members, sent by mail to or personally served upon all Members at least ten (10) days before the date fixed for the meeting to be held for the purpose of electing Directors. The notice shall specify the time and place of meeting, which shall be in the County. At such meeting or at any adjournment thereof, the majority of the Members attending such meeting, in person or by proxy, shall have the power to elect such Directors, who shall thereupon serve until their successors have been duly appointed or elected and qualified. At such meeting, each Member, whether attending in person or by proxy, shall be entitled to one (1) vote, which, when the Member constitutes more than one person or entity, shall be cast as they among them shall determine; in no event shall more than one (1) vote be cast with respect to any Lot. The result of any election of Directors shall be certified by the persons elected as chairman and secretary at the meeting, and their certification shall be acknowledged and recorded in the County Records.

4. Notification of City. Annually, by the fifteenth (15<sup>th</sup>) day of January of each year, the Board shall submit to the City a current list of the Directors' names, addresses and telephone numbers. Further, the Directors shall notify the City within thirty (30) days of any change in the membership of the Board.

5. Qualification of Directors. Any Director elected under the provisions of this Article shall be an Owner in the Subdivision, or an officer or agent of a corporate Owner, and if such Owner sells his or her Lot or resigns, refuses to act, becomes disabled or dies, the remaining Directors shall appoint an Owner to act as the successor for the unexpired term. Where the provisions of this instrument cannot be fulfilled by reason of unfilled vacancies among the Directors, the Board of Aldermen or its successor may, upon petition of any concerned resident or Owner in the Subdivision, appoint one or more Directors to fill the vacancies until such time as Directors are elected or selected in the manner provided in this Indenture. Any person so appointed who is not an Owner within the Subdivision shall be allowed a reasonable fee for his/her services by the order of appointment, which fee shall be levied as a special assessment against the Lots and which fee shall not be subject to any limitations on special assessments contained in this Indenture or elsewhere.

6. Nominations.

(a) Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filled by the Members. The Board shall also establish such other rules and regulations as it deems appropriate



to conduct the nomination of directors in a fair, efficient and cost-effective manner. Nominations also may be permitted from the floor.

(b) Nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairperson, who shall be a member of the Board, and three or more Members or representatives of Members. Members of the Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting to serve a term of one (1) year and until their successors are appointed, which such appointment shall be announced in the notice of each election. The Nominating Committee may make as many nominations for election to the Board as it shall, in its discretion, determine. Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

7. Election Procedures. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

8. Removal of Directors.

(a) Any Director elected by the Members may be removed, with or without cause, by the vote of a majority of the votes entitled to be cast for the election of such Director. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such Director.

(b) Any Director elected by the Members who has three (3) consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

(c) In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

(d) This Section shall not apply to Directors appointed by the Grantor. The Grantor shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a Director it appoints.

9. Annual Meetings. The first meeting of the Members of the Association shall be held within one year after the date of the election referenced in Section 2 of this Article V. Subsequent regular annual meetings shall be set by the Board to occur during the same quarter of the Association's fiscal year as that in which the first such election occurred on a date and at a time set by the Board.

10. Special Meetings. Special meetings of the Members may be called by the President, and shall be called by the President or Secretary if so directed by resolution of the

Board or, at any time after the election of Directors under Section 2 of this Article V, upon written request by thirty three and one third percent (33 1/3%) of the Members of the Association.

11. Notice of Meetings.

(a) Written or printed notice stating the time and place of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting. In addition, in the case of a special meeting, the notice shall state the purpose or purposes for which the meeting is called; no business shall be transacted at a special meeting except as stated in the notice.

(b) If mailed, notice shall be deemed delivered when deposited with the United States Postal Service, postage prepaid, addressed to the Member at his or her address as it appears on the Association's records.

(c) Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting, and waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Attendance at a meeting by a Member shall be deemed a waiver of notice unless such Member attends for the limited and specific purpose of objecting to lack of proper notice.

12. Quorum.

(a) The presence of Members representing a majority of the total votes in the Association shall constitute a quorum at all Association meetings.

(b) If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. Notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

(c) Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

13. Voting and Proxies.

(a) The voting rights of the Members shall be as set forth in this Indenture. When a quorum is present at any duly called meeting, a majority of the votes cast shall decide any question brought before the meeting, unless the question is one which, by express provision of the Missouri Nonprofit Corporation Act (the "Act") or this Indenture, requires a different vote, in which case such express provision shall govern and control the decision of such question.



(b) Members may vote in person or by proxy. On any matter as to which a Member is entitled personally to cast the vote for his or her Unit, subject to the limitations of the Act relating to the use of general proxies and subject to any specific provision to the contrary in this Indenture, such vote may be cast in person or by proxy.

(c) Every proxy shall be in writing specifying the Lot for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

(d) Every proxy shall be revocable and shall automatically cease upon:  
(a) conveyance of any Lot for which it was given; (b) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

14. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association. Such consents shall be filed with the minutes of the Association, and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice summarizing the material features of the authorized action to all Members entitled to vote who did not give their written consent.

## ARTICLE VI. ASSOCIATION'S DUTIES AND POWERS

The Association, acting by and through the Directors, shall have the rights, powers, duties and authorities described throughout this Indenture, and without limiting the generality of any thereof, the following rights, powers, duties and authorities:

1. Acquisition, Disposition, Etc. of Common Ground. To acquire, receive, hold, convey, dispose of and administer the Common Ground in trust and in accordance with and pursuant to the provisions of this Indenture and the City's Ordinances, and to otherwise deal with the Common Ground as hereinafter set forth. Without limiting the generality of the foregoing, as long as Grantor owns any Lots in the Subdivision, upon request of Grantor, the Directors shall cooperate with Grantor in its development of the Subdivision, and to facilitate such development, shall have the right, in their discretion, to adjust and reconfigure the Common Ground and to grant easements thereon (including, but not limited to, easements for appurtenances such as

patios, decks, driveways, sidewalks and retaining walls) and convey and exchange portions thereof to Grantor and the from time to time Owners of adjoining Lots.

2. Maintenance and Control of Common Ground and Lots.

(a) To exercise such control over the Common Ground as is necessary to maintain, repair, replace, rebuild, supervise and insure the proper use thereof for and by residents of the Subdivision including the right (to themselves and others to whom they may grant permission) to construct, operate and maintain on, under and over said Common Ground, streets, sidewalks, sewers, pipes, poles, wires and other facilities and public utilities for services to the Lots; to establish rules and regulations for the usage of the Common Ground and those portions of the Lots which it is responsible to maintain; to pay real estate taxes and assessments on the Common Ground out of the general assessment hereinafter authorized; to maintain and improve the Common Ground with shrubbery, vegetation, decorations, structures and any and all other types of facilities in the interest of health, welfare, safety, morals, recreation, entertainment and general use of the Owners and residents in the Subdivision, all in conformity with applicable laws and ordinances. Notwithstanding any provision of this Indenture to the contrary, as mandated by the City, at no time shall the Association engage more than one (1) contractor to maintain the Common Ground.

(b) Without limiting the generality of Article VI, Section 2(a) of this Indenture, it is understood that the Subdivision has been designed in such fashion that a portion of the driveways, front sidewalks and landscaping for the Living Units will be located on the Lots and a portion will be upon Common Ground, and the Lots (but not the Living Units or any deck, patio or other improvements thereon, all of which shall be and remain the personal responsibility of the respective Owners) driveways, sidewalks and landscaping and gardening planted by Grantor or the Association thereon shall be maintained, repaired, replaced and rebuilt by the Association as provided in Article VI, Section 2(a). The maintenance to be provided by the Association under this Article VI, Section 2(b) shall include, without limitation, (i) snow removal as soon as reasonably practicable after accumulation reaches two inches, (ii) reasonable measures to timely apply ice melting chemicals; and (iii) landscape bed maintenance consisting of edging, weeding, trimming, mulching and, when necessary, replacement of shrubbery, ground cover and/or ornamental plants planted by Grantor or the Association; provided, however, the Association shall not be responsible for the removal of ice or icing conditions, nor shall it be liable to any person injured from slipping or falling on ice or snow. No Owner shall make any improvements to or otherwise alter the portions of the Lots which are to be maintained by the Association; provided, however, notwithstanding the foregoing, in the event that an Owner shall, in accordance with rules adopted by the Directors and the provisions of this Indenture, landscape (which shall in no event include vegetable gardens) any portion of his Lot, such Owner shall be responsible for the maintenance of such landscaping.

3. Dedication. To dedicate to public use any private streets constructed or to be constructed in the Subdivision whenever such dedication would be accepted by a public agency.

4. Easements. To grant easements for public streets, sewers, utilities and cable television on and over the Common Ground.

5. Enforcement.

(a) To prevent any infringement and to compel the performance of any restriction set out in this Indenture or established by law, and also any rules and regulations issued by the Directors governing the use of the Common Ground or any matters relating thereto. The power and authority herein granted to the Association is intended to be discretionary and not mandatory, and shall not restrict the right of any Owner to proceed in his own behalf. Without limiting the generality of the foregoing, the Board may impose sanctions for violation of this Indenture including, without limitation, the following:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot;

(ii) suspending an Owner's right to vote;

(iii) suspending any services provided by the Association to an Owner or the Owner's Lot and appurtenant easements if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(iv) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), or taking action to abate any violation of this Indenture in a non-emergency situation;

(v) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Lot or Living Unit in violation of this Indenture and to restore the Lot or Living Unit to its previous condition, and upon failure of the Owner to do so, the Board or its designee shall have and is hereby granted the right, license and easement to access and remove the violation and restore the Lot or Living to substantially the condition as existed prior to the construction of installation of the violating structure or improvement; and

(vi) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(b) All remedies set forth in this Indenture shall be cumulative of any remedies available at law or in equity. In any action to enforce this Indenture, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(c) The decision to pursue enforcement in any particular case shall be left to the Board's discretion. A decision not to enforce shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

(d) The Board, by contract or other agreement, may permit the City to enforce ordinances within the Property for the benefit of the Association and the Owners.

6. Plans and Specifications. As more specifically provided in Article VIII hereof, to consider, approve or reject any and all plans and specifications for any and all exterior renovations, improvements, satellite dishes and landscaping permitted under this Indenture and proposed to be constructed, erected, installed or made on or to any Lot or Living Unit. In acting hereunder, the Directors shall consider and apply the limitations and parameters established in this Indenture and shall otherwise use their discretion in determining what is best for the Subdivision as a whole, and in no event shall a decision to allow or disallow any item constitute precedent for any similar future request, nor shall such a decision be considered a reversal of any past request for similar approval.

7. Deposits. To require a reasonable deposit in connection with any installation or improvement approved in accordance with Section 6 of this Article VI and Article VIII of this Indenture, in order to provide that upon completion of the project, all debris shall be removed from the site and adjacent Common Ground and parcels, and that any and all damages to subdivision improvements shall be repaired.

8. Insurance. To purchase and maintain in force and effect the insurance provided in Article X, Section 1 of this Indenture.

9. Employment. In exercising the rights, powers and privileges granted to them and in discharging the duties imposed upon the Association by the provisions of this Indenture, to from time to time enter into contracts, employ agents, servants and labor as they may deem necessary or advisable, and to defend suits brought against the Association or the Directors, individually or collectively, in their capacity as directors of the Association.

10. Condemnation. In the event it shall become necessary for any public agency to acquire all or any part of the Common Ground for a public purpose, the Directors are hereby authorized to negotiate with such agency for such acquisition and to execute all instruments necessary to that purpose. Should acquisition by eminent domain become necessary, only the Association need be made a party, and any proceeds received shall be held by the Association for the benefit of those entitled to the use of said Common Ground.

11. Variances. To grant variances from the provisions of this Indenture where, in the sole discretion of the Directors, due cause therefor is demonstrated.

## ARTICLE VII. EASEMENTS

### 1. Association's Easements.

(a) Without limiting the generality of any other provision of this Indenture, the Property shall be subject to a perpetual easement in gross in favor of the Association for ingress and egress to perform its obligations and duties as required by this Indenture. Should it be necessary to enter any Lot or Living Unit to effect a repair or to perform any maintenance or other duty of the Association under this Indenture, the employees, agents, contractors and subcontractors engaged by the Association shall have authority to do so upon presentation to the Owner of a work order or other directive from the Association.

(b) The Association is also hereby granted perpetual easements to maintain any portions of the Common Ground which encroach upon the Lots.

(c) All easements and rights herein established for the benefit of the Association shall run with title to the Property and be binding on the from time to time Owners, purchasers, mortgagees and all other persons having an interest in any Lot or Living Unit, whether or not such easements are mentioned or described in any deed of conveyance.

2. Owners' Easements. Perpetual easements are hereby established appurtenant to all Lots for use by the Owners thereof, their families and guests, invitees and servants, of the Common Ground. Each Owner is further granted a perpetual easement, running with the ownership of his Lot, to use and occupy the balcony, terrace, patio, deck, sidewalks, driveways and garage, if any, which are part of or serve his Lot or Living Unit which are located or encroach upon the Common Ground, and to landscape such of the Common Ground adjacent to his Lot as the Board may approve under other Sections of this Indenture; provided, however, that no Owner shall perform any landscaping in the Subdivision until plans therefor have been approved in writing by the Board pursuant to Article VIII of this Indenture. All easements and rights herein established shall run with the land and inure to the benefit of and be binding on Grantor and any Owner, purchaser, mortgagee or other person having an interest in any portion of the Property, whether or not such easements are mentioned or described in any deed of conveyance.

#### ARTICLE VIII. ARCHITECTURAL AND ENVIRONMENTAL CONTROL

1. Architectural Approval. From and after such time as a Lot becomes subject to assessment as provided in Article XI of this Indenture, no exterior addition, change or alteration (structural or nonstructural) to or removal of all or any part of any improvement on such Lot shall be made; no landscaping shall be planted on such Lot or adjacent Common Ground; and no item, apparatus or device shall be attached to nor shall the exterior appearance of any structure upon any such Lot be changed unless and until (i) the plans and specifications showing the degree, nature, kind, shape, size, square footage, height, elevation, materials, colors, location and configuration of the same shall have been submitted to and approved in writing by the Directors, which approval may be withheld in the sole discretion of the Directors, and (ii) all permits required by the City or any other governmental authority having jurisdiction over the project have been received. In the event the Directors fail to approve or disapprove any design, materials, colors or location within sixty (60) days after all required plans and specifications have been submitted, the proposed addition, change or alteration shall be deemed denied.

2. Construction. If a project approved under the provisions of Section 1 of this Article VIII is not commenced within one year after the date of approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once a project is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Directors grant an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall



be considered nonconforming and shall be subject to enforcement action by the Directors, Grantor or any aggrieved Owner.

3. Applications. The Directors may, by resolution, require all applications to be filed in a specified manner to a designated address, and unless observed, the application shall not be deemed to have been received. The Directors are authorized where they deem appropriate to charge a review fee for any submission to defray the costs of reviews it conducts or authorizes. Further, the Directors may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4. Non-Waiver. Approval of applications or plans shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5. Disclaimers.

(a) It is expressly agreed that notwithstanding any provision of this Article VIII to the contrary, and as provided in Section 1 above, the Owners shall be responsible for procuring all permits and assuring compliance with the City's ordinances for all improvements proposed hereunder, and that the Directors' approval hereunder shall not be deemed a representation that such plans, specifications or other materials comply with applicable laws, rules, ordinances or regulations. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the Directors shall not bear any responsibility for ensuring the structural integrity or soundness of approved projects or their compliance with building codes and other governmental requirements, nor shall the Directors bear any responsibility for ensuring that the project is aesthetically pleasing or otherwise acceptable to neighboring Owners.

(b) Neither Grantor, the Directors, the Association, nor any committee or member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents; or any injury, damage, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot or Living Unit.

## ARTICLE IX. SEWERS AND DRAINAGE FACILITIES

1. Association's Responsibility - Common Ground. In addition to and without limiting its obligations under Article VI Section 2 of this Indenture, the Association shall be responsible for the maintenance, repair and replacement of the private sanitary and storm sewers, if any, detention basins, and any other sanitary or storm sewers or drainage facilities located in and servicing the Subdivision.

2. Owners' Responsibility. Notwithstanding the provisions of Section 1 of this Article IX to the contrary, each Owner shall be responsible for the maintenance, repair and replacement of the lateral sewage line or lines servicing such Owner's Lot.

ARTICLE X.  
INSURANCE; DAMAGE OR DESTRUCTION

1. Association's Insurance Responsibility. The Association shall obtain the following insurance, together with such other insurance as the Directors deem necessary, the premiums and other expenses for and in connection with which shall be assessed against the Owners as part of the annual assessment under Article XII of this Indenture, to-wit:

(a) Commercial general liability insurance covering the Common Ground. Such coverage shall not be for less than One Million and 00/100 Dollars (\$1,000,000.00) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence with an umbrella policy of Five Million and 00/100 Dollars (\$5,000,000.00). Such coverage shall be for all occurrences commonly insured against, and shall include, without limitation, legal liability of the insured for property damage, bodily injury, medical payments and deaths of persons arising out of or in connection with the use, ownership or maintenance of the Common Ground. Such policy shall provide that:

(i) each Owner is an insured person under such policy with respect to liability arising out of the Owner's membership in the Association;

(ii) any right to subrogation under such policy against any Owner or member of his household is waived by the insurer;

(iii) such policy is primary insurance if at the time of a loss under the policy any Owner has other insurance covering the same loss; and

(iv) no action or omission by any Owner, unless validly exercised on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(b) Directors' and officers' liability insurance and blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. Where the Association has delegated some or all of the responsibility of the handling of funds to a manager, such manager shall obtain and maintain at its expense such bonds for its officers, employees and agents handling or responsible for funds of, or administered on behalf of the Association, naming the Association as an additional insured. Such manager shall deliver a certificate of such insurance to the Association upon request, but not less often than annually. Fidelity bonds will be maintained on such terms and with such surety or sureties, conditions, penalties or securities as shall be deemed proper by the Directors; provided, however, (1) that no such bond shall be written in a penal amount which is less than (x) the estimated maximum of funds, including reserve funds, in the custody of the Association or manager at any given time, (y) Fifty Thousand and 00/100 Dollars (\$50,000.00) or (z) twelve (12) months' aggregate monthly assessments on all Living Units plus reserve funds; (2) such bonds shall name the Association as the obligee; (3) the premiums for such bonds (except with respect to bonds maintained by the manager for its officers, employees and agents) shall be paid by the Association; (4) such bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and

(5) such bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Association, or to any insurance trustee with whom the Association has entered into a written insurance trust agreement, and to any first mortgagee. In addition to the foregoing notice, a similar notice to the same recipients shall be required under such bonds prior to the lapse of any such bonds.

2. Owner's Insurance Responsibility. Each Owner shall be responsible for obtaining and maintaining, at his sole cost and expense, the following insurance with respect to his Lot and Living Unit together with such other insurance as the Directors may from time to time deem necessary, to-wit:

(a) Property insurance in an amount equal to the full insurable replacement value of his Living Unit. Such policy shall insure against loss or damage by fire or other perils normally covered by the standard extended coverage endorsement available in the State of Missouri and against all other perils customarily covered with respect to developments having living units similar to the Living Units in construction, location and use, including all perils normally covered by the standard "special" coverage endorsement as well as earthquake coverage and, if available, an "inflation guard endorsement". All insurance policies purchased by the Owners pursuant to this Section 2(a) shall be for the benefit of the Owners and their mortgagees, as their interests may appear, and shall be applied to defray the cost of repairing or reconstructing the damage for which the proceeds are paid as elsewhere provided herein; and

(b) Insurance on the contents of his Living Unit at full replacement cost; and

(c) General liability insurance in an amount of no less than One Million Dollars (\$1,000,000.00) with Five Thousand Dollars (\$5,000.00) loss assessment coverage and Five Thousand Dollars (\$5,000.00) minimum building improvements and betterments coverage. The Directors may from time to time increase the minimum amount of insurance coverage as may be necessary to adjust for inflation and general conditions. Each policy shall name the Association as an additional insured, and shall provide that the Association will be given at least thirty (30) days prior written notice of the cancellation of the policy. Upon the request of the Association, an Owner shall deliver to the Association a certificate of his policy of insurance evidencing the existence and amount of such insurance. Nothing herein shall be deemed or construed as prohibiting an Owner, at his sole cost and expense, from obtaining and maintaining such further and supplementary insurance coverages as he may deem necessary or appropriate.

3. Miscellaneous. All such insurance required under this Article XI shall be maintained in a company with an "A" rating or better by A. M. Best Company authorized to do business in the State of Missouri. If any Owner shall fail to purchase the insurance required hereunder, the Association may purchase insurance for such Owner, and each Owner, for himself, his heirs, personal representatives, successors and assigns, covenants to reimburse the Association for the cost thereof. If not paid when due, all unreimbursed costs shall be and become a continuing lien on the Lot and Living Unit and the personal obligation of the Owner, and shall be subject to collection in the manner set forth in Article XII, Section 6 hereof.





4. Reconstruction or Repair after Casualty.

(a) Reconstruction or Repair. If a Living Unit is damaged or destroyed by fire or other casualty, it shall be reconstructed or repaired by its Owner as soon as reasonably practicable but unless extended by the Directors, in any event within sixty (60) days after the date of such casualty. If the proceeds of insurance carried under Section 2(a) of this Article are insufficient to repair or reconstruct such Living Unit, the Owner shall contribute the additional sums necessary to pay the cost of reconstruction or repair.

(b) Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the original plans and specifications for the improvement, or if not, in accordance with plans and specifications approved by the Directors.

ARTICLE XI.  
ASSESSMENTS

1. General. Grantor, for each Lot within the Subdivision, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay (i) annual assessments or charges and (ii) special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon and costs of collection thereof shall be a charge on the Lot and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

2. Purpose. The assessments levied under this Article shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Subdivision including (i) performing the services and carrying out the functions herein authorized, (ii) acquiring, improving, managing, maintaining and operating the Common Ground and all facilities thereon and easements established herein or on the Plat(s) of the Subdivision including, but not limited to, the payment of taxes and insurance thereon, the cost of labor, equipment and materials used in the repair, maintenance and replacement thereof, (iii) the cost of maintaining the Lots (but not the Living Units) as provided in this Indenture, and (iv) such other needs as may arise. In no event shall Grantor assess any Owner hereunder to defray Grantor's costs of developing the Subdivision.

3. Annual Assessments. The initial annual assessment shall be One Thousand Eight Hundred and 00/100 Dollars (\$1,800.00) per Lot payable in equal monthly installments of One Hundred Fifty and 00/100 Dollars (\$150.00) on the first day of each month. The Directors may increase such assessment for any assessment year by an amount which is equal to the percentage increase in the Consumer Price Index as indicated by the last available Index published prior to the assessment year over the corresponding last available Index published prior to the recording of this Indenture. If such Index be discontinued, the Directors shall utilize a successor index, determined by the Directors in their sole judgment, to be most similar to the discontinued Index.

4. Special Assessments. If at any time the Directors consider it necessary to make any expenditure requiring an assessment additional to the annual assessment, they shall submit a written outline of the contemplated project and the amount of the assessment required to the then Owners. If such assessment is approved either by a majority of the votes cast in person and by proxy at a meeting of the Owners called by the Directors, or on written consent of a majority of the total votes entitled to vote thereon, the Directors shall notify all Owners of the additional assessment; PROVIDED, HOWEVER, that in determining such required majority, only those Owners who have paid all prior assessments shall be entitled to vote. Notice of any special assessment hereunder shall be given in the same manner as notices of annual assessments are given, with such assessment becoming delinquent thirty (30) days after the date of such notice.

5. Prorations. Should a Lot become subject to assessments after January 1 in any year, and should an annual or special assessment have been levied for that year, then such assessment shall be adjusted so that such Lot shall be charged with a portion of the assessment prorated for the balance of the year.

6. Interest and Liens.

(a) All assessments shall bear interest at the rate of one percent (1%) over the Prime Rate from the date of delinquency, and such assessment, together with interest and costs of collection, shall constitute a lien upon the Lot against which assessed until fully paid. As an assessment becomes delinquent, the Directors may execute, acknowledge and record an instrument reciting the levy of the assessment in the County Records, and thereafter institute any appropriate legal action to enforce such lien. Should an Owner pay an assessment after the recording of notice, the Directors shall, at the expense of the Owner, cause the lien to be released of record.

(b) The lien of the assessments provided for herein shall be subordinate to the lien of any institutional (bank, pension or retirement fund, insurance company or federally insured mortgage) first mortgage now or hereafter placed upon any Lot with respect to which assessments have become due and payable prior to a sale or transfer of such Lot pursuant to foreclosure or transfer in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. As used herein, the term "mortgage" or "mortgages" shall include deed or deeds of trust.

7. Exemptions. The following properties subject to this Indenture shall be exempt from the assessments, charges and liens created herein:

(i) All Common Ground;

(ii) All properties exempted from taxation under the laws of the State of Missouri; and

(iii) All Lots owned by Grantor until occupied for residential (as opposed to display) purposes or until title to the Lot has been transferred to the first purchaser thereof at retail (as distinguished from sales in bulk or at wholesale to others for

development or resale). No Lot devoted to residential use shall be exempt from assessment hereunder.

8. Working Capital and Reserve Fund.

(a) Upon acquisition of record title to a Lot by the first Owner thereof other than Grantor (or a builder within the definition of "Grantor"), a contribution shall be made by or on behalf of such Owner to the working capital of the Subdivision in an amount equal to Five Hundred and 00/100 Dollars (\$500.00). The amount to be contributed pursuant to this Section shall be in addition to, not in lieu of, the annual assessment, and shall not be considered an advance payment of such assessment.

(b) The Directors shall establish a reserve fund for the future replacement of or additions to the Common Ground to which each Owner shall annually on the 31<sup>st</sup> day of January each year, contribute Three Hundred Fifty and 00/100 Dollars (\$350.00), which the Directors may increase in any year by the percentage increase in the Consumer Price Index applied as provided in Article XI, Section 3 above.

9. Change of Ownership. Upon the conveyance of any Lot in the Subdivision other than a conveyance by Grantor, the conveying Owner or grantee of such Lot shall give the Association written notice of such conveyance and pay the Association a transfer and administrative fee to cover the Association's expenses resulting from such change in ownership in an amount equal to the greater of (i) One Hundred and 00/100 Dollars (\$100.00), or (ii) the amount then being charged the Association by its third-party property manager, if any. Until paid, the transfer fee due hereunder shall constitute a lien on the transferred Lot, and shall bear interest and be subject to collection as provided in Section 7 of this Article IX.

10. Keeping of Funds. The Association shall deposit its funds in a bank protected by the Federal Deposit Insurance Corporation.

11. Ordinance Compliance. Notwithstanding any other provisions herein, the Association shall make suitable provisions for compliance with all subdivision and other ordinances, rules and regulations of the City, including, but not limited to, street lights, easements and roadways (except for those easements and roadways as are dedicated to public bodies or agencies).

ARTICLE XII.  
RESTRICTIONS

In addition to the limitations and restrictions imposed by other provisions of this Indenture, the following restrictions are imposed upon and against the Property and each Lot now or hereafter existing in the Subdivision:

1. Building Use. No building or structure shall, without the approval of the Directors, be used for a purpose other than that for which the building or structure was originally designed.

2. Commercial Use. Except for the promotional activities conducted by Grantor in connection with the development of the Subdivision and the marketing and sale of residences therein and the conduct of a home occupation in strict accordance with the provisions of the applicable zoning ordinances, no commercial activities of any kind shall be conducted on any Lot.

3. Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Subdivision, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. Without limiting the generality of the foregoing, (i) no motorized vehicles including, but not limited to, cars, go-carts, trailers, recreational vehicles (RVs), tractors, truck-tractors, campers, or house trailers shall be operated, driven, ridden, parked, stored or otherwise placed on, in or about the Common Ground; (ii) no exterior lighting shall be directed outside the boundaries of a Lot or other parcel; (iii) except alarm devices used exclusively for security purposes, no radio, loudspeaker, horn, whistle, bell or other sound device shall be used or discharged at a volume audible to occupants of other Lots; and (iv) no firecrackers or other fireworks shall be used or discharged in the Subdivision.

4. Maintenance. Each Owner shall maintain and keep those portions of his Lot and Living Unit not maintained by the Association in good order and repair, and shall do nothing which would be in violation of law.

5. Obstructions. There shall be no obstruction of any portion of the Common Ground or any storage or construction or planting thereon by an Owner, and no clothes, laundry or other articles or equipment shall be placed, hung, exposed or stored in any portion of the Common Ground or on or about the exterior of any Living Unit.

6. Animals. No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind shall be brought onto or kept in the Subdivision, except that no more than two dogs and/or cats, or other household pets (except house pets with vicious propensities) may be kept or maintained on any Lot, provided that such pets are not kept for any commercial purpose and provided that such pets are at all times leashed and no "runs" or other outside structures are erected or installed therefor. The keeping of any pet which is or becomes a nuisance (as determined by the Directors in their sole judgment) or annoyance to the neighborhood is prohibited.

7. Trucks, Boats, Etc. Except during periods of approved construction, no busses, trucks (other than vans and pick-up trucks not exceeding 3/4 ton) or commercial vehicles (as hereinafter defined), boats, motorcycles, recreational vehicles, campers, house trailers, boat trailers or trailers of any other description, or motor vehicles of any kind whatsoever that are not licensed or are unable to move under their own power, shall be permitted to be parked or stored on any Lot or adjacent Common Ground unless parked or stored in an enclosed garage or as otherwise permitted by the Directors. Further, no motor vehicle or equipment shall be repaired or otherwise serviced in front of or adjacent to any Living Unit in the Subdivision. As used herein, "commercial vehicle" shall mean a motor vehicle designed or regularly used for carrying freight and merchandise or more than eight (8) passengers.

8. Parking. The parking of vehicles in the Subdivision shall be subject to rules and regulations adopted by the Directors from time to time, which rules and regulations may provide for the removal of any violating vehicles at the vehicle owner's expense or for the imposition of a fine for a violation of the rules and regulations. Without limiting the generality of the foregoing, no parking shall be permitted in any cul de sac, and except as provided below, no overnight parking shall be permitted on any streets in the Subdivision. Notwithstanding the foregoing, guests shall be permitted to park a vehicle on a street overnight but for no longer than seventy two (72) hours.

9. Vehicular Sight Lines. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no live tree shall be removed without the approval of the Directors.

10. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, metal, wooden or plastic shed, barn or other out building shall be installed, constructed or maintained on any Lot at any time.

11. Signs. Other than signs required to be permitted under applicable laws and ordinances, no signs, advertisements, billboards or advertising structures of any kind may be erected, maintained or displayed on any Lot or adjacent Common Ground; provided, however, that nothing herein shall prohibit (i) Owners from placing one "For Sale" or "For Rent" sign (not to exceed 2 feet x 4 feet in dimension) on the Lot or adjacent Common Ground, or (ii) signs erected or displayed by Grantor in connection with the development of the Subdivision and the marketing and sale of residences therein.

12. Garbage. No trash, garbage, rubbish, refuse, debris, trash cans or trash receptacles of any type shall be stored in the open on any Lot, but shall be kept secured within the Living Unit located on each Lot; provided, however, the night before any day designated for trash pick-up, trash, garbage, rubbish, refuse and debris secured within appropriate trash cans or receptacles may be placed at the street curbing in front of the Lot for pick-up; and, provided, further, that trash cans or receptacles shall be removed and secured within the Living Unit on each Lot prior to sundown of the day of each such pick-up.

13. Utility and Drainage Easements. Easements for installation and maintenance of utilities and drainage facilities are established in this Indenture and are or will be reserved as shown on the Plat(s) of the Subdivision. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

14. Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or portion of the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or portion of the Subdivision. No derrick or other structure designated for use in



boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or portion of the Subdivision.

15. Cul-De-Sac, etc. Other than subdivision entrance monuments, street lights and fire hydrants, no above-ground structure, may be erected upon a cul-de-sac island, divided street entry island or median strip.

16. Fences. No fencing or screening of any kind shall be erected or maintained on any Lot.

17. Satellite Dishes/Antennae. Subject to applicable federal, state and local regulations, laws and ordinances, no satellite dish, television antenna or other similar device shall be attached to or installed (i) on any portion of the Common Ground, (ii) on the roof of a Living Unit, or (iii) on any portion of a Living Unit or a Lot which is visible from the street in front of the Living Unit. The installation of satellite dishes, television antennae and other similar devices shall be subject to additional reasonable rules and regulations adopted from time to time by the Board. The restrictions set forth in this Section shall not apply to the Association with respect to the installation of equipment necessary for a master antenna system, cable television system or other similar system within the Subdivision.

18. Hazardous and/or Unsightly Materials. No above-ground gas, propane or gasoline, oil or other hazardous material storage tanks or devices shall be permitted upon or in any Lot or the Common Ground of the Subdivision.

19. Leasing of Units. For purposes of this paragraph, "leasing" shall mean the regular, exclusive occupancy of a Lot by any person, other than the Owner, for which the Owner receives any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument. All leases shall be in writing and shall expressly provide that they are and shall remain subject to all provisions of this Indenture. The written lease shall incorporate this Indenture by reference, and shall provide that a violation of any provision thereof shall give the Directors the right to terminate the lease. Every lease shall have a minimum initial and renewal term(s) of twelve (12) months, and no lease shall be on a month-to-month or hold-over basis. Notice of any lease, together with such additional information as may be required by the Directors, shall be given to the Directors by the Owner within ten (10) days of execution of the lease, and the Directors shall have the same rights stated in this Indenture in dealing with any tenant as it would have with respect to an Owner. If a Lot is leased, the Owner shall no longer be entitled to use the Common Ground, and such rights shall be deemed to have been transferred to the tenant for the duration of the lease; provided, however, every Owner shall remain primarily responsible for such Owner's obligations under this Indenture including, without limitation, payment of all assessments.

ARTICLE XIII.  
GENERAL PROVISIONS

These general provisions shall apply to the foregoing Indenture:

1. Actions by Directors. The Directors are authorized to act through a representative, provided, however, that all acts of the Directors shall be agreed upon by at least a majority of said Directors. No Director shall be held personally responsible for his wrongful acts or for the wrongful acts of others, and no Director shall be held personally liable for injury or damage to persons or property by reason of any act or failure to act of the Directors, collectively or individually. The Directors from time to time serving hereunder, except Directors appointed pursuant to Article V, Section 4(a) hereof, shall not be entitled to any compensation or fee for services performed pursuant to this Indenture.

2. Indemnification of Officers, Directors and Others. Subject to the indemnification provisions in Chapter 355 of Mo. Rev. Stat., as the same may be amended, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Missouri law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3. Amendments. Until all Lots authorized to be developed in the Property have been sold and conveyed for residential use, the provisions hereof may only be amended, modified or changed with the concurrence by Grantor and a majority of the then Owners, and thereafter, the provisions hereof may only be amended, modified or changed by the written consent of two-thirds (2/3rds) of all the Owners. To be effective, any amendment, modification or change to the provisions of this Indenture shall be recorded in the County Records. No amendment, modification or change shall reduce or modify the obligations or rights granted to or imposed upon the Association or eliminate the requirement that there be an Association unless some person or entity is substituted for the Association with its responsibilities and duties.

4. Severability, Etc. All covenants and agreements herein are expressly declared to be independent and not interdependent. No laches, waiver, estoppel, condemnation or failure of title as to any part of the Property or any Lot in the Subdivision shall be of any effect to modify, invalidate or annul any grant, covenant or agreement herein with respect to the remainder of the Property, saving always the right to amendment, modification or repeal as hereinabove expressly provided.

5. Invalidation. Invalidation of any one of the covenants of this Indenture shall in no way affect any other provision hereof.

6. Assignment of Grantor. The rights, powers and obligations granted to Grantor may be assigned or transferred by Grantor, in whole or in part, to any other person or entity or persons or entities to whom Grantor sells, transfers or assigns all or any portion of the Lots in the Subdivision.

7. Rights During Construction and Sale. Notwithstanding any provision contained in this Indenture to the contrary, until all Lots authorized to be developed in the Subdivision have been sold and conveyed for residential use, Grantor and its successors and assigns shall have the right and privilege (i) to erect and maintain advertising signs, sales flags and other sales devices and banners for the purpose of aiding the sale of Lots in the Subdivision; (ii) to maintain sales, business and construction offices in display homes or trailers in the Subdivision (including without limitation, the Common Ground) to facilitate the completion of development of the Subdivision and construction and sale of residences; and (iii) to park and to allow its subcontractors to park trucks and stock pile and store materials on any Lot(s) or on the Common Ground. Grantor's construction activities shall not be considered a nuisance, and Grantor hereby reserves the right and privilege for itself and its successors and assigns to conduct the activities enumerated in this Section until all Lots in the Subdivision have been sold and conveyed for residential purposes. The provisions of this Article XIV, Section 7 shall not be amended, modified or deleted without the prior written consent of Grantor.

8. Continuing Rights to Inspect and Maintain. Grantor reserves the right to periodically enter upon the Common Ground to inspect the maintenance and upkeep of the Common Ground, including building exteriors, common mechanical systems, common structural items, landscaping, irrigation systems and common area amenities such as playgrounds and club houses that may have been constructed by Grantor. Grantor will schedule and coordinate its review of the Common Ground through the Directors. During the inspection, Grantor will review and, if appropriate, make recommendations to the Directors relating to the repair, maintenance and upkeep of the Common Ground. Grantor may also, if it so chooses, make repairs or take other corrective action with respect to repair or maintenance items that it identifies during the review.

9. Term. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Indenture shall run with and bind the Property for the duration of the trust under Article II of this Indenture, after which said covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of two-thirds (2/3rds) of the Lots subject hereto has been recorded agreeing to terminate this Indenture as of the end of any such ten (10) year



period. No such agreement of termination shall be effective unless made and recorded one (1) year in advance of the effective date of such termination, and unless written notice of the proposed agreement of termination is sent to every Owner at least ninety (90) days in advance of any action taken.

IN WITNESS WHEREOF, Grantor has executed this Indenture this 12 day of December, 2019.

GRANTOR: PAYNE FAMILY HOMES, LLC,  
a Missouri limited liability company

BY: [Signature]  
Name: Kevin E Roy  
Title: CFO

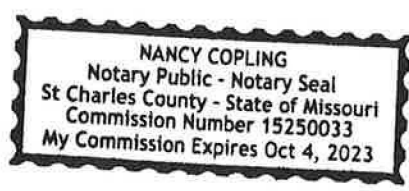
STATE OF MISSOURI     )  
                                      ) SS  
COUNTY OF ST. LOUIS    )

On this 12<sup>th</sup> day of December, 2019, before me personally appeared Kevin Roy, CFO of Payne Family Homes, LLC, a Missouri limited liability company, known to me to be the person who executed the foregoing in behalf of said company and acknowledged to me that he executed the same for the purposes therein stated.

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.

Nancy Copling  
Notary Public

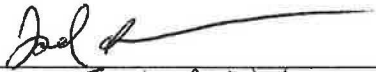
My commission expires: 10/4/23



[SIGNATURE PAGE TO INDENTURE OF TRUST AND  
RESTRICTIONS FOR VILLAGE POINT]

ASSOCIATION:

VILLAGE POINT ASSOCIATION,  
a Missouri nonprofit corporation

BY:   
Name: Joel Pottbaum  
Title: Director

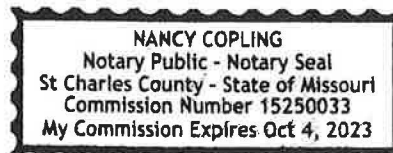
STATE OF MISSOURI     )  
                                      ) SS  
COUNTY OF ST. LOUIS    )

On this 12<sup>th</sup> day of December, 2019, before me personally appeared Joel Pottbaum Director of Village Point Association, a Missouri nonprofit corporation, known to me to be the person who executed the foregoing in behalf of said corporation and acknowledged to me that he/she executed the same for the purposes therein stated.

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

My commission expires: 10/7/23





**EXHIBIT A**

A TRACT OF LAND BEING ALL OF LOT 3B OF "ST. PETERS SQUARE RESUBDIVISION OF LOT 3", A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 50, PAGE 269 OF THE SAID RECORDS, WITHIN FRACTIONAL SECTION 36, TOWNSHIP 47 NORTH, RANGE 3 EAST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF ST. PETERS, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF LOT 1 OF "ST. PETERS SQUARE PLAT ONE", A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 30, PAGE 85 OF THE SAID RECORDS WITH THE EAST LINE OF "MID RIVERS ESTATES PLAT TWO", A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 23, PAGE 144 OF THE SAID RECORDS; THENCE ALONG THE SAID SOUTH LINE OF LOT 1, THE FOLLOWING COURSES AND DISTANCES, SOUTH 84 DEGREES 04 MINUTES 10 SECONDS EAST 544.94 FEET TO A POINT ON THE WEST LINE OF LOT 3A OF SAID "ST. PETERS SQUARE RESUBDIVISION OF LOT 3"; THENCE ALONG THE SAID WEST LINE OF LOT 3A OF "ST. PETERS SQUARE RESUBDIVISION OF LOT 3", THE FOLLOWING COURSES AND DISTANCES, SOUTH 05 DEGREES 55 MINUTES 07 SECONDS EAST 161.90 FEET; AND ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 03 DEGREES 15 MINUTES 11 SECONDS EAST 103.61 FEET AND WHOSE RADIUS POINT BEARS SOUTH 84 DEGREES 04 MINUTES 53 SECONDS EAST 325.00 FEET FROM THE LAST MENTIONED POINT, AN ARC DISTANCE OF 104.05 FEET TO A POINT ON THE SOUTHEAST LINE OF SAID LOT 3A OF "ST. PETERS SQUARE RESUBDIVISION OF LOT 3"; THENCE ALONG THE SAID SOUTHEAST LINE OF LOT 3A OF "ST. PETERS SQUARE RESUBDIVISION OF LOT 3", NORTH 66 DEGREES 14 MINUTES 50 SECONDS EAST 288.26 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MID RIVERS MALL DRIVE, VARIABLE WIDTH; THENCE ALONG THE SAID WEST RIGHT-OF-WAY LINE OF MID RIVERS MALL DRIVE, THE FOLLOWING COURSES AND DISTANCES, ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 34 DEGREES 55 MINUTES 05 SECONDS EAST 238.18 FEET AND WHOSE RADIUS POINT BEARS NORTH 66 DEGREES 14 MINUTES 50 SECONDS EAST 615.00 FEET FROM THE LAST MENTIONED POINT, AN ARC DISTANCE OF 239.69 FEET; SOUTH 46 DEGREES 04 MINUTES 59 SECONDS EAST 217.75 FEET; AND ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS SOUTH 24 DEGREES 19 MINUTES 35 SECONDS EAST 396.61 FEET AND WHOSE RADIUS POINT BEARS SOUTH 43 DEGREES 55 MINUTES 01 SECONDS WEST 535.00 FEET FROM THE LAST MENTIONED POINT, AN ARC DISTANCE OF 406.31 FEET TO A POINT ON THE NORTH LINE OF "MID RIVERS ESTATES PLAT ONE", A SUBDIVISION ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 23, PAGE 119 OF THE SAID RECORDS; THENCE ALONG THE SAID NORTH LINE OF "MID RIVERS ESTATES PLAT ONE", NORTH 71 DEGREES 47 MINUTES 45 SECONDS WEST 1215.92 FEET TO A POINT ON THE AFOREMENTIONED EAST LINE OF "MID RIVERS ESTATES PLAT TWO"; THENCE ALONG THE SAID EAST LINE OF "MID RIVERS ESTATES PLAT TWO", THE FOLLOWING COURSES AND DISTANCES, NORTH 15 DEGREES 39 MINUTES 35 SECONDS WEST 198.72 FEET; AND NORTH 07 DEGREES 10 MINUTES 09 SECONDS WEST 343.88 FEET TO THE POINT OF BEGINNING, CONTAINING 12.719 ACRES.