

TRUST AGREEMENT AND INDENTURE OF RESTRICTIONS

1979 SEP 10 PM 12:01

OF

KEHRS MILL ESTATES SUBDIVISION*John E. Faulstich*
RECORDER OF DEEDS

THIS INDENTURE, made this 7th day of AUGUST, 1979, by and between CINCO LAND DEVELOPERS, INC., GEORGE H. MUSTERMAN, INC., and CLARKSON VALLEY ESTATES, INC., all collectively hereinafter called "OWNER", and KEHRS MILL ESTATES RESIDENTS ASSOCIATION, a Missouri Not-For-Profit Corporation, hereinafter called "TRUSTEE".

W I T N E S S E T H:

WHEREAS, Owner is vested with fee simple title to a certain tract of land situated in St. Louis County, Missouri, herein sometimes referred to as "SITE", being more particularly described in Exhibit A attached hereto and made a part hereof, and

WHEREAS, this Indenture is established for the purpose, inter alia, of complying with Village of Clarkson Valley Ordinances applicable to Site, and

WHEREAS, Owner intends to develop and improve the above described Site in part with residences, and in part with recreation and open space area for the common use and enjoyment of the occupants and owners of said residences, and

WHEREAS, Owner has caused a part of said SITE to be laid out and platted as a SUBDIVISION to be named KEHRS MILL ESTATES PLAT NO. 2, which will be recorded in the Office of the Recorder of Deeds within and for St. Louis County, Missouri, and it is contemplated that the SITE shall be further subdivided and that plats thereof designated KEHRS MILL ESTATES PLAT NO. 1, KEHRS MILL ESTATES PLAT NO. 3, etc., will be prepared and recorded in the St. Louis County Recorder's Office, all of which Plats in the SITE are herein called "PLAT", and

WHEREAS, Owner has caused, or will cause, to be constructed and laid out upon a part of said Site open space areas intended to be used for, by way of example, and not by way of limitation, recreation area, park purposes and storm water retention basins, said open space area being herein referred to as "Common Area" identified and more particularly described on Plat as Common Area, or as Common Land, Common Ground, all of such terms to have like meaning, and by reference made a part hereof, and

WHEREAS, Owner may establish additional Common Areas, and

WHEREAS, there has been designated and recited on PLAT certain storm water retention basins and all appurtenances associated with the spillway and overflow structures ("Retention Basins") which aid the drainage of the lots in said Subdivision and, further, said Retention Basins shall be for the use and benefit of the owners (their guests and invitees) of the lots in the said Subdivision, and

WHEREAS, there has been designated and recited on Plat certain private streets and also certain easements which have been provided for the purpose of constructing, maintaining, and operating sewers, pipes, conduits, poles, wires, and other facilities and utilities for the benefit of the Owner or Owners of the lots shown on said Plat, and for the use of such others as may be later designated by Owner herein; and

WHEREAS, it is the purpose and intent of the Owner and of the Trustee that said Subdivision and any other single family residence subdivision as may be created and established upon Site, or upon any part thereof, shall in conjunction with Common Area be and remain a first class, integrated, single family residence project served by the Common Area, and

WHEREAS, all reservations, limitations, conditions, and covenants herein contained, any and all of which are herein referred to as "RESTRICTIONS", are made jointly and severally for the benefit of all persons who may purchase, hold, or own, from time to time, any of the several lots which may be hereafter platted or created upon Site and made subject to these restrictions, and for the benefit of Owner, and their respective tenants, invitees, successors, and assigns;

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) to them in hand paid by Trustee, the receipt of which Owner hereby acknowledges, and with the agreement and consent of Trustee to act as such hereunder, Owner hereby grants, bargains, and sells, conveys and confirms unto said Trustee and unto its successors in trust, so long as this Indenture shall remain in force and effect:

- (A) All the strips of land shown on Plat (and as may hereafter be shown on subsequent plats filed of record subdividing Site) for public utility easements, storm water sewers and drainage facilities;
- (B) Easements in, over, upon and across such portions of Plat (and of such portions of such subsequent plats as may be filed of record subdividing Site) as may be now or hereinafter designated as streets and roads, as follows: The rights, benefits, and advantages with said (Plat) Subdivision of having ingress and egress from and to, over, along, and across easements, storm water sewers and drainage facilities, and of appropriately beautifying, maintaining and controlling the movement of traffic over the same; also of constructing, maintaining, reconstructing and therewith on said roads, streets and driveways; also of using the same for highway purposes of every kind and of regulating the use thereof in present or future residents of said Subdivision; and of laying, constructing, maintaining and operating thereupon, either above or underground, suitable supports or conduits for electricity, telegraph and telephone wires, and suitable pipes, conduits, or other means of conducting steam, electricity, hot water or other useful agencies;

- (C) And Owner does also create and grant to said Trustee, its Successor or Successors, easements in, over and upon and across such portions of said land as may be used for residential or other purposes as follows: The rights, benefits and advantages of having egress and ingress to and from, over, along and across any of such land and duties in this Indenture contained; and of over, along and across any of said land used above or underground, suitable supports or conduits or other means of conducting sewage, steam, electricity, water, or other useful agencies, provided, that none of the supports, conduits, pipes, devices or other appliances shall interfere with the lawful construction of any building or structure on said property, and that said easements shall terminate at the exterior foundation wall of any building structure;
- (D) Common Area, recreational areas and Retention Basins, together with such improvements as are now or may hereafter be erected and constructed thereon, and the designated Common Area, including recreational areas and Retention Basins, in any plats hereafter recorded covering any land contained within said Site;

TO HAVE AND TO HOLD the same to said Trustee and its Successors in Trust, IN TRUST, for the Owner and the present and future owners of each of the said lots in said Plat, and said lots and all of them shall remain forever subject to the burdens and entitled to the liens involved in said easements and Owner, for itself, its Successors and Assigns, and for and in behalf of all persons who may hereafter derive title by, under and through Owner, for itself, its Successors and Assigns, to any part of said Subdivision (Plat), hereby provides that the liens and burdens of said easements, and restrictions shall be, run with, and remain attached to each of the lots in said Subdivision (Plat) as appurtenant thereto, provided, however, that said easements are created and granted subject to the power and rights granted to the said Trustee by this Indenture, and shall be availed of and enjoyed only under and subject to such reasonable rules and regulations as said Trustee and its Successors may make and prescribe or as may be made and prescribed under and by authority of the provisions of this Indenture.

ARTICLE I

Term and Membership

Sec. 1.01

(a) The Trusts and Restrictions in this Indenture set forth shall continue and be binding upon Owner and Trustee and upon their Successors and Assigns in perpetuity, unless terminated as provided hereunder.

(b) The members of the Trustee corporation shall be those persons who are the lot owners of the lots which are subject to this Indenture; said memberships being appurtenant to and in conjunction with the ownership of such lots. Any conveyance or change of ownership of any lot shall carry with it membership in the Trustee corporation. No member shall have a right to convey his membership in the Trustee corporation, except as an incident to the ownership of a regularly platted lot. The rules and provisions relating to the election of directors and the government of the affairs of the Trustee corporation shall be provided for in the By-Laws thereof.

ARTICLE II (A)

Easements of Enjoyment

The Trustee shall keep said roads, circles, parking areas, walks, Common Area, and all recreational areas and Retention Basins open at all times for the use and benefit of the owner or owners of the various building and residences now constructed or hereafter constructed upon Site and for the use and benefit of the Lessees, Tenants and licensees of the owner of said residences and for the benefit of their invitees. Such use shall always be subject to the general rules and regulations hereafter established or prescribed by the Trustee and subject to the established charges therefor. The Trustee shall have, to exercise as it, in its sole discretion deems best, the power, to make, improve and construct and reconstruct the roads, circles, walks, parking areas, Common Area, and all recreational areas and Retention Basins as are now constructed or may hereafter be constructed upon Site and conveyed to Trustee, and to maintain and repair the same, to regulate the use thereof, and to provide for the proper lighting, policing, and protection of same, and to construct and maintain, or permit others to construct and maintain, overhead or underground transmission systems and pipes, conduits and other means for the transmission of electric, telephone and telegraph services, and gas, steam, water and other useful agencies, storm and foul water systems, for the benefit of Site and the Owner, Owner's Tenants and Lessees, and their invitees, and for the benefit of the aforesaid lot owners, and their invitees all herein sometimes referred to as "USERS".

Sec. 2.01 - Trustee shall have the right at all times to construct and maintain, or permit others to construct and maintain, in or over the easement strips delineated on plat, and upon such easement strips as Owner may hereafter designate by appropriate plat or instrument of record, walks, overhead or underground transmission systems for the transmission of electric, telephone and telegraph service and gas, steam, water and other useful agencies, and storm and foul water systems for the benefit of Users.

Sec. 2.02 - The Trustee shall provide for and forever secure to Users, and each of them, the right, benefit, and advantage of having ingress and egress from and to, over, along, and across such roads, circles, walks, parking areas, Common Area, and all recreational areas and Retention Basins provided that the use thereof shall be subject to general rules and regulations hereafter established or prescribed by the Trustee.

Sec. 2.03 - The Trustee shall provide that no persons, firm or corporation other than the Owner herein shall at any time obstruct or occupy any part of the roads, circles, walks, parking areas and common recreation areas with building materials, soil or other objects calculated to prevent free passage to Users.

ARTICLE II (B)

The rights and easements herein granted are to be easements in fee annexed to and forever to continue to be annexed to and passing with and inuring to Site or any part or subdivision thereof as appurtenances thereto, and said Site and every part thereof are to forever remain subject to the burdens and entitled to the benefits involved in said easements, except as herein otherwise provided, and it is hereby expressly agreed that the rights and easements and each of them are created and granted subject to the powers and rights granted to Trustee in Article III of this Indenture, and to the provisions of Article IV hereof, and shall be availed of and enjoyed only and subject to such reasonable rules and regulations as Trustee or its Successor may from time to time make and prescribe, or as may be prescribed under and by authority of the provisions of Article IV; and none of the things, power to do which is hereinafter conferred upon Trustee or its Successor, shall be done (unless otherwise in this Indenture provided), excepting by and through Trustee or its Successor, or with its written permission.

ARTICLE III

Rights, Authorities, Powers, Interest and Duties of Trustees

Trustee and its Successor shall for and during the period of the trust and of the said restrictions have the following rights, authorities, powers, interests and duties:

Sec. 3.01 - To construct, reconstruct, maintain and repair the streets, gutters, and curbing, or any of them, in and upon the aforesaid roads, places, circles, walks, parking areas, Common Area, recreational areas and Retention Basins and structures; to plant, grow and preserve trees and shrubbery in any appropriate spaces in or upon or adjacent to said roads, places, circles, walks, parking areas, Common Area, recreational areas and Retention Basins; and to construct lay, maintain, reconstruct and repair proper and sufficient sewer systems, gas and water pipes and other pipes and conduits and connections therewith, and overhead and underground transmission systems for conducting electricity, telephone or telegraph service in or upon the said roads, places, circles, walks, parking areas, Common Area, recreational areas and Retention Basins and in or upon the easement strips shown on Plat, or upon those hereinafter established upon Site, and all of the said rights and powers shall apply to and be exercised upon or with respect to such like improvements and conveniences as may be made by Owner. Trustee shall also have the power, by way of example and not by way of limitation, to construct, reconstruct, maintain, repair and operate swimming pools, recreation buildings, and other recreation facilities in the Common Area, recreational areas and Retention Basins and the right to construct, reconstruct, maintain and operate upon any part of the Common Area, recreational areas and Retention Basins lakes, planting islands, waterfalls, bridges, fences, sculptors, landscaping improvements of any type, character, or description, and golf courses or other recreation facilities. And it shall be the duty of the Trustee to levy assessment for, contract for and make any or all of the improvements herein authorized.

Sec. 3.02 - To grant to such person or persons, corporation or corporations, and for such time as they, the Trustee, or its Successors may deem best, the right to enter upon said roads, circles, places, parking area, walks, common areas, Common Area, recreational areas and Retention Basins or any of them, or the easement strips shown on plat, or those hereafter established on Site, and erect and maintain overhead and underground transmission systems for conducting electricity or telephone or telegraph service, and to construct and maintain therein suitable pipes or conduits or other means to conduct water, gas, steam, and other useful agencies and to supply the same for the use and benefit of Owner and Users.

Sec. 3.03 - To light, remove snow and ice therefrom, police, sprinkle, oil, clean or resurface said roads, circles, walks, places, parking areas, common areas, Common Area, recreational areas and Retention Basins and clean storm sewer systems, pipes, conduits and connections therein; to preserve, maintain and keep open the same and the connections, entrances and exits of the same whenever necessary to do so by appropriate legal proceedings; also to pay the general and special taxes which may be assessed against the same; also to receive, hold, convey, dispose of and administer in trust for the purpose of this Indenture, any gift, grant, conveyance or donation of money or real or personal property, and generally to do whatever else may to the Trustee or its Successors deem to be necessary with respect to said roads, circles, places, parking areas, walks, common areas, Common Area, recreational areas and Retention Basins including the collection, removal, carrying away and disposal of garbage, rubbish, and ashes from the said roads, places, circles, walks, common areas, and Common Area, and in and from the Site, and to make proper contracts therefor, covering such periods of time as the Trustee may deem best.

Sec. 3.04 - To make provision with the St. Louis County Water Company to furnish water for use upon any part of the Site. To make provision with any fire district, municipality or person for protection against loss or damage by fire of improvements now or hereafter erected upon Site, and for the sprinkling, washing, and cleaning of the roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins and the curbing and guttering, or the watering of trees, grass and shrubbery thereon, or for any other use thereon by the Trustee deemed necessary or proper, and also for use in cleaning and flushing sewers in the Site, and also for any other uses in said Site which the Trustee may from time to time deem necessary or proper, and to enter into any contract or contracts with respect to such water and the furnishings thereon and the payment therefor as the Trustee may deem proper. And the Trustee may install and keep in operation and repair water and fire plugs, police signal systems and connections in said roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins and may install and keep in operation and repair any facilities constituting a part of the common area or Common Area, recreational areas and Retention Basins, including, but not by way of limitation, improvements calculated to improve the aesthetic appearances of Site.

Sec. 3.05 - Also, to convey and grant to others outside of the Site, but subject always to laws and ordinances applicable to Site, the right to use the roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins, storm sewer systems, water and gas pipes, and other pipes and conduits, and the overhead and underground transmission systems, or any of them, which may at any time from time to time be in the aforesaid roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins, or in the easement strips shown on Plat or in those hereafter established on Site, the terms of and compensation for such use or uses to be agreed upon between the Trustee or its Successors, or determined as may be provided by law or ordinance. The compensation received for such use or uses shall be held and expended as necessary by the Trustee or its Successors, for the maintenance, repair, lighting, cleaning, policing, sprinkling, improving, and beautifying of such roads, places, avenues, circles, walks, parking areas, easement strips, common areas, Common Area, recreational areas and Retention Basins and the storm sewers and other improvements located within, upon and about the Site as the Trustees may deem necessary or proper; provided, however, that any such right or use granted to others shall be in common with the right to those in the said Site and shall not be conveyed or granted as to any storm sewer or gas pipe or any other pipe or conduit, unless the capacity of the sewer or pipe or conduit to be affected shall be ample to accommodate the rightful use thereof by those in the Site and such additional use.

Sec. 3.06 - Also, to cut, remove, and carry away from all vacant land areas in the Site and properly dispose of all weeds and unsightly grasses or other growths, as well as rubbish, filth and accumulations of debris and other things tending to create unsightliness or untidiness; this may be done at the expense of the trust, or if the owner of such land fails, omits, or refuses, after 10 days written notice delivered to such owner or posted on such land, to remedy such condition, at the expense of the owner of such land, on whose land such expense is incurred, by special assessment against him, as the Trustee may determine; the right to prescribe the type and location of rubbish containers, and the method manner, and means of rubbish disposal.

Sec. 3.07 - To transfer and convey to any public authority any sewer system, storm sewer pipe, water pipe, or other pipe or conduit and appurtenances which may heretofore or hereafter have been constructed by Owner or by the Trustee, and to receive money considerations therefor, but all such money considerations shall be paid over and delivered by the Trustee to Owner, and the Owner hereby reserves unto itself, its Successors and assigns, the right to receive and retain for its own use and benefit any money so paid over and delivered to it for or on account of such improvements.

Sec. 3.08 - To prevent, as Trustee of an express trust and for the benefit of other owners of any part of the Site, any infringement or compel for performance of any covenants or restrictions in this Indenture contained and to prescribe and enforce rules and regulations with respect to the use of the roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins and/or sewers, sewer pipe, water, gas or other pipe and appurtenances, and overhead or underground transmission systems or any of them.

Sec. 3.09 - To prohibit persons, firms or corporations other than the owner and his agents and employees from engaging in heavy hauling over, upon or along said roads, places, avenues, circles, and parking areas, and to prohibit speeding or racing and regulate speeds thereon; to prohibit the obstruction of said roads, places, avenues, circles, parking areas, and walks by storage of materials or otherwise.

Sec. 3.10 - To dedicate, at any time, to public use, the roads, places, avenues, circles, walks, parking areas, easement strips, common areas, Common Area, recreational areas and Retention Basins, or any part thereof in said Site. Whenever any road, place, walk, avenue, circle, parking area, common area, Common Area, recreational areas or Retention Basins, or any part thereof, is dedicated to public use, or is condemned and taken by public authority, then the powers and duties of the Trustee with respect to the same shall cease, but the restrictions by this Indenture imposed upon the Site shall nevertheless continue in full force and effect until the termination thereof, as provided in Article IV. Unless the Trustee dedicates the roads, places, avenues, circles, easement strips, parking areas, common areas, walks, Common Area, recreational areas or Retention Basins, or any of them, to the public for public use as hereinabove provided, the Trustee shall hold the same perpetually upon the trusts herein provided for the use and benefit of the Owners of the land and improvements in said Site. If any moneys are received by the Trustee as compensation for roads, places, avenues, circles, walks, parking areas, easement strips, common areas, Common Area, recreational areas and Retention Basins, or any part thereof taken in condemnation proceedings, the amount so received shall be applied to the payment pro rata of and damages which may be assessed against any of the land owners in said Site, and the surplus, if any, shall be held by the Trustee and shall be used for general purposes of the trust, the same as funds collected under Section 3.14 of this Article III. Anything to the contrary herein notwithstanding, Common Area, recreational areas and Retention Basins may be dedicated to public use only upon ratification of such dedication by a three-fourths vote of the lot owners affected by these Restrictions.

Sec. 3.11 - To enter upon the said roads, walks, places, avenues, circles, parking area, common areas, Common Area, recreational areas and Retention Basins and easement strips for the purpose of doing the things herein specified, or any of them.

Sec. 3.12 - In exercising the powers, rights and privileges granted to them, and in discharging the duties imposed upon them, to, from time to time, employ agents, servants and laborers as they may deem necessary, and employ counsel and institute and prosecute such suits as they may deem necessary or advisable, and defend suits brought against them or any of them in its character or capacity as Trustee.

Sec. 3.121 - To consent to the encroachment upon or to the partial or full vacation of any easement created or established herein, or hereafter created or established upon Site, where in the opinion, judgment, and discretion of the Trustee, such encroachment or vacation is desirable by reason of errors in construction layout, surveys, or building location, or otherwise reasonably necessary or desirable, provided, however, in cases of partial vacation of any easement, the remaining part thereof shall be reasonably adequate for the purpose for which same shall have been created, and provided further, in the cases of full vacation of any easement, that there is no longer reasonably utility or purpose therefor, or that a substitute easement is established concurrently with such vacation.

Sec. 3.122 - To reconvey to Owner, its Successors and assigns, upon the written demand of such Owner, its Successors or assigns, always however subject to the restrictions herein imposed thereon, governing the use, maintenance, and operation thereof, the common recreation areas and park areas and facilities located therein, said common recreation areas, and Common Area and Retention Basins, having herein initially been conveyed to Trustee, for the purpose of imposing these restrictions thereon, and securing to present or future holders of any Deed of Trust upon residence buildings, in the Site, and unto their Successors and Assigns, the continuing right to use and enjoy the recreation facilities situated in and located upon such common recreation area or Common Area, recreational areas and Retention Basins.

Sec. 3.123 - The right to use the Common Area, including recreational areas and Retention Basins, for such purpose(s) as in the sole judgment of Trustee, the Trustee may decide, provided such use is for the common use of all lot owners. The right to grant road or utility or other easements to third parties outside of the subdivision.

Sec. 3.124 - The right to contract with any person or persons for the management of the Common Area, including recreational areas and Retention Basins, or any part thereof, upon such reasonable fee or management basis and terms as the Trustee, in the sole discretion of Trustee, may approve.

Sec. 3.125 - The right to lease to any person or persons the Common Area, recreational areas and Retention Basins, or any part thereof, upon such terms and conditions as the Trustee, in its sole discretion, may approve, provided that such lease shall not impair the rights of persons claiming under Owner to use the Common Area, recreational areas & Retention Basins subject to such rules and regulations as said lease agreement may provide.

Sec. 3.126 - The right to authorize and permit, subject to such reasonable rules and regulations as the Trustee may promulgate, the Tenants, Licensees, Invitees, and Permittees of the Owner of any lot or lots established in the Site, to use the Common Area, recreational areas and Retention Basins.

Sec. 3.13 - To avail themselves of and exercise the rights and powers herein granted to them, provided that nothing herein contained shall be taken to compel the Trustee to make any payment or incur any liability in excess of the amount, which shall for the time being be in their hands as the result of assessments made against any of the owners of land in the Site, as hereinafter provided.

Sec. 3.14 - Assessments - In order to provide the means necessary to make the payments and perform the duties and avail themselves of and exercise the rights and powers aforesaid, and to secure the various ends contemplated and intended to be effected by means of this Indenture (other than the special assessments referred to in Section 3.16 of this Article III), the Trustee is hereby empowered to collect each year from and after the date of this Indenture, from the owners of any lots which may hereafter be created upon and within said Site, a sum of money sufficient for all the general purposes hereinbefore recited (in addition to the special sums hereinafter in Section 3.16 of this Article III mentioned for specific purposes) provided that commencing with the sixth annual assessment to be made hereunder, and each five years thereafter, the fixed annual assessment per lot shall not exceed the greater of (i) \$400.00, or (ii) the number of dollars equivalent to the purchasing power of \$400.00 for the month in which this Indenture is recorded. Such number of dollars shall be determined by dividing \$400.00 by the index for said month of recording as computed in the Urban Consumer Price Index made by the Bureau of Labor Statistics of the United States Department of Labor, and then multiplying the quotient by the similar index number for the month in which the sixth annual assessment (and each succeeding sixth annual assessment thereafter) commences. If the Bureau of Labor Statistics shall change the base period in effect during the month in which this Indenture is recorded, the next index figure applicable as a divisor and multiplier shall be correspondingly changed. In the event such statistics shall no longer be available, the most nearly similar statistics showing the purchasing power of United States Dollars shall be used instead, and the table to be used shall be designated by the Trustees. So long as Owner shall own any lot in said subdivision, such lot shall not be subject to any assessments under this Indenture; if Owner shall permit any residence constructed on any lot owned by it to be occupied as a residence, then such lot shall be subject to assessments, if any, hereunder.

The total amount so required for general purposes shall be determined or estimated from year to year by the Trustee and may be made payable in advance or in one or more installments as the Trustee may determine; and the owner or owners of each lot (excepting the owners of any roads, places, walks, avenues, circles, parking areas, easement strips, common areas, Common Area, recreational areas and Retention Basins, title to which may be vested in the Trustee) irrespective of its location, now existing or hereafter created upon the Site, shall be required to pay in advance on such account such proportion of the said annual amount (in the installments as called for by the Trustee) as such lot bears to the sum of all single family residence lots then located in the Site. Taxes, sewer assessments, water, electric, gas, and other utility charges, which may be assessed against or charged for the roads, places, avenues, circles, parking areas, easement strips, common areas, Common Area, recreational areas and Retention Basins, and the costs of operating, repairing, and maintaining, including the reconstruction, if necessary, of any common area, parking area, Common Area, recreational areas, Retention Basins, roads, places, avenues, circles, walks, and improvements located thereon, herein conveyed to the Trustee and title to which shall be held by the Trustee, shall be paid out of the funds collected in accordance with this paragraph. If the annual assessment for general purposes as previously fixed by the Trustee is insufficient to provide for all such general purposes, the Trustee may levy and collect additional assessments from time to time for general purposes, subject to limitations herein in this paragraph imposed on such assessments.

The assessment provisions of this Indenture shall not apply to any vacant lot owned by Owner, nor to any lot having a building which lot and building are offered for sale by the Owner.

Sec. 3.15 - If the Trustee should at any time be sued for damages for personal injuries or death sustained by anyone or for damage to property by anyone sustained by anyone on the Site or by anyone by reason of any act of the Trustee, in its character as Trustee, the Trustee may, if the insurance company insuring and indemnifying Trustee against loss or damage by reason of any such claim or suit, shall fail, refuse, or neglect to assume the defense of such claim or suit, or shall fail, refuse, or neglect to pay and satisfy any judgment rendered in such suit against the Trustee, employ attorneys to defend such suit or action or to compromise and settle, at any time, such claims, before or after suit, or after judgment and the expense thereof, including any amount paid in settlement or in satisfaction of any judgment recovered against it, and interest and costs and attorney's fees and other costs of defending such action shall be assessed by the Trustee pro rata against the owners of residence lots and against the residences thereon situated, in the same manner as provided in the foregoing Section 3.14, and the payment thereof shall be enforced as hereinafter provided, the amount so to be paid shall be in addition to the assessment for general purposes referred to in the foregoing Section 3.14.

The Trustee shall also be authorized to expend money for the collection of assessments and keeping the books of account, and they are also authorized to purchase and carry insurance to protect it against claims for personal injuries or death, or for damage to property, sustained by anyone as hereinbefore provided, and to purchase fire and extended coverage insurance insuring any property owned by it in its capacity as Trustee against loss or damage by fire or other casualty, and any amounts so expended for insurance shall be included in expenditures for general purposes as provided in Section 3.14 of this Article III.

Sec. 3.16 - Whenever the assessments herein authorized under Section 3.14 and Section 3.15 are insufficient to defray the costs of constructing and reconstructing roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins, and of operating and maintaining any common area, Common Area, recreational areas, Retention Basins, recreation facility, roads, places, avenues, circles, walks, and parking areas, the Trustee may levy a special assessment, without regard to the limitations thereon provided for in Section 3.14 and 3.15, to defray such excess costs, provided that no special assessment shall become effective until approved by two-thirds (2/3) vote of the record owners of any and all lots then subject to these Restrictions. Such special assessments shall be made, if at all, in the same manner as herein provided for the making of assessments for general purposes

under Section 3.14, and the enforcement of the collection thereof effected in the same manner hereinafter provided in Section 3.17 for the enforcement of collection of assessments made for general purposes.

Sec. 3.17 - A written or printed notice signed by the Trustee stating the amount of money required for general purposes, hereinbefore recited, of any installment or installments thereof, or of the sums hereinbefore required for special purposes (other than such general purposes), and the date or dates when payment thereof must be made, shall be served at least thirty (30) days before any payment under said notice shall be required to be made, upon each of said owners, either by delivering said notice to each owner personally, or to his agent, or to any person over the age of fifteen years (15) found in charge of their respective residences, or by mailing the same to such owner's last known address, or by posting the same upon any conspicuous place on the residence building with respect to which such assessment is being made. Service in any one of the said methods shall be sufficient; said annual amount and installments thereof (and any special assessment) required to be paid as above provided, shall as soon as such notice be served, become to the extent of and for the amount payable by each owner as above provided, a charge or lien upon his residence building, and upon his interest in any land or building a part of the Site, and said lien shall continue in full force and effect until said amounts are fully paid, and the same (together with all other assessments) shall constitute a first lien against the property superior to any lien or encumbrance which the owner may have heretofore created or may thereafter create against the said residence building, and owner's property and any improvements thereon, and all persons acquiring any interest in said residence buildings, and property, or any of them, from the owner and owners thereof, whether voluntarily or involuntarily, shall take the same subject to such right or power in the Trustees to assess the same for the purposes of this Indenture. In case of said annual assessment or the amount of any installment thereof, or any special assessment, if not promptly paid when due, it shall thereafter bear interest at the maximum legal rate; and if after default the same shall have been placed in the hand of any attorney for collection, the fee of such attorney shall be paid by the residence building owner or owners, in default against whom such action to enforce collection has been taken, and shall likewise be a first lien on the residences and property of such owner or owners. The Trustee may institute and prosecute any legal proceedings in law or in equity, or both, against the owner or owners so making default, and against their respective residence building and lot, and against all persons claiming through and under them, to compel such payment with interest, costs of suit and attorney's fees attending the recovery of payment in default. Each residence building and lot, in respect of which default is made shall at all times on occasion of any such default be liable to be sold under decree of any court

of competent jurisdiction in appropriate legal proceedings in like manner as if the amount so due and unpaid with interest, costs and attorney's fees, were secured by mortgage or Deed of Trust on such building, property and lot, to the end that out of the proceeds of such sale the amount so in default be raised and paid, with interest, costs and attorney's fees; the purchaser or purchasers, however, at such sale shall take subject to this Indenture and to all of the covenants, easements, provisions, powers and rights herein contained, created, or granted, in the same manner and to the same extent as if the said owners had sold said building or buildings, property, and lot or lots voluntarily subject to the provisions hereof, excepting of course that such sale shall clear the property sold from the lien of the particular assessment in default and on account of which said sale occurred. The owner of any such building, property, or lot at the time of such assessment, whether general or special, shall also be personally liable to the Trustee for the payment thereof, together with interest, costs and attorney's fees.

ARTICLE IV

Owner, for itself, its successors and assigns, and for and on behalf of all persons who may hereafter derive title to or otherwise hold through it, its successors or assigns, any one or more of the residential lots covenants with the Trustee and for the benefit of such future owners and each of them, as follows:

*Sec. 4.01 - Trustee, in its sole discretion, shall have the right and power to approve or reject all plans and specifications for the construction, reconstruction, addition or alteration, painting or repainting to any building, fence, wall, or other structure of any kind, as well as for the location and grade of any structure upon any lot and the general grading and landscape treatment. No work shall be started upon any of the improvements until the plans and specifications for same have been submitted to and received the written approval of the Trustee. The Trustee shall have the right to disapprove and reject any such plans which in its opinion would be injurious to, or out of harmony with, the present or future development of the Site, and in so passing upon such plans and specifications, it shall have the right to take into consideration the type, use, and color of materials and of finish, the architectural design, general aesthetic appearance, landscaping plans, and any and all other facts, which in its judgment, affects the desirability and suitability, and the maintenance of the Site as a first class residential site. In the event the Trustee fails to approve or disapprove within thirty (30) days after building plans or other specifications for fences, swimming pools or tennis courts, accessory buildings and other outbuildings have been submitted to it hereunder, approval will not be required and the applicable restrictions shall be deemed to have been fully complied with.

Sec. 4.02 - No "For Sale" or other signs or displays of any type shall be placed or displayed upon any building located in, or upon any part of the Site, without the prior written approval of the Trustee, who shall have the right, in its sole discretion, to approve such signs as to form, contents, size, and location, provided that the Owner (or any successor developer) reserves the right, without the consent of the Trustee to place and display such signs and advertising signs until the date upon which all of the lots in the subdivision have been improved with residence, and all such residences sold and occupied by the users.

Sec. 4.03 - No oil drilling, oil development operations, oil refining or mining operations of any kind shall be permitted upon or in any part of the Site, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon the Site. No derrick, tank, or other structure designed for use in storing or boring for oil or natural gas or other mineral shall be erected, maintained, or permitted upon the Site.

Sec. 4.04 - When and if the Site, or any part thereof, is platted of record into lots, no platted lot shall thereafter be resubdivided, nor a fractional part thereof sold without the written consent of the Trustee, who is hereby authorized, if in its judgment or discretion, such consent is desirable and beneficial to the Site, to consent thereto.

Sec. 4.05 - No residential building, now or hereafter constructed upon the Site shall be used for other than solely residential purposes, nor shall same be used for any purpose prohibited by law or ordinance, nor shall anything be done, or said building used for any purpose, which, in the judgment of Trustee, may be or hereafter become a nuisance to any user of any residence lot in the Site.

Sec. 4.06 - No pigeons, poultry, cattle, hogs, rabbits, or other animals excepting dogs, cats and other household pets not bred, kept, or maintained for commercial purposes may be kept upon any part of the Site except on written permission of the Trustee, who shall, in its sole discretion, have the right to grant such permission, subject to revocation at any time at the pleasure of said Trustee. No clothes shall be hung on any line or other device outside of any dwelling. No trailers, motorized campers of any make or variety, trucks or boats shall be parked (except for temporary purposes not exceeding four hours) in any street in the subdivision, nor upon any part of any lot, without the prior consent of the Trustee. No person shall reside on any lot in any temporary tent, temporary structure, or trailer home. Nothing shall be done which, in the opinion of the Trustee, may be or hereafter become a nuisance with respect to such permitted pets; and each lot owner shall comply with all applicable ordinances and subdivision regulations relating to the number, supervision and maintenance of animals or pets in residential areas.

Sec. 4.061 - No above ground structure, other than required street lights, may be erected within a cul-de-sac, divided street entry island, or median strip without the written approval of the Trustee.

Sec. 4.07 - Each of the covenants and restrictions in this Article IV shall run with the land, and shall attach to and run with the Site, and with any lot hereafter created upon and out of said Site, and to and with all titles, interest, encumbrances and estates in the same, and shall be binding upon every owner or occupant of any part of the Site as fully as if expressly contained in proper and obligatory covenants or conditions in each contract or conveyance of or concerning the Site or any part thereof, including any improvements thereon; the Trustee shall have the rights to

recover from any person violating any such covenant all costs and expenses incurred in procuring the enforcement thereof, including, but not by way of limitation, court costs, attorney's fees, and damages for any violation.

Sec. 4.08 - Each lot encumbered hereby shall be subject to the sideyard and building line requirements, if any, of Ordinances, and to those shown on the plat of any subdivision encumbered hereby; provided that open porches, platforms, terraces and steps may extend up to five (5) feet beyond any building set back, side or rear yard line restrictions, and provided further, that such restrictions shall not apply to chimneys, cornices, downspouts, gutters and bay windows.

Sec. 4.09 - Not more than one residence shall be erected on any lot, nor shall any residence building exceed more than two (2) stories in height above the highest basement level.

Sec. 4.10 - Nothing contained in this instrument shall restrict, limit, inhibit, or prevent owner from developing the Subdivision and building structures and improvements in accordance with the plans and designs of owners and advertising and selling the same.

ARTICLE V

Amendment and Modification

(a) Owner also reserves the right by Supplemental Indenture, duly signed, executed and recorded, to impose new and additional restrictions, or to amend and/or modify this Indenture without the consent of any person or persons claiming by, through and under Owner, except that no such amendment shall authorize any increase in assessments unless the holder of any mortgage encumbering any part of Site has consented in writing to such amendment. Trustee herein is authorized to accept from Owner in the future additional roads, places, avenues, circles, walks, parking areas, common areas, Common Area, recreational areas and Retention Basins and to hold title thereto subject to the terms of this Indenture and subject to the terms of such further restrictions, if any, as Owner may impose therein at the time of such conveyance.

(b) Anything in this Indenture to the contrary notwithstanding, the record owners of the fee simple title of at least two-thirds (2/3) of the lots upon Site now subject to and hereafter named subject to these restrictions, may, at any time hereafter, by instrument duly signed, acknowledged and recorded by them, amend, modify, remove or release, in whole or in part, any of the restrictions herein created, or may by such instrument impose new and additional restrictions which hereafter shall govern any or all of the buildings and lots on the Site.

(c) Anything in this Indenture to the contrary notwithstanding, the record owners of the lots now platted of record and of those lots which may hereafter be platted or record and a part of Site, and the record owners of those lots or hereafter made subject to these Restrictions may, by two-thirds (2/3) vote of said owners, amend, modify, remove, or release, in whole or in part, any of the restrictions herein created or may impose new and additional restrictions, which shall be applicable to Site provided; First, that no such amendment, modification, release (whether in whole or in part), or imposition of additional restrictions, shall become effective until an appropriate instrument executed and acknowledged by those persons approving same, shall be duly recorded in the St. Louis County Recorder's Office; and Second; that whenever any vote is required hereunder, the record owner or owners of each single family residence lot

(d) Notwithstanding any of the foregoing to the contrary, the amendments, modifications and instruments provided for in this ARTICLE V shall be subject to the approval and consent of the governing body of the Village of Clarkson Valley.

ARTICLE VI

Common Area

Anything in this Indenture to the contrary notwithstanding, Common Area, recreational areas and Retention Basins described in the Plat is subject to modification insofar as exact metes and bounds description thereof is concerned, and as lots are platted of record, Plat of said lots, in the event of encroachment on Common Area, recreational areas and Retention Basins shown on the Plat shall be controlling and shall be deemed, to the extent of encroachment, if any, to modify and limit description of Common Area recreational areas and Retention Basins shown on the Plat.

ARTICLE VII

Surface Storm Water Drainage

No person deriving title to any part of Site, by, through, and under owner, shall have the right to modify, change, or alter such grade as owner may have established, or may hereafter establish upon Site nor obstruct, alter, or change, in any way the drainage of surface waters after the courses thereof shall have been fixed by reason of any grade established by Owner, unless such person shall have first procured the written consent and authorization of Trustee.

ARTICLE VIII

Recapture of Utility Refunds

Owner further reserves the right to any utility refunds from the various utilities arising out of Owner's construction of any utility facility, wherever located.

ARTICLE IX

Eminent Domain - Compliance with Local Laws and Assessments for Street Lights, Roadways and Easements

(a) In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the Trustee, for any public purpose, the Trustee, during the period of Trust as well as the times fixed for the appointment or election of Trustee, is hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary,

only the Trustee need be made party, and in any event the proceeds received shall be held by the Trustee for the benefit of those entitled to the use of the common property, roads or easements.

(b) Notwithstanding any other condition herein, the Trustee shall make suitable provisions for compliance with all subdivision and other ordinances, rules and regulations of any municipality of which the subdivision may become a part and for such purposes shall not be limited to the maximum assessment provided for herein. Specifically and not by way of limitation, the Trustee shall make provision for the maintenance and operation of all street lights, roadways and easements.

(c) The right of the Trustee to enforce these Restrictions shall not be construed to prevent the owner of any lot from enforcing these Restrictions.

(d) Nothing herein shall be construed to relieve the Trustee or the lot owners or residents of Kehrs Mill Estates subdivision or owner from complying with the ordinances, rules, and regulations of the Village of Clarkson Valley.

ARTICLE X

Special License

In the event a person or a group of persons, who are engaged in the play or game of golf on the Forest Hills Country Club Golf Course, accidentally cause an errant golf ball(s) to land upon any lot or common ground, including the recreational areas and Retention Basins, subject to this Indenture, then one member of such group, or a caddy, shall have a license to enter upon said lot for the sole purpose of retrieving and removing the ball(s) and shall not be deemed a trespasser provided such licensee shall exercise due care all so as not cause damage to any flora, lawn, shrubbery or improvements to said lot, and provided further such licensee shall not strike or attempt to strike the ball when located on said lot.

ARTICLE XI

The Trustee, in its sole, absolute and unfettered discretion, may by appropriate action of its Board of Directors release any property subject to this Indenture from the terms of this Indenture of Restrictions and any liens imposed hereby by filing a document describing the property to be released with the Recorder of Deeds of St. Louis County. Notwithstanding any of the foregoing to the contrary, the amendments, modifications and instruments provided for in this Article XI shall be subject to the approval and consent of the governing body of the Village of Clarkson Valley.

IN WITNESS WHEREOF, Owner has caused this Indenture to be duly signed by its President and its corporate seal to be hereto affixed, attested by its Secretary, and the Trustee has also hereto set its hand this day and year first in this Indenture written.

EXHIBIT A

A tract of land being part of Section 18, 19, and 20 in Township 45 North - Range 4 East, St. Louis County, Missouri, and being more particularly described as:

Beginning at the intersection of the North line of property now or formerly of Forest Hills Country Club, Inc., as described in the deed recorded in Book 6304, page 558 of the St. Louis County records with the West line of Kehrs Meadow Lane, 50 feet wide; thence along the boundary of said Forest Hills Country Club, Inc., property the following courses and distances: North 66 degrees 04 minutes 15 seconds West 369.94 feet, South 85 degrees 59 minutes 15 seconds West 255 feet, North 59 degrees 37 minutes 29 seconds West 406.62 feet, South 76 degrees 53 minutes 15 seconds West 566.57 feet, North 43 degrees 36 minutes 45 seconds West 91.46 feet, South 76 degrees 53 minutes 15 seconds West 874.50 feet, and North 55 degrees 46 minutes 45 seconds West 140.61 feet to a point on the East line of property now or formerly of Charles W. Schroeder and wife as described in the deed recorded in Book 5132, page 265 of the St. Louis County records; thence Northwardly along the East line of said Schroeder property North 0 degrees 37 minutes 15 seconds East 1224.05 feet to a point on the East and West centerline of Section 20; thence Westwardly along said East and West centerline of Section 20, South 89 degrees 19 minutes West 1333.31 feet to a point on the East and West centerline of Section 19; thence Westwardly along said East and West centerline of Section 19, North 89 degrees 08 minutes 56 seconds West 1315.11 feet to a point on the Northeast line of Valley Road, 40 feet wide as traveled; thence Northwestwardly along said Northeast line of Valley Road, 40 feet wide, North 48 degrees 18 minutes 36 seconds West 15.01 feet to a point on the East line of property now or formerly of Robert L. Manche, Jr., and wife as described in the deed recorded in Book 6589, page 1430 of the St. Louis County records; thence Northwardly along said East line of the Manche property, North 0 degrees 43 minutes 05 seconds East 1324.26 feet to a point; said point being the Southeast corner of property now or formerly of Marjorie S. Harris as

described in the deed recorded in Book 3160, page 416 of the St. Louis County records; thence Northwardly along the East line of said Harris property and the East line of property now or formerly of Joseph F. Cuba and wife as described in the deed recorded in Book 5584, page 620 of the St. Louis County records, North 0 degrees 12 minutes 30 seconds East 1339.09 feet to a point on the North line of Section 19; thence Eastwardly along the said North line of Section 19, South 89 degrees 05 minutes 24 seconds East 973.16 feet to a point; thence North 0 degrees 35 minutes 36 seconds East 283.31 feet to a point on the Southwest line of Kehrs Mill Road, 40 feet wide; thence Southeastwardly along Kehrs Mill Road, 40 feet wide, the following courses and distances: South 61 degrees 42 minutes 24 seconds East 93.37 feet, South 43 degrees 28 minutes 24 seconds East 443.72 feet, South 47 degrees 21 minutes 24 seconds East 369.37 feet, South 63 degrees 44 minutes 24 seconds East 138.31 feet, North 85 degrees 52 minutes 36 seconds East 431.78 feet, South 73 degrees 26 minutes 24 seconds East 93.49 feet, South 55 degrees 28 minutes 24 seconds East 125.79 feet, South 32 degrees 36 minutes 24 seconds East 131.87 feet, South 1 degree 35 minutes 24 seconds East 112.93 feet, South 12 degrees 15 minutes 36 seconds West 159.78 feet, South 15 degrees 25 minutes 24 seconds East 97.77 feet, and South 24 degrees 29 minutes 24 seconds East 297.35 feet to a point on the North line of property now or formerly of Herman C. Dielmann and wife; thence along the boundary of said Dielmann property the following courses and distances: South 78 degrees 48 minutes 42 seconds West 288.69 feet, South 30 degrees 29 minutes 25 seconds East 296.54 feet, and North 78 degrees 48 minutes 42 seconds East 296.67 feet to a point on the Southwest line of said Kehrs Mill Road, 40 feet wide; thence Southeastwardly along said Southwest line of Kehrs Mill Road, 40 feet wide, the following courses and distances: South 34 degrees 16 minutes 24 seconds East 8.99 feet, South 36 degrees 56 minutes 24 seconds East 163.39 feet, South 38 degrees 49 minutes 24 seconds East 689.93 feet, along a curve to the left whose radius point bears North 51 degrees 10 minutes 36 seconds East 390 feet from the last mentioned point, a distance of 187.19 feet, South 66 degrees 19 minutes 24 seconds East 604.32 feet, South 75 degrees 48 minutes 24 seconds East 646.80 feet, along a curve to the right whose radius point bears South 14 degrees 11 minutes 36 seconds West 233.86 feet from the last mentioned point, a distance of 175.51 feet, South 32 degrees 48 minutes 24 seconds East 62.10 feet, along a curve to the right whose radius point bears South 57 degrees 11 minutes 36 seconds West 668.52 feet from the last mentioned point, a distance of 145.07 feet, South 20 degrees 22 minutes 24 seconds East 247.40 feet, along a curve to the right whose radius point bears South 69 degrees 37 minutes 36 seconds West 980.40 feet from the last mentioned point, a distance of 195.35 feet, South 8 degrees 57 minutes 24 seconds East 188.64 feet, South 20 degrees 08 minutes 24 seconds East 118.70 feet, South 28 degrees 33 minutes 24 seconds East 199.39 feet, along a curve to the left whose radius point bears North 61 degrees 26 minutes 36 seconds East 205.34 feet from the last mentioned point, a distance of 50.96 feet, and along a curve to the right whose radius point bears South 47 degrees 13 minutes 24 seconds West 30 feet from the last mentioned point, a distance of 26.29 feet to a point on the aforesaid West line of Kehrs Meadow Lane, 50 feet wide; thence Southwardly along said West line of Kehrs Meadow Lane, 50 feet wide, South 7 degrees 26 minutes 18 seconds West 152.39 feet to the point of beginning and containing 230.579 acres.