

THE ORCHARDS

INDENTURE OF TRUST AND RESTRICTIONS

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THE ORCHARDS
INDENTURE OF TRUST AND RESTRICTIONS

THE ORCHARDS JOINT VENTURE, an Illinois joint venture (the "Grantor") being comprised of McBRIDE & SON ASSOCIATES, INC., a Missouri corporation ("McBride"), GREENMOUNT CORPORATION, an Illinois corporation ("Greenmount"), and THE ORCHARDS HOMEOWNERS ASSOCIATION of BELLEVILLE, an Illinois not-for-profit corporation (the "Association"), make and enter into this Indenture of Trust and Restrictions ("Indenture") effective as of _____, 1990.

WHEREAS, Grantor is the owner of certain real property located in St. Clair County, Illinois, being more fully described on Exhibit A attached hereto and incorporated herein by this reference, and desires to create thereon a planned residential community to be known as "The Orchards" (the "Community") with open spaces, streets, roads, walkways and other common ground and facilities for the benefit of the Community; and

WHEREAS, Grantor desires to insure compliance with those requirements and the general purposes and objectives upon which the Community has been established; and

WHEREAS, Grantor deems it desirable, for the efficient preservation of the values and amenities in the Community, to form a not-for-profit corporation to which the Common Properties (as hereinafter defined) shall be conveyed, and which shall have the powers of maintaining, operating and administering the Common Properties and facilities and administering and enforcing the covenants and restrictions hereinafter set forth and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Grantor has caused to be incorporated under the laws of Illinois as a not-for-profit corporation, The Orchards Homeowners Association of Belleville, for the purpose of exercising the functions aforesaid; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained (hereinafter sometimes referred to as "covenants and restrictions") are jointly and severally for the benefit of Grantor and all persons who may purchase, hold or own from time to time any of the property covered by this Indenture;

NOW, THEREFORE, Grantor declares that the property described in Exhibit A and such additions thereto as may hereafter be made pursuant to this Indenture is and shall be held, transferred, sold conveyed and occupied subject to the covenants and restrictions hereinafter set forth:

1. DEFINITIONS

The following words when used in this Indenture (unless the context shall prohibit or clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to The Orchards Homeowners Association of Belleville, an Illinois not-for-profit corporation, and its successors and assigns.

(b) "Board" shall mean the Board of Directors of the Association.

(c) "The Properties" shall mean and refer to all such existing properties, and additions thereto, which are now or hereafter subject to this Indenture.

(d) "Common Properties" shall mean and refer to those areas of land owned by the Association, and/or the easement, license or other occupancy or use rights which the Association may have in any portion of the Properties, or in other land or properties adjacent thereto whether as an appurtenance thereto or otherwise, and which are intended to be devoted to the common use and enjoyment of the Owners of the Properties, including, without limitation, parks, open spaces, playgrounds, streets, subdivision entrance areas and monuments, street lights, storm water control easement areas and facilities, paths, walkways, and other trail systems, and other facilities for the benefit in common of such Owners. Common Properties shall not include the Golf Course or the Golf Course Site unless specifically designated as such by written agreement.

(e) "Golf Course" shall mean the golf course and related facilities which may be constructed on the Golf Course Site.

(f) "Golf Course Site" shall be the real property adjacent and/or proximate to the Properties upon which a Golf Course may be constructed.

(g) "Lot" shall mean and refer to the subdivided parcels of land shown on any final recorded subdivision plat of the Properties (with the exception of the Common Properties as herein defined) to be improved with Single Family Dwellings. Lots shall consist of "Estate Lots", "Standard Lots" and "Cluster Lots".

(h) "Single Family Dwelling" shall mean and refer to the building consisting of one dwelling unit to be constructed on each Lot.

(i) "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of the fee simple title to any Lot, including but not limited to the Grantor where applicable but shall not mean or refer to any Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(j) "Member" shall mean and refer to all those Owners, including Grantor, who are members of the Association.

(k) "Mortgage" and "Mortgagee" shall mean and refer also to a deed of trust and the trustee and beneficiary under a deed of trust, respectively.

2. PROPERTY SUBJECT TO THIS INDENTURE

(a) The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Indenture is located in Belleville, St. Clair County, Illinois and is more particularly described in the legal description contained in Exhibit A attached hereto and made a part hereof by this reference

(b) The Grantor, in its sole discretion, may from time to time (i) add, or cause to be added, to the Properties any such land as is now owned or hereafter owned or approved for addition by the Grantor, including but not limited to the Golf Course Site, subject to these covenants and restrictions and (ii) remove or cause to be removed from the Properties any such land as is now included in the Properties provided Grantor at such time of removal retains ownership of one or more Lot(s). The additions and removals authorized under this section shall be made by executing and filing of record in St. Clair County, Illinois an instrument executed by Grantor which shall extend or remove, as the case may be, this Indenture as to such added or removed land. The instrument may contain such complementary additions and modifications of the covenants and restrictions contained in this Indenture as may be necessary to reflect the different character, if any, of the added or removed land and as are not inconsistent with the scheme of this Indenture, and may limit the availability of the Common Properties, or portions thereof, including the prohibition of use thereof, to such added or removed land.

(c) The Golf Course Site and Golf Course are not subject to this Indenture. Grantor, at its sole option, may sell, transfer, convey, lease, assign, encumber, restrict or otherwise dispose of the Golf Course Site to any third party; provided, however, that in the event a Golf Course is constructed and operated on the Golf Course Site, the Owners shall have, and continue to have subject to control and modification as determined by the Owner or operator thereof in its sole and absolute discretion, rights as to use and enjoyment of the Golf Course subject to rules and regulations applicable to the use thereof.

3. CREATION OF ASSOCIATION

All of the present and future Owners of any Lots as are now or shall later become subject to this Indenture shall automatically be a Member of the Association and, as such, shall have all of the rights, privileges, duties and liabilities as are prescribed under the terms and provisions of this Indenture.

4. DURATION

The covenants and restrictions of this Indenture shall run with and bind the Properties in perpetuity until the subdivision is vacated or unless terminated as provided herein. Notwithstanding the foregoing, covenants and restrictions cannot be terminated as long as there exists Common Properties. This Indenture may be terminated by an instrument agreeing to terminate this Indenture signed by the then Owners of two-thirds (2/3) of the Lots subject hereto and by the City Council of Belleville, Illinois ("Agreement of Termination") and concurrently therewith, the Owners signing the Agreement of Termination shall consent in writing to the dissolution of the Association. 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. The dissolution of the Association shall be effective on the effective date of the Agreement of Termination and upon such date the Board shall file Articles of Dissolution with the Secretary of State of Illinois. In the event the subdivision is vacated, this Indenture shall terminate and the Board shall convey fee simple title to the Common Properties to the then Lot Owners as tenants in common and shall dissolve the Association pursuant to the written consent of the holders of at least two-thirds (2/3) of the votes of the Members. The rights of the tenants in common shall be exercisable appurtenant to and in conjunction with their Lot ownership. Any conveyance or change in ownership of any Lot shall convey with it ownership in the Common Properties, and no interest in the Common Properties shall be conveyed by an Owner except in conjunction with the sale of a Lot. The sale of any Lot shall carry with it all the incidents of ownership of the Common Properties although such is not expressly mentioned in the deed of conveyance; provided, however, that no right or power conferred upon the Directors shall be abrogated.

5. SELECTION OF DIRECTORS; MEETINGS OF OWNERS

(a) The Board of Directors of the Association shall consist of three (3) members. The original Directors are the persons named herein. During the period of service of the original Directors or their appointed successors, one or more shall be subject to removal by Grantor with or without cause, and Grantor shall have the exclusive right to designate the successor to such removed Director for his or her unexpired period of service as provided for hereunder. Should any of the named Directors, or their appointed successors, die, resign, or cease to hold office as set out, or decline to act or become incompetent or unable for any reason to discharge the duties, or avail himself or herself of or exercise the right and powers hereby granted or bestowed upon them as Directors under this Indenture, then Grantor shall have the exclusive right to designate the successor thereto for his or her unexpired period of service as provided for hereunder. In the event that the provisions of this Indenture cannot be fulfilled due to unfilled vacancies among the Directors,

a Lot Owner may petition the Belleville City Council (and the Council shall have the right and power) to appoint a director to fill the vacancy during said interim ("Interim Director"). Any Interim Director who is not an Owner shall receive a reasonable fee for services rendered and the fee shall be determined by the Directors who are not Interim Directors. The fee shall be levied as a special assessment against the Lots, which assessment shall not be subject to any limitations on special assessments, if any, contained in this Indenture.

(b) Until such time as Grantor has sold and conveyed all of the Lots (regardless of whether such Lots are constructed and/or sold in phases), which may be subject to this Indenture to persons or entities or other than a successor builder or developer, the following procedure for designating successor Directors shall be followed:

(i) After Grantor has sold and conveyed fifty percent (50%) of the Lots which may be subjected to this Indenture to persons other than a successor builder or developer, John W. Schaefer, or his appointed successor shall resign and his or her successor shall be elected by the Members at a special meeting of the Members to be called thereafter, such successor being the nominee receiving the highest number of votes cast. Such Director shall serve as Director until all Directors are elected by Members under the provisions of Section 5(c) following.

(ii) After Grantor has sold and conveyed ninety-five percent (95%) of the Lots which may be subjected to this Indenture to persons other than a successor builder or developer, Edward V. Rust, or his appointed successor shall resign and his or her successor shall be elected by the Members at a special meeting of the Members to be called thereafter, such successor being the nominee receiving the highest number of votes cast. Such Director shall serve as Director until all Directors are elected by Members under the provisions of Section 5(c) following.

(iii) After Grantor has sold and conveyed one hundred percent (100%) of the Lots which may be subjected to this Indenture to persons other than a successor builder or developer, Carl W. Lehne, or his appointed successor shall resign and his or her successor shall be elected by the Members of the Association at a special meeting of the Members to be called thereafter, such successor being the nominee receiving the highest number of votes cast. Such Director shall serve as Director until all Directors are elected by Members of the Association under the provisions of Section 5(c) following.

(iv) Grantor, at its sole option, may (but shall not be required to) appoint a second and/or third Director from the membership of the Association prior to the time designated for election of a second and/or third Director as set out in

paragraphs 5(b)(ii) and (iii) above. In anticipation of Grantor exercising this option, the Association may call a special election in accordance with the provisions of this Indenture to elect a Member or Members to be the nominee(s) for Director(s) to be appointed by Grantor under the provisions of this subparagraph (iv). In the event Grantor does appoint the nominee(s) elected by the Association as the second and/or third Director(s) prior to the time set forth in paragraph 5(b)(ii) and (iii) above, then such nominee(s) shall become a Director(s) with full powers and shall not be subject to removal by Grantor, just as if such nominee(s) were elected pursuant to the provisions of 5(b)(ii) and (iii), and no Director(s) shall be elected by the Members under the provisions of 5(b)(ii) and (iii) and the appointed nominee(s) shall serve as Director(s) until all Directors are to be elected by the Members under the provisions of paragraph 5(c). Grantor shall exercise its option to appoint the Association nominee(s) by recording a written instrument evidencing the exercise of such option in the St. Clair County, Illinois land records.

(c) After Grantor has sold and conveyed all of the Lots which may be subjected to this Indenture other than to a successor builder or developer, the following procedure shall be followed:

(i) All of the then acting Directors shall resign; and

(ii) At a special meeting of the Members, three (3) Directors shall be elected, one for a term of three (3) years, one for a term of two (2) years and the third for a term of one (1) year.

(iii) After the expiration of the term of office of the Directors elected as provided in Section 5(c)(ii), each successor Director must be a Member, and shall be elected by Members, and each such successor Director shall serve for a term of three (3) years so that the terms shall be continuously staggered, one (1) Director being elected at each annual meeting of the Members.

(d) Following each annual meeting of the Association as provided for herein, the Directors shall designate one (1) of its members to serve as Chairman and President, one (1) member to serve as Secretary, and one (1) member to serve as Treasurer, until the time of the next following annual meeting.

(e) There shall be an annual meeting of the Association (subject to the provisions of Section 5(j) hereof) to be held on the first Saturday of March of each year during the term of this Indenture, said meeting to be held at a convenient place in the County of St. Clair, and there may be special meetings of the Association as may be called by any one of the Directors, also to be held at a convenient place in the County of St. Clair. No less than ten (10) days' notice in writing to each Member of the time

and place of any annual or special meeting shall be given by the Directors or by the Director calling said meeting, by depositing same in the United States mail, properly addressed to the address shown on the real estate tax assessment records for each Owner and with postage prepaid. The successor to an elected Director whose term has expired shall be elected at the special meeting called for that purpose. At any annual or special meeting each Lot shall be entitled to one (1) vote and any action or proposal to be approved shall require approval by a majority of votes cast at such meeting. Any vote may be cast in person or by proxy. Any designation of a proxy shall be on a form approved by the Directors and shall be filed with the Directors at least 48 hours before any meeting at which such proxy will vote. Any Member who has failed to pay any assessments due and payable shall not be entitled to vote at any annual or special meeting provided for herein. The person or persons receiving the highest number of votes cast shall be deemed elected and shall, upon his, her or their acceptance in writing, at once and by force of this Indenture imposed, succeed to, be vested with, and possess and enjoy as a joint tenant but not as a tenant in common, with the remaining Directors, all of the estate, rights, interests, privileges and powers granted by this Indenture to the Directors. In the event that any Director elected hereunder shall die or become unable for any reason, to discharge the duties or avail himself or herself of or exercise the rights and powers herein granted or bestowed upon him, her or them as Directors under this Indenture, then and thereupon, it shall be the duty of the remaining Directors to select a successor.

(f) If a Lot is jointly owned, only one person shall be entitled to vote for the Owners of that Lot and such person shall be known as the "Voting Member". If a Lot is jointly owned and if one of the multiple Owners of that Lot is present at a meeting of the Association, he or she shall be entitled to cast the vote allocated to that Lot. If more than one of the multiple Owners are present, the vote allocated to that Lot may be cast only in accordance with the agreement of the majority in interest of the multiple Owners. Once the majority position has been established the Voting Member shall cast the vote. There is majority agreement if any one of the multiple Owners casts the vote allocated to that Lot without protest being made to the person presiding over the meeting by any of the other Owners of the Lot. A corporation, if an Owner, shall act through its president or through another officer or director as the board of directors of that corporation designates in writing. A partnership, if an Owner, shall act through a partner as designated by the partnership in writing. A trust, if an Owner, shall act through its trustee. If there is more than one such trustee for a trust, then the beneficiaries of such trust shall designate in writing which trustee shall be entitled to vote. All designations of Voting Members shall be held by the Board of Directors.

(g) All Directors, except Interim Directors and the Directors herein named and their appointed successors, shall be Owners. If any Owner is a corporation, partnership or trust, then any partner, officer, director, employee or agent of such corporation or partnership or trustee of such trust may be a Director.

(h) No business may be transacted at any meeting (special or general) at which there is not a quorum, except as provided below. A quorum shall be deemed present at a meeting of the Association if the Members in attendance at the beginning of the meeting represent at least twenty percent (20%) of the votes eligible to vote at the time of the meeting, either in person or by proxy. If proper notice is given and a meeting called at which the proposed business cannot be conducted because of failure to achieve a quorum, then the Directors may either:

(i) Give another notice of the meeting indicating the proposed business or purpose and if such meeting is held within thirty (30) days of the date of the first meeting at which there was no quorum, then there shall not be quorum requirement to transact the proposed business at such second meeting; or

(ii) Take a vote of the Association on any proposed business by written ballot of the Members in lieu of a meeting.

(i) A quorum is present at a meeting of the Directors if a majority of the Directors are in attendance. All actions of the Directors shall be by majority vote. The Directors may take action by majority vote on written ballots or minutes or unanimous consents in lieu of a meeting.

(j) For the period from the date of execution hereof until such time as there is less than two Grantor-appointed Directors (which shall include the original Directors named herein and their appointed successors), at the option of the then existing Directors, no annual meeting of the Association shall be held. During such period, the Directors may appoint an advisory board consisting of Owners. The number of members of such advisory board shall be the number deemed appropriate by the Directors from time to time. The members of such advisory board shall serve at the will of the Directors. The advisory board shall be formed for the purpose of reporting to and/or advising the Directors concerning the status and operation of the Properties. Such advisory board may hold informal meetings of Members if so desired by the advisory board, but such meetings are not required.

6. RESERVATION OF EXPENDITURES

The Grantor reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any

sums previously expended, deposited, placed in escrow, or subsequently provided by it for utility facilities or services, streets, subdivision fees or for any other purpose of any nature or description with respect to any subdivision or land which is now or may in the future be made subject hereto. Grantor further reserves the right to receive and retain any monies, damage payments or condemnation award for any easement or other interest granted or condemned as to any street or Common Properties within the Properties.

7. EASEMENTS AND PROPERTY RIGHTS

(a) Subject to the rights reserved herein to limit or prohibit the use of Common Properties in the case of added or removed Properties, and subject to the provisions of Section 7(b) hereof, every Member and every resident of the Properties subject to this Indenture shall have a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot.

(b) The rights and easements of enjoyment created hereby shall be subject to the following:

(i) The right of the Grantor and of the Directors to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage or otherwise burden or encumber the Common Properties. In the event of a default upon any such mortgage or other burden or encumbrance, the lender shall have a right, after taking possession of such Common Properties (where such right to possession exists), to charge admission and other fees as a condition to continued enjoyment by the Members and residents and, if necessary, to open the enjoyment of such Common Properties to a wider public until the mortgage or other debt is satisfied, whereupon the possession of such Common Properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and

(ii) The right of the Directors to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(iii) The right of the Directors to promulgate rules and regulations governing the use of Common Properties; and

(iv) The right of the Directors to suspend the enjoyment rights of any Members or residents for any period during which any assessment remains unpaid, and for such period as they consider appropriate for any infraction of the published rules and regulations; and

(v) The right of the Directors to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Properties and

require licenses and license fees where it is deemed necessary by the Directors; and

(vi) The right of the Directors to dedicate or transfer all or part of the Common Properties to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Directors and public agency or authority; and

(vii) The right of the Grantor or other builder-developers authorized in writing by the Grantor to utilize Common Properties for promotional purposes during periods of development; and

(viii) The right of the Directors to grant such easements and rights of way to such utility companies or public agencies or authorities or other entities as it shall deem necessary or appropriate; and

(ix) The right of Owners to perpetual easements over any part of the Common Properties for such portion of their dwelling unit that may overhang any Common Properties, and for pedestrian and vehicular ingress and egress to and from any dwelling over any Common Properties; and

(x) The right of the Directors to enter into licensing agreements with commercial enterprises for the operation of recreation facilities and related concessions for the benefit of Owners and residents of the Properties; and

(xi) The rights and perpetual easement hereby granted to any and all users of the Golf Course to go upon any and all Common Properties and/or Lots as may be necessary in connection with their usage and utilization of the Golf Course, including but not limited to the retrieval of golf balls or golf clubs. Each and every Owner, its principals, shareholders, partners, invitees and guests and all other persons using, enjoying or occupying any Lot or Common Properties, without further action on the part of such person, by actual and/or constructive notice hereof, does hereby release and hold harmless Grantor, the Directors, the Association and their respective officers, directors, successors, assigns, agents, employees, affiliates, licensees, tenants and patrons (including but not limited to Golf Course patrons) from and against any and all claims, demands and/or liabilities for damage to real or personal property, or injury or death resulting in any way from the construction, operation, management, repair, use or utilization of the Golf Course Site and/or Golf Course..

(c) No resident of the Properties shall be denied the use of the Common Properties including, without limitation, open spaces, recreational facilities and other common grounds, for any reason related to the extension of such privilege to residents

outside the Properties. All rules and regulations promulgated pursuant to this Indenture with respect to residents of the Properties shall be applied equally to all such residents, and all rules and regulations promulgated pursuant to this Indenture with respect to residents outside the Properties shall be applied equally to all such non-residents.

(d) Every utility easement on each Lot shall constitute an easement for utility purposes to serve any other Lot or Common Properties.

(e) In the event that any utilities and connections therefor serving a Lot are located in part on a Lot other than the Lot being served by such utilities and connections, the utility company, the Owner of a Lot being served, and the contractors and employees of such company or owner shall have the right and easement to enter upon the Lot in which the utility line or connection is located for the repair, maintenance and replacement of such line or connection.

(f) There shall be and is hereby imposed on each Lot an easement for reasonable ingress and egress by or on behalf of the Owner of any adjoining Lot for the purpose of repair, maintenance or replacement of improvements on such adjoining Owner's Lot.

(g) Should any portion of any Single Family Dwelling or other improvement as originally constructed overhang or encroach on an adjacent Lot, the Owner of any such Single Family Dwelling or other improvement shall have an easement on such adjacent Lot so that such overhanging or encroaching portion of such Single Family Dwelling or improvement shall be permitted, and including the right of such Owner to enter upon such adjacent Lot for the purpose of necessary repair and maintenance of such overhanging or encroaching portion of such Single Family Dwelling or other improvement.

(h) There have been or maybe designated on the subdivision plat or plats subject hereto driveway easements for the joint and mutual use and benefit of the Lots on which they are located and the Lots to which they provide access from a street. Those easements are to be held by the respective Owners of each of those Lots, and their respective heirs, executors, administrators, successors and assigns as appurtenant to the Lot owned by each of those Owners. The Owners of each of those Lots shall be jointly responsible for the maintenance and repair of the driveway improvement located on each such easement and each such Owner shall pay an equal share of the cost of maintenance. In the event that any such driveway improvement is not kept in good repair, upon thirty (30) days' written notice by the Directors to each Owner, the Directors may cause such maintenance or repair to be provided and the reasonable cost thereof shall be a charge and lien against each Lot to which such driveway easement is appurtenant, in the amount of the equal portion of such cost

allocated to such Lot. Said charge shall be enforceable in the same manner as herein provided in Section 8 hereof.

8. ASSESSMENTS

(a) Except as set forth in Subsection 8(h), the Grantor, for each Lot within the Properties, 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 their conveyance, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges, and (ii) special assessments or charges, with such assessments or charges to be fixed, established and collected from time to time as hereinafter provided, including but not limited to any charges or assessments created pursuant to Section 8(e) below.

(b) Any and all annual and special assessments, and charges as provided in this Section 8 together with such interest thereon and costs of collection thereof, shall be a charge against the title of each Lot and shall be a continuing lien upon the Lot against which such assessment or charge is made, which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns without the need or requirement of filing any additional documentation with respect to such lien. Recording of this Indenture constitutes record notice and perfection of the lien as to assessments which become delinquent thereafter, together with interest thereon and cost of collection thereof as hereinafter provided. Further recording of a claim for assessment and/or charge under this Section 8 is not required. The Association shall be entitled to enforce collection of any and all of such assessment(s) and/or charge(s), interest and costs through enforcement of such lien, whether by foreclosure or otherwise. Each such assessment and/or charge, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due.

(c) The assessment(s) and/or charge(s) levied under this Section shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Properties or for maintaining the market value of the Properties and in particular for the rendering of services in the furtherance of such purposes, including the carrying out of all functions herein authorized, and for the acquisition, improvement, maintenance and operation of the Common Properties and all facilities thereon, including, but not limited to, the payment of taxes and insurance thereon, debt service and repair, maintenance, replacements and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof and for such other needs as may arise and for maintenance of reserves for the benefit of the Association.

(d) In addition to the annual assessment herein authorized, there may be levied in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement within or upon the Common Properties or any easement, street, drive, walkway or other right-of-way provided for the benefit of the Lots subject hereto, and including the provision of necessary fixtures or personal property related thereto upon the approval of a majority of the Directors and the assent of a majority of the vote of the Members voting thereon, in person or by proxy, at a meeting duly called for such purpose, written notice of which shall have been sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. The provisions of this Section 8 with respect to the establishment of due dates, effect of non-payment and remedies for enforcement shall be applicable to any special assessment levied as hereinabove authorized.

(e) In addition, the Directors may levy a special assessment or charge against any Owner and/or Lot for all costs and expenses incurred, including costs of collection, interest, attorney's fees and other associated costs for purposes of making repairs or maintenance to a Lot or improvements thereon, which repairs or maintenance the Owner has failed to make or for repairing any damage caused by an Owner or such Owner's employees, agents, invitees or tenants.

(f) Assessments shall be made in a manner and subject to the following procedure:

(i) As to annual assessments, on or before thirty (30) days in advance of each assessment year, as established by the Directors, the Directors shall prepare a proposed budget for the upcoming assessment year taking into consideration all anticipated items of expense, including reasonable replacement and other reserves. Based upon the proposed budget, the Directors shall establish the annual assessment for the upcoming assessment year. The Directors shall set the due date for payment of the assessment, and may provide for a periodic payment schedule if deemed desirable by the Directors. If at any time during an assessment year, the Directors determine in their reasonable opinion that the annual assessment will not provide sufficient funds during the assessment year to cover the expense of items in the proposed budget and/or the expense of any items not indicated on the proposed budget which may occur and are non-extraordinary and reasonably necessary to the general operation of the Association and/or the Common Properties, then the Directors may levy an additional supplemental assessment for the remainder of the assessment year in the amount necessary to cover the anticipated revenue deficit for that assessment year. The right and power to levy a supplemental annual assessment shall extend to the Directors for the first assessment year and each assessment year thereafter. Written

notice of any levy of a supplemental assessment shall be given to each Owner and payment shall be made as directed by the Directors in such notice.

(ii) Special assessments shall be made by the Directors upon thirty (30) days notice, and, at the discretion of the Directors, may be payable in a lump sum, in periodic installments or due and payable within thirty (30) days from the date of such notice.

(iii) Any charge or assessment imposed by the Association, with the exception of an assessment under Section 8(e) hereof, shall be divided among Owners on the basis of an equal amount per Lot.

(iv) Notice of any assessment shall be given by the Directors, either by mail, postage prepaid, addressed to the address shown on the real estate assessment records of St. Clair County or any appropriate municipality (and notice so given shall be considered given when mailed), or by posting a brief notice of the assessment upon the Lot itself.

(v) The failure or delay of the Directors to prepare or serve any budget or any annual or special assessment shall not constitute a waiver or release in any manner of any Owner's obligation to pay such assessment whenever the same shall be made, and in the absence of any annual assessment the Owner shall continue to pay at the then existing rate established for the previous payment.

(g) If any assessment or charge is not paid within thirty (30) days after the delinquency date, such assessment shall bear interest from the date of delinquency at the lesser of eighteen percent (18%) per annum or the highest rate allowed by law, and the Directors may bring legal action against the Owner personally obligated to pay same, and, in addition, shall be entitled to the rights as set forth in Section 8(b) hereinabove with respect to enforcement of payment of same. The Board of Directors is hereby authorized to notify any Mortgagee that the Board is taking steps to collect unpaid assessments or to enforce a lien against said Lot.

(h) The following properties subject to this Indenture shall be exempt from the assessments, charges and liens created herein:

(i) All Common Properties.

(ii) All properties exempted from taxation under the laws of the State of Illinois.

(iii) All Lots owned by the Grantor or builder-developers designated by Grantor before title to the Lot

has been transferred to the first purchaser thereof at retail (as distinguished from sale in bulk or at wholesale to others for development or resale). Any Lot located within lands added hereto, the Owners or residents of which are not eligible to use portions of the Common Properties, shall not be subject to assessment for such portions of the Common Properties.

(i) In addition to other annual assessments authorized by this Section 8, the Directors may make a separate annual assessment, in accordance with the procedures set forth in this Section 8, for the operation and maintenance of storm water control easements and facilities including but not limited to retention and detention ponds. The assessment provided for by this Subsection (i) shall be applicable until the operation and maintenance of such storm water control easements and facilities have been accepted for maintenance by an appropriate public body, agency or utility company. The Directors may also make a separate annual assessment as necessary for compliance with all subdivision and other ordinances, rules and regulations of the City of Belleville and St. Clair County. Specifically, but not by way of limitation, the Board of Directors may make provisions for the maintenance and operation of all streetlights, roadways, easements and utilities.

(j) Each Lot Owner shall be responsible for the maintenance, repair and replacement of the lateral sewage line or lines servicing such Owner's lot.

(k) The liability for an assessment may not be avoided by a waiver of the use or enjoyment of any Common Properties, services or recreation facilities, or by abandonment of the Lot against which the assessment was made, or by reliance upon assertion of any claim against the Board of Directors, the Association or another Owner.

(l) Nothing contained herein shall abridge or limit the rights or responsibilities of Mortgagees.

(m) This Section 8 does not prohibit the Association from taking a deed in lieu of foreclosure.

(n) A judgment or decree in any action brought under this Section is enforceable by execution of the judgment and shall include costs and reasonable attorney's fees and paralegal expenses for the prevailing party.

(o) Any payments received by the Association in discharge of a Lot Owner's obligation may be applied to the oldest balance due.

9. BUILDER RESTRICTIONS COMMENCEMENT OF CONSTRUCTION

(a) Anything to the contrary herein notwithstanding, unless otherwise agreed by McBride in writing, construction of all

Single Family Dwellings, buildings and improvements on all Standard Lots and Cluster Lots, (to the extent made available and sold) shall be performed by McBride as the general contractor. In connection therewith, all Owners of said Standard Lots and Cluster Lots shall negotiate and contract only with McBride for such construction.

(b) With respect to construction of all Single Family Dwellings, buildings and improvements on Estate Lots, Owners shall retain and contract with one of the builders as listed on the "Approved Builders List" as maintained by Grantor, it being understood that Grantor, at its sole discretion, may update and revise such list from time to time.

(c) With respect to all Lots, the Owner (other than a successor builder or developer) shall commence or cause commencement of construction of a Single Family Dwelling thereon within one (1) year after the date of acquisition by said Owner of said Lot, and shall cause construction of the Single Family Dwelling to become completed within two (2) years after said date of acquisition. In the event that commencement and/or completion of construction of a Single Family Dwelling does not occur, or Owner voluntarily or involuntarily commences bankruptcy or insolvency proceedings, within said time periods, then, upon written notice to Owner, Grantor shall be entitled to, but shall have no obligation to, repurchase the Lot from Owner within two (2) years following such notice. If actual physical construction of the Single Family Dwelling on the Lot has not commenced, then the repurchase price shall be the amount equal to the original purchase price for the Lot. If actual physical construction of the Single Family Dwelling on the Lot has commenced, then the repurchase price shall be the lesser of fair market value or the amount equal to the sum of the original purchase price for the Lot plus the reasonable cost of materials and labor paid by Owner to bona fide third party contractors for actual improvements on the Lot which are or will be part of the residence located thereon. In no event shall the repurchase price include costs for plans and specifications, or any other costs not actually reflected in physical improvements to the Lot. Fair market value shall be the value determined by an appraisal of the Lot by an appraiser who is a member of the American Institute of Real Estate Appraisers selected by Grantor in its sole discretion. If Grantor elects to repurchase the Lot, together with the improvements thereon, the place and day of the closing of the repurchase shall be that place in St. Clair County, Illinois, and that date determined by Grantor in written notice to Owner. At the close of the repurchase of the Lot, Owner shall convey marketable and insurable title to the Lot and all improvements thereon to Grantor by duly executed general warranty deed free and clear of all liens (mechanic's or otherwise) and encumbrances, except for non-standard title exceptions shown on Schedule B, Part II of the applicable title insurance policy which were of record as of the date of acquisition. To the extent any lien or encumbrance remains

against the Lot, the repurchase price shall be off-set by the amount of any such unpaid liens or encumbrances. The repurchase price shall be adjusted for taxes, assessments and other charges generally prorated under standard closing practices. If Owner fails to voluntarily and timely convey the Lot to Grantor in accordance with this subparagraph (c), then Owner shall also be responsible to pay all of Grantor's costs and expenses, including attorney's fees, incurred by Grantor to enforce the obligations of Owner hereunder. Grantor's right to repurchase hereunder shall be reserved in the deed to Owner or by such other instrument as Grantor may prepare and Owner shall execute such instrument on Grantor's form. Upon repurchase of the Lot by Grantor, Owner shall deliver all plans and specifications and permits as obtained or acquired in connection with any improvements to be constructed on the Lot.

10. ARCHITECTURAL CONTROL

(a) From and after such time as a Lot becomes subject to assessment as provided herein, no building, fence, wall, driveway or other structure or improvement of any sort shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition or removal of all or any part thereof, or exterior change or alteration in any improvement thereon be made, nor shall any removal of any tree with a three inch or greater caliper or any change in grade or slope of any Lot be made, until all plans and specifications showing the degree, nature, kind, shape, size, square footage, height, elevation, materials, colors, location of the same entrances and driveways, and configuration of all improvements upon said Lot shall have been submitted to and approved by the Directors. All decisions rendered by the Directors shall be deemed final. It is the intent of this Indenture that the restrictions of this Section shall not apply for Grantor or McBride until such time as the Lot is subject to assessment as provided herein. With respect to architectural approvals, the Directors, at their option, may appoint an architectural approval committee comprised of not less than three nor more than five Owners to review all proposed construction and submit recommendations of approval or disapproval of same to the Directors. All requests for approval submitted to the Board of Directors shall be deemed automatically approved if no response is given within sixty (60) days of making submissions.

(b) A Lot Owner may not change the appearance of the improvements within or upon the Common Properties.

(c) All additions, alterations and improvements to the Lots and Common Properties shall not, except pursuant to prior approval of the Board of Directors or the Architectural Review Committee, cause any increase in the premiums of any insurance policies carried by the Association or by the Owners of any Lots other than those affected by such change.

11. DIRECTORS' DUTIES AND POWERS

The Directors shall have the following rights, powers, duties and obligations:

(a) To acquire and hold and transfer or sell the Common Properties, to exercise control over the Common Properties, maintain, improve and operate same with landscaping, shrubbery, decorations, buildings, recreational facilities and structures of any kind or description, and any and all other types of facilities in the interest of the health, welfare, safety, recreation, entertainment, education and for the general use of the Owners of the Properties, to grant such easements and rights-of-way over the Common Properties to such utility companies or public agencies or others as they shall deem necessary or appropriate, to make rules and regulations, not inconsistent with the law and this Indenture, for the use and operation thereof and in every and all respects govern the operation, functioning and usage of the Common Properties.

(b) To maintain, repair and replace any improvements on Lots which have been neglected and to charge the Owner thereof with the reasonable expense incurred, which shall be a lien against the Lot owned by such Owner and improvements thereon pursuant to Section 8(e) hereof.

(c) To exercise such control over the easements, streets, drives, trail systems, walkways and rights-of-way (except for such as have been or may hereafter be dedicated to public bodies or agencies) as is necessary to maintain, repair, supervise and insure the proper use of said easements, streets, drives, trail systems, walkways and rights-of-way by the necessary public utilities and others, including the right (to themselves and to others to whom they may grant permission) to construct, operate and maintain on, under and over said easements, streets, drives, trail systems, walkways and rights-of-ways, street lights, sewers, pipes, poles, wires and other facilities and public utilities for service to the Lots within the lands subject hereof, provided that 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 appropriate governmental authorities; and to establish traffic regulations for the use of such streets, drives and walkways to operate and maintain a system of street lights and pay electric utility payments on the system at such time as the system is completed and delivered to the Directors, and to operate and maintain any storm water control easement and facilities, including lakes and other retention areas, serving any portion of the Properties, which have not been accepted for maintenance by any appropriate public body, agency or utility company.

(d) To plant, care for, maintain, spray, trim, protect and replace trees, shrubbery and vegetation within any

rights-of-way, to decorate the entranceway to the subdivision by appropriate landscaping or by a subdivision sign or in such other manner as the Directors shall deem appropriate.

(e) To dedicate the private streets, drives, walkways, or rights-of-way, or any portion or portions thereof, when such dedications would be accepted by an appropriate public agency.

(f) At the discretion of the Directors, to designate certain parking areas for the sole and exclusive use of Owners, their occupants, guests or invitees.

(g) To clear rubbish and debris and remove grass and weeds from and trim, cut back, remove, replace and maintain trees shrubbery and flowers upon any neglected property, and to charge the Owners thereof with the reasonable expense so incurred, which shall be a lien against such parcel of neglected property. The Directors, or their agents or employees, shall not be deemed guilty or liable for any manner of trespass for any such abatement, removal or planting.

(h) At the discretion of the Directors, to provide for the collection of trash, rubbish and garbage and otherwise to provide such services as shall be in the interest of the health, safety and welfare of the Owners and residents, and to enter into and assume contracts for such purposes covering such periods of time as they may consider advisable; provided, however, that neither Grantor, nor the Association, nor their respective officers, directors, successors, assigns, agents, employees, affiliates or licensees shall provide or maintain or be responsible for providing or maintaining, in any way, security for all or any portion of the Properties, and for any Owners, or Owners principals, shareholders, partners, agents, family members, invitees or guests. Furthermore, each and every Owner, its principal(s), shareholder(s), partners, agents, family members, invitees and guests, hereby release and hold harmless the Grantor (including any successor builder or developer including, without limitation, McBride) and the Association, and their respective officers, directors, successors, assigns, agents, employees, affiliates or licensees from and against any and all claims, demands and liabilities for any damage to real or personal property or injury or death resulting in any way, due to the existence or level of security provided with respect to the Properties.

(i) In exercising the rights, powers and privileges granted to them, and in discharging the duties imposed upon them by the provisions of this Indenture, from time to time to enter into contracts, employ agents and other employees as they deem necessary or advisable, employ counsel to advise the Directors or to institute and prosecute such suits as they deem necessary or advisable, and to defend suits brought against them individually or collectively in their capacity as Directors.

(j) To receive, hold, convey, dispose of and administer in trust for any purpose mentioned in this Indenture any gift, grant, conveyance or donation of money or real or personal property.

(k) With regard to all property, real, personal or mixed, owned or held by them as Directors, the full and unqualified right, power and authority to:

(i) Make all contracts and incur all liabilities necessary, related or incidental to the exercise of the Directors' powers and duties hereunder, including the construction of improvements.

(ii) Purchase insurance against all risks, casualties and liabilities of every nature and description.

(iii) Borrow money, including making a permanent, temporary or construction loan, encumber and hypothecate same, make and execute promissory notes or incur liabilities and obligations secured by deed of trust, mortgage, lien or encumbrance on same.

(iv) Sell, convey, trade, exchange, use, handle, manage, control, operate, hold, and deal in and with, in all respects, limited only as provided in this Indenture or by law.

(l) In the event it shall become necessary for any public agency to acquire all or any part of the Common Properties for any public purpose, the Directors are hereby authorized to negotiate with such public agency for such acquisition and to execute such instruments as may be necessary for conveyance to any such public agency. Should acquisitions by eminent domain become necessary, only the Directors need be made parties, and subject to the reservation by Grantor, as provided in Section 6 hereof, any monies, damage payments or condemnation award shall be held by the Directors for the benefit of the Owners of the Lots subject hereto.

(m) The Directors shall deposit the funds coming into their hands, as Directors, in a state or national bank protected by the Federal Deposit Insurance Corporation.

(n) All rights, powers, duties, privileges and acts of every nature and description conferred upon the Directors by the terms of this Indenture may be executed and exercised by a majority of the Directors, unless otherwise provided herein. The Directors shall not be personally liable for their acts in the performance of their duties, except for dishonesty or acts criminal in nature, and the Association shall indemnify and hold the Directors harmless from all such acts to the extent permitted by law.

(o) Notwithstanding any other condition herein, the Directors shall make suitable provision for compliance with all subdivision and other ordinances, rules and regulations of the City of Belleville, St. Clair County, and any other governmental entity of which the Properties may become a part. Specifically, and not by way of limitation, the Directors shall make provision for the maintenance and operation of all street lights, roadways, storm water facilities and easements not otherwise accepted by a public agency or utility.

(p) At the discretion of the Directors, the Directors may enter into licensing agreements with commercial entities for the management and operation of any portion of the Common Properties, including, without limitation, any recreational facilities and/or any related concessions, for the benefit of the Owners and residents of the Properties.

(q) The Directors shall have the power to erect ornamental entrance monuments to the Properties, such monuments to be located on the street corners and/or median within the street right-of-way and adjacent easements as may be shown on any recorded subdivision plat of the Properties. The Directors shall have the duty to maintain and repair those monuments, together with all related equipment, utility facilities and landscaping located on the aforementioned corners, median and/or easements. If required to do so in writing by the City of Belleville, St. Clair County or appropriate governmental entities, the Directors shall within thirty (30) days of receipt of the aforementioned request, remove the entry monuments from the aforementioned street corners and/or median.

12. USE RESTRICTIONS

(a) The following restrictions shall apply to all portions of the Properties, and Grantor, for and on its behalf and on behalf of each and every subsequent Owner of any Lot therein, their grantees, lessees, successors and assigns, covenants that:

(i) No building or structure shall be used for a purpose other than that for which the building or structure was originally designed, without the approval of the Directors. No residence, other than one Single Family Dwelling, may be constructed on each Lot.

(ii) No commercial activity of any kind shall be conducted on any Lot, but nothing herein shall prohibit the maintenance of such facilities as are incident to the sale of residences nor the carrying on of promotional activities by the Grantor, or any other builder developer as designated by Grantor, nor the conduct of a home occupation in strict accordance with the provisions of the applicable zoning ordinances.

(iii) No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.

(iv) Each Owner shall maintain and keep his Lot in good order and repair.

(v) No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind, shall be brought onto or kept on any portion of the Properties, except that no more than two dogs, cats, or other household pets (except house pets with vicious propensities) and aquariums may be kept or maintained on any Lot. The keeping of any pet which by reason of its noisiness or other factor is a nuisance or annoyance to the neighborhood is prohibited.

(vi) No signs, advertisements, billboards, or advertising structures of any kind may be erected, maintained or displayed on any Lot; provided, however, that nothing herein shall prohibit (A) Owners from placing one "For Sale" or "For Rent" sign (not exceed 2 feet x 4 feet in dimension) on a Lot or (B) signs erected or displayed by Grantor or by builder-developers designated by Grantor (subject to pre-approval of said signs by Grantor) in connection with the development of the Properties and the sale, rental, and/or construction of improvements on the Lots.

(vii) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence temporarily or permanently. No outbuildings, detached garages, sheds, barns, shacks or structures whether of temporary character or not other than the residences constructed on Lots shall be constructed or maintained on any Lot in any portion of the Properties.

(viii) Anything to the contrary herein notwithstanding, including but not limited to Section 10 hereof, no fencing of any type shall be erected or maintained on any portion of the Properties without the prior approval of the Directors, which Director approval shall only be given as follows: The Directors shall only approve such fencing for such Lots, or portions thereof, as may be required by appropriate governmental authorities, or as may be required in the opinion of the Directors because of particular physical characteristics of the subject Lot or its surrounding property which tend to make such proposed fencing necessary or desirable, and/or for safety or health reasons.

(ix) Nothing contained in this Indenture shall restrict, limit, inhibit or prevent the Grantor, its successors or assigns from developing the Properties and building residences and selling the same.

(x) No Lot shall have an exterior solar collector system, wind generator system, or any similar type system or appliance without Director approval pursuant to Section 10 hereof.

(xi) No Lot shall have an exterior free-standing signal receiving dish, antenna, mast, or similar appliance.

(xii) No Lot shall be resubdivided nor shall a fractional part of any Lot be sold without the consent of the Directors. This provision shall not, however, require the consent of the Directors for the sale of an entire Lot as shown on a final recorded subdivision plat.

(xiii) Personal property, including, without limitation, boats, trailers, trucks, campers and recreational vehicles, shall not be placed or stored permanently or temporarily in the open or in an unenclosed carport on any Lot, nor shall they or any motor vehicle of any type or description be parked for any time on the unpaved portion of any Lot or on any street "overnight". For purposes hereof, overnight shall be defined as being any time between the hours of 12:00 P.M. and 8:00 A.M.

(xiv) 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 improvements located on each Lot; provided that after sunrise on 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 for pick-up; provided further that trash cans or receptacles shall be removed and secured within the improvements for each Lot prior to sundown of the same day.

(xv) All water and other sewer systems servicing the Property shall be constructed by the Grantor or any subsequent builder or developer. No Owner or occupant of any Lot in the Property shall construct any water or other sewer system on the Property.

(xvi) No motor vehicle or equipment shall be repaired or otherwise serviced in front of or adjacent to any residence in the Property. No abandoned cars, motorcycles, jeeps, trucks or other motor vehicles of any kind whatsoever that are unable to move under their own power and no mobile homes, campers, buses, boats or boat trailers may be stored or suffered to remain upon any of the Common Properties or the Lots other than in an enclosed garage.

(xvii) No activity shall be conducted or permitted on the Common Properties which would create a nuisance, disturbance or excessive noise or commotion. The Association shall have the right to prohibit, restrict and prevent such gatherings or assemblies of individuals on the Common Properties

under such reasonable rules and regulations as the Association, in its sole discretion, may from time to time determine.

(xviii) 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 Property. No above ground gas or propane storage tanks shall be permitted upon or in any Lot or portion of the Property.

13. GENERAL PROVISIONS

(a) Nothing herein shall limit or restrict the Grantor or any other builder-developer from developing the Properties in phases.

(b) Any subsequent builder or developer shall be responsible in the same manner as Grantor with respect to that portion of the Properties developed by said builder-developer for construction of all major improvements, and the establishment and conveyance of Common Properties.

(c) The Directors, or the Owner of any Lot subject to this Indenture, shall have the right to enforce, by any proceeding at law or in equity, all of the covenants, conditions, restrictions and provisions hereof, either to restrain or enjoin a violation or threatened violation or to recover damages. Failure or forbearance by the Directors or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any legal action filed by the Directors against an Owner or if the Directors retain legal counsel without filing a legal action in order to enforce any covenant or restriction herein contained or adopted pursuant to Director rules or regulations of any action to recover damages on account of breach of any such covenant, restriction, rule or regulation, the Owner shall be personally liable for and pay the Directors' reasonable attorneys' fees and costs incurred with or without legal action. If the attorneys' fees and costs are not paid by the Owner within thirty (30) days after the Directors have given written notice thereof to the Owner by certified mail, return receipt requested, then the fees and costs shall thereafter bear interest at the rate provided in Section 8(g) hereof and the Directors may execute and acknowledge an instrument reciting the debt and causing the instrument to be recorded in the Office of the Recorder of Deeds of St. Clair County, Illinois, thereupon the debt shall become a continuing lien on the Lot and the improvements thereon which shall bind the Owner, his or her heirs, successors and assigns. The lien shall be enforceable and governed by Section 8 of this Indenture.

(e) This Indenture and the provisions herein may be amended, modified or changed from time to time by the Grantor, so long as the Grantor owns a Lot, by recording such amendment in the Office of the Recorder of Deeds of St. Clair County, Illinois.

Thereafter, this Indenture may be amended, modified or changed by the written consent of two thirds (2/3) of the votes of all of the Owners with any such amendment, modification or change being recorded in the Office of the Recorder of Deeds of St. Clair County, Illinois. No such amendment, modification or change shall reduce or modify the obligation or right granted to or imposed upon the Directors with respect to maintenance of the Common Properties and the power to levy assessments thereon, or to eliminate the requirement that there be Directors unless some person or entity is substituted for the Directors with their responsibilities and duties.

(f) In connection with the sale of all or part of the Properties subject to this Indenture, Grantor shall have the right to assign to such purchaser the rights herein reserved or granted to Grantor.

(g) Any notice required to be sent to any Member or Owner under the provisions of this Indenture shall be deemed to have been properly sent when mailed, postage prepaid, to the address shown on the real estate tax assessment records of St. Clair County or any appropriate municipality for each Owner.

(h) Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

(i) In the event that Grantor exercises its option to appoint a second and/or third Director nominated by the Association as set out in Section 5(b)(iv) above thereby giving the Association control of the Directors, the Grantor shall retain the sole and exclusive right to exercise all powers heretofore granted to it under the terms of this Indenture pertaining to or in any way related to the continuation of development of the Properties until such development is completed. The Directors shall not interfere with the orderly development of the Properties or the rights of Grantor in such development. It is the intent of this provision that once control of the Directors is vested in the Association that such Directors shall exercise (independent of Grantor control) all governance powers and duties as provided in this Indenture including, but not limited to, the budget, assessments and other matters which will come under their exclusive control upon the sale of one hundred percent of the Lots to persons or entities other than a successor builder or developer. The control of the completion of the development and all rights and powers necessary and appurtenant thereto shall remain exclusively and solely in the Grantor; provided however, the Directors shall execute any and all documents necessary for the proper exercise of the powers and rights set forth and reserved herein to Grantor. For the period after Grantor no longer exercises control of the Directors due to accelerated appointment pursuant to Section 5(b)(iv) and prior to the date

EXHIBIT A
Description of the Properties

PARCEL 1

LOT NO. 2 OF U. S. SURVEY 384 CLAIM 299, 300 AND 301; REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "A" ON PAGE 242.

EXCEPT THE COAL UNDERLYING THE SURFACE OF SAID LAND AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL.

SITUATED IN ST. CLAIR COUNTY, ILLINOIS.

PARCEL 2

LOT NO. 3 OF U. S. SURVEY 384 CLAIM 299, 300 AND 301; REFERENCE BEING

HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "A" ON PAGE 242.

EXCEPT THE COAL UNDERLYING THE SURFACE OF SAID LAND AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL.

SITUATED IN ST. CLAIR COUNTY, ILLINOIS.

PARCEL 3

THAT PORTION OF LOT NO. 2 OF U. S. SURVEY 505, REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "C" ON PAGE 379, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT AN OLD STONE THAT MARKS THE NORTH EAST CORNER OF LOT 2 OF U. S. SURVEY 505, THENCE NORTHWESTERLY ALONG THE NORTH LINE OF SAID LOT 2 A DISTANCE OF 350 FEET TO A POINT, THENCE SOUTHWESTERLY ALONG A LINE MAKING A CLOCKWISE ANGLE OF 89 DEGREES 54 MINUTES 28 SECONDS A DISTANCE OF 415.91 FEET TO A POINT, THENCE SOUTHEASTERLY ALONG THE SOUTH LINE OF SAID U. S. SURVEY 505, MAKING A CLOCKWISE ANGLE OF 90 DEGREES 05 MINUTES 32 SECONDS, A DISTANCE OF 350 FEET TO AN OLD STONE THAT MARKS THE SOUTH EAST CORNER OF SAID U. S. SURVEY 505, THENCE NORTHEASTERLY ALONG THE EAST LINE OF SAID U. S. SURVEY 505, MAKING A CLOCKWISE ANGLE OF 89 DEGREES 54 MINUTES 28 SECONDS A DISTANCE OF 415.91 FEET TO THE POINT OF BEGINNING.

EXCEPT THE COAL UNDERLYING THE SURFACE OF SAID LAND AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL.

SITUATED IN ST. CLAIR COUNTY, ILLINOIS.

EXHIBIT A CONTINUED

PARCEL 4

PART OF LOT NO. 2 OF U. S. SURVEY 505 AND PART OF LOT 1 OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 8 WEST IN THE 3RD PRINCIPAL MERIDIAN ST. CLAIR COUNTY, ILLINOIS, REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "C" ON PAGE 379, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT AN OLD STONE THAT MARKS THE NORTH EAST CORNER OF LOT 2 OF U. S. SURVEY 505, THENCE NORTHWESTERLY ALONG THE NORTH LINE OF SAID LOT 2 A DISTANCE OF 590.66 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED TRACT OF LAND, CONTINUING THENCE NORTHWESTERLY ALONG SAID NORTH LINE A DISTANCE OF 2270.72 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF GREENMOUNT ROAD (COUNTY HIGHWAY #89), THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY LINE MAKING A CLOCKWISE ANGLE OF 90 DEGREES 45 MINUTES 50 SECONDS FROM THE LAST DESCRIBED COURSE A DISTANCE OF 70.01 FEET TO A POINT, THENCE SOUTHEASTERLY PARALLEL TO AN 70 FEET SOUTHERLY OF THE SAID NORTH LINE OF LOT 2, A DISTANCE OF 2271.66 FEET TO A POINT, THENCE NORTHEASTERLY ALONG A LINE AT A RIGHT ANGLE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 70.0 FEET TO THE POINT OF BEGINNING.

EXCEPT THE COAL UNDERLYING THE SURFACE OF SAID LAND AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL.

SITUATED IN ST. CLAIR COUNTY, ILLINOIS.

EXHIBIT A CONTINUED

PARCEL 5

PART OF LOT 4 OF "THE PARTITION PLAT OF EDWARD J. GAY'S LAND"; REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "F" ON PAGE 14, AND PART OF LOT 2 OF THE SOUTH EAST FRACTIONAL QUARTER OF SECTION 31 IN TOWNSHIP 1 NORTH RANGE 7 WEST OF THE 3RD PRINCIPAL MERIDIAN; REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "A" ON PAGE 242, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING THE SURVEY THEREOF AT THE SOUTH EAST CORNER OF FRACTIONAL SECTION 31, IN TOWNSHIP 1 NORTH RANGE 7 WEST OF THE 3RD PRINCIPAL MERIDIAN, ALSO BEING THE SOUTH EAST CORNER OF LOT 2 IN SAID SECTION 31; THENCE RUNNING WEST ALONG THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 427.8 FEET TO A POINT; SAID POINT BEING THE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN TO BE DESCRIBED; THENCE CONTINUING WEST ALONG THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 1941.6 FEET TO A POINT ON THE SOUTH EAST LINE OF SURVEY 384; THENCE RUNNING SOUTH 16 DEGREES WEST TO THE MOST SOUTHERLY CORNER OF SAID SURVEY 384; THENCE RUNNING NORTH WEST ALONG THE SOUTH WEST LINE OF SAID SURVEY 384 A DISTANCE OF 11.83 CHAINS TO A POINT; THENCE RUNNING NORTH 16 DEGREES EAST A DISTANCE OF 16.07 CHAINS TO A POINT; THENCE RUNNING NORTH 74 DEGREES WEST, A DISTANCE OF 23.51 CHAINS TO A POINT ON THE NORTH WEST LINE OF SURVEY 384; THENCE RUNNING NORTH 16 DEGREES EAST ALONG THE NORTH WEST LINE OF SURVEY 384, TO WHERE THE SAME IS INTERSECTED BY THE LINE DIVIDING LOTS 3 AND 4 OF THE PARTITION PLAT OF EDWARD J. GAY'S LAND; REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "F" ON PAGE 14; THENCE RUNNING IN A SOUTHEASTERLY DIRECTION A DISTANCE OF 17.74 CHAINS TO THE MOST SOUTHERLY CORNER OF LOT 3 OF SAID PARTITION PLAT OF EDWARD J. GAY'S LAND; THENCE RUNNING NORTH 16 DEGREES EAST A DISTANCE OF 220.0 FEET TO A POINT; THENCE RUNNING SOUTH 74 DEGREES EAST A DISTANCE OF 2175.0 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF THE TRACT OF LAND CONVEYED TO HENRY BECHTOLDT, SR., AND JOSEPH E. BECHTOLDT, BY DEED DATED JULY 20, 1921 AND RECORDED JULY 21, 1921 IN SAID RECORDER'S OFFICE IN BOOK 563 ON PAGE 531; THENCE RUNNING IN A SOUTHERLY DIRECTION AND ALONG THE

EXHIBIT A CONTINUED-

SOUTHWESTERLY LINE OF THE TRACT OF LAND CONVEYED BY DEED RECORDED IN BOOK 563 ON PAGE 531, AFORESAID, TO THE POINT OF BEGINNING.

EXCEPT THE COAL, OIL, GAS AND OTHER MINERALS UNDERLYING THE SURFACE OF SAID LAND AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL, OIL, GAS AND OTHER MINERALS.

THE LAND REFERRED TO IN BOOK 563 ON PAGE 531 IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PART OF THE SOUTH EAST FRACTIONAL QUARTER OF SECTION NO. 31 IN TOWNSHIP 1 NORTH RANGE 7 WEST OF THE THIRD PRINCIPAL MERIDIAN AND PART OF SURVEY NO. 385 CLAIMS NO. 302 AND 303, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING THE SURVEY THEREOF AT THE SOUTH EAST CORNER OF THE FRACTIONAL SECTION NO. 31, TOWNSHIP 1 NORTH RANGE 7 WEST OF THE THIRD PRINCIPAL MERIDIAN, THENCE NORTH ALONG THE EAST LINE OF SAID FRACTIONAL SECTION NO. 31, 1029.6 FEET TO THE SOUTH WEST LINE OF SAID SURVEY 385, THENCE SOUTH 74 DEGREES EAST ALONG THE SOUTH WEST LINE OF SAID SURVEY NO. 385, 236.7 FEET TO A STONE, THE MOST SOUTHERLY CORNER OF SAID SURVEY, THENCE NORTH 16 DEGREES EAST ALONG THE SOUTH EAST LINE OF SAID SURVEY NO. 385, 2119.7 FEET, THENCE NORTH 74 DEGREES 40 MINUTES WEST 1315.3 FEET, THENCE SOUTH 3341.0 FEET TO THE SOUTH LINE OF SAID FRACTIONAL SECTION NO. 31, THENCE EAST ALONG THE SOUTH LINE OF SAID FRACTIONAL SECTION NO. 31, 427.8 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THAT PART MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PART OF LOT 2 OF THE SOUTH EAST QUARTER OF SECTION 21, TOWNSHIP 1 NORTH, RANGE 7 WEST OF THE THIRD PRINCIPAL MERIDIAN, ST. CLAIR COUNTY, ILLINOIS; REFERENCE BEING HAD TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF ST. CLAIR COUNTY, ILLINOIS, IN BOOK OF PLATS "A" ON PAGE 242, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH EAST CORNER OF SAID SECTION 31; THENCE NORTH 88 DEGREES 38 MINUTES 49 SECONDS WEST, ALONG THE SOUTH LINE OF SECTION 31, A DISTANCE OF 1077.82 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED TRACT; THENCE NORTH 1 DEGREE 21 MINUTES 11 SECONDS EAST, A DISTANCE OF 433.50 FEET, THENCE NORTH 17 DEGREES 39 MINUTES 21 SECONDS WEST, A DISTANCE OF 290.52 FEET; THENCE NORTH 89 DEGREES 08 MINUTES 04 SECONDS WEST, A DISTANCE OF 408.16 FEET; THENCE SOUTH 0 DEGREES 26 MINUTES 27 SECONDS WEST, A DISTANCE OF 307.67 FEET; THENCE NORTH 73 DEGREES 48 MINUTES 48 SECONDS WEST, A DISTANCE OF 42.03 FEET; THENCE SOUTH 1 DEGREE 21 MINUTES 11 SECONDS WEST, A DISTANCE OF 277.85 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 49 SECONDS WEST, A DISTANCE OF 65.00 FEET; THENCE SOUTH 1 DEGREE 21 MINUTES 11 SECONDS WEST, A DISTANCE OF 130.00 FEET TO THE SOUTH LINE OF SAID SECTION 31; THENCE SOUTH 88

EXHIBIT A

DEGREES 38 MINUTES 49 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 601.50 FEET TO THE POINT OF BEGINNING.

EXCEPTING FURTHER THE FOLLOWING DESCRIBED TRACT:

PART OF THE SOUTH EAST FRACTIONAL SECTION 31, AND PART OF U. S. SURVEY 385 ALL IN TOWNSHIP 1 NORTH, RANGE 7 WEST, OF THE THIRD PRINCIPAL MERIDIAN, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH EAST CORNER OF FRACTIONAL SECTION 31; THENCE NORTH 88 DEGREES 38 MINUTES 49 SECONDS WEST, ALONG THE SOUTH LINE OF SAID SECTION 31, A DISTANCE OF 1077.28 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 11 SECONDS EAST, A DISTANCE OF 361.50 FEET; THENCE NORTH 88 DEGREES 38 MINUTES 49 SECONDS WEST, A DISTANCE OF 361.50 FEET; THENCE NORTH 73 DEGREES 48 MINUTES 48 SECONDS WEST, A DISTANCE OF 181.03 FEET TO THE POINT OF BEGINNING OF THE TRACT DESCRIBED HEREIN; THENCE CONTINUING NORTH 73 DEGREES 48 MINUTES 48 SECONDS WEST, A DISTANCE OF 594.30 FEET TO THE WEST LINE OF U. S. SURVEY 385; THENCE SOUTH 16 DEGREES 11 MINUTES 12 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 579.30 FEET TO THE AFOREMENTIONED SOUTH LINE OF SECTION 31; THENCE SOUTH 88 DEGREES 38 MINUTES 49 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 657.80 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 11 SECONDS EAST, A DISTANCE OF 130.00 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 49 SECONDS EAST, A DISTANCE OF 65.00 FEET; THENCE NORTH 1 DEGREE 21 MINUTES 11 SECONDS EAST, A DISTANCE OF 277.85 FEET TO THE POINT OF BEGINNING.

SITUATED IN ST. CLAIR COUNTY, ILLINOIS.

FIRST AMENDMENT TO THE ORCHARDS
INDENTURE OF TRUST AND RESTRICTIONS

15
This First Amendment to The Orchards Indenture of Trust and Restrictions ("First Amendment") is made effective as of this 27th day of May, 1990, by THE ORCHARDS JOINT VENTURE, an Illinois joint venture ("Grantor"), pursuant to the authority granted to Grantor in Section 13(e) of The Orchards Indenture of Trust and Restrictions dated on or about May 1, 1990 and recorded in Book 1780, Page 257 of the Office of the Recorder of Deeds for St. Clair County, Illinois ("Indenture").

WITNESSETH:

WHEREAS, as of the date first above written, the Grantor owns one (1) or more Lots of The Properties subject to the Indenture; and

WHEREAS, Grantor desires to amend, modify and change the Indenture as described in this First Amendment.

NOW THEREFORE, in consideration of the premises and the authority of Grantor to amend, modify and change the Indenture pursuant to Section 13(e) thereof, the Indenture is hereby amended, modified and changed as follows:

1. A new subsection (i) is hereby added to Section 7 of the Indenture as follows:

(i) For so long as Grantor owns one (1) or more Lots, the following restrictions shall apply unless expressly permitted in writing by Grantor, which permission may be granted or withheld by Grantor in its sole discretion:

(i) An Owner of a Lot shall not grant, transfer or otherwise convey any easement, license, lease or other right to use or possess such Lot or any portion thereof for utility purposes to serve any land or improvements thereon other than The Properties; and

(ii) The Association shall not grant, transfer or otherwise convey any easement, license, lease or other right to use or possess the Common Properties or any portion thereof for utility purposes to serve any land or improvements thereon other than The Properties.

Any grant, transfer or conveyance of any interest in the Lots or Common Properties in violation of the foregoing restrictions shall be null and void and have no force or effect and Grantor shall be entitled to commence an action against the applicable utility company and its contractors, subcontractors and suppliers and such owners as are in violation hereof and/or the Association, whichever the case may be, to enjoin or otherwise prohibit the

construction and installation of utility facilities and improvements pursuant thereto. Grantor may, at its sole option, either enter upon and remove or, by appropriate action, require the removal of any or all utility facilities and improvements constructed or installed on the Lots or the Common Properties in violation hereof without incurring any liability whatsoever in trespass or otherwise to the Owners of such Lots or the Association and such Owners and the Association do hereby release Grantor from and waive any and all claims, demands, causes of action, costs and expenses, and all other liabilities which may be asserted against Grantor in connection therewith. Grantor shall be entitled to recover from the applicable utility company and such Owners as are in violation hereof and/or the Association, whichever the case may be, all damages, costs, and expenses, including, without limitation, attorneys' fees and litigation costs, incurred by Grantor in connection with the removal of utility facilities and improvements and such other action to enforce this provision as may be pursued by Grantor from time to time.

2. This First Amendment shall not amend, modify or change the Indenture in any way whatsoever except as specifically provided herein. Except as amended, modified or changed hereunder, all of the other terms, conditions, covenants and agreements contained in the Indenture shall remain in full force and effect and be enforceable as provided thereunder. Unless specifically defined herein, all capitalized terms used herein shall have the same meanings as defined in the Indenture.

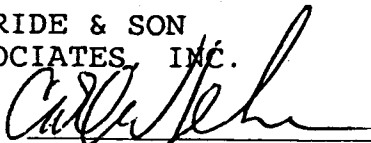
3. In the event that any of the provisions of this First Amendment are deemed to be unenforceable or invalid by a court of competent jurisdiction, all of the other provisions contained herein and all of the provisions of the Indenture shall remain in full force and effect as if such unenforceable or invalid provision was not contained herein. This First Amendment shall be governed by and construed under the laws of the State of Illinois.

IN WITNESS WHEREOF, Grantor has executed this First Amendment effective as of the date first above written.

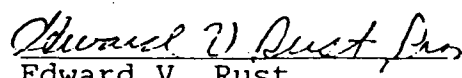
GRANTOR:

THE ORCHARDS JOINT VENTURE

By: McBRIDE & SON
ASSOCIATES, INC.

By: 
Carl W. Lehne,
Vice President

By: GREENMOUNT CORPORATION

By: 
Edward V. Rust,
President

ILLINOIS)
STATE OF MISSOURI)
 CLAIR) ss.
COUNTY OF ST. LOUIS)

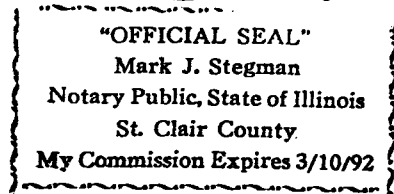
On this 29th day of May, 1990, before me appeared Carl W. Lehne, to me personally known, who, being by me duly sworn, did say that he is the Vice President of McBride & Son Associates, Inc., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Carl W. Lehne acknowledged said instrument to be the free act and deed of said corporation.

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.

Mark J. Stegman
Notary Public

My term expires:

STATE OF ILLINOIS)
) ss.
COUNTY OF ST. CLAIR)



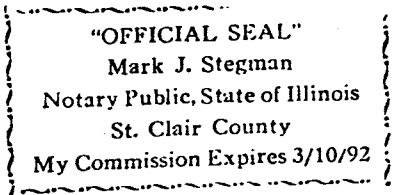
On this 29th day of May, 1990, before me appeared Edward V. Rust, to me personally known, who, being by me duly sworn, did say that he is the President of Greenmount Corporation, a corporation of the State of Illinois, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Edward V. Rust acknowledged said instrument to be the free act and deed of said corporation.

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.

Mark J. Stegman
Notary Public

My term expires:

1314/171



1990 MAY 30 AM 9:19
BOOK 2782 PAGE 2215

155889

CT&T

SECOND AMENDMENT TO THE ORCHARDS
INDENTURE OF TRUST AND RESTRICTIONS

16
This Second Amendment to The Orchards Indenture of Trust and Restrictions ("Second Amendment") is made effective as of this 29th day of May, 1990, by The Orchards Joint Venture, an Illinois general partnership ("Grantor"), pursuant to the authority granted to Grantor in Section 2(b) and in Section 13(e) of The Orchards Indenture of Trust and Restrictions recorded on May 3, 1990 as Document A01020363 in Book 2780, Page 257 of the Office of the Recorder of Deeds for St. Clair County ("Indenture").

WITNESSETH:

WHEREAS, as of the date first above written, the Grantor owns one (1) or more Lots of The Properties subject to the Indenture; and

WHEREAS, Grantor desires to amend, modify and change the Indenture as described in this Second Amendment.

NOW, THEREFORE, in consideration of the premises and the authority of Grantor to amend, modify and change the Indenture pursuant to Sections 2(b) and 13(e) thereof, the Indenture is hereby amended, modified and changed as follows:

1. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to the Indenture is located in Belleville, St. Clair County, Illinois and is more particularly described in the legal description contained in Exhibit A attached to this Second Amendment. The Exhibit A attached to this Second Amendment is made a part of the Indenture by this reference and supersedes and replaces the Exhibit A originally attached to the Indenture.

2. This Second Amendment shall not amend, modify or change the Indenture in any way whatsoever except as specifically provided herein. Except as amended, modified or changed by this Second Amendment or by the First Amendment to The Orchards Indenture of Trust and Restrictions dated May 29, 1990, all of the other terms, conditions, covenants and agreements contained in the Indenture shall remain in full force and effect and be enforceable as provided thereunder. Unless specifically defined herein, all capitalized terms used herein shall have the same meanings as defined in the Indenture.

3. In the event that any of the provisions of this Second Amendment are deemed to be unenforceable or invalid by a court of competent jurisdiction, all of the other provisions

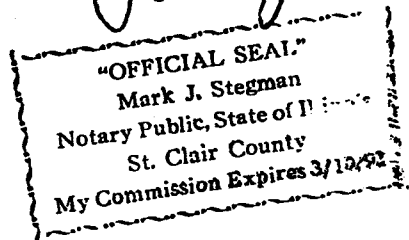
STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

On this 29th day of May, 1990, before me appeared Edward V. Rust, to me personally known, who, being by me duly sworn, did acknowledge before me that he is the President of Greenmount Corporation, a corporation of the State of Illinois and a general partner of The Orchards Joint Venture, an Illinois general partnership, and that the foregoing instrument was signed in behalf of said corporation as general partner of The Orchards Joint Venture, by authority of its Board of Directors; and said Edward V. Rust acknowledged said instrument to be the free act and deed of said corporation as general partner of The Orchards Joint Venture.

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.

Mark J. Stegman
Notary Public

My Commission Expires:



STATE OF ILLINOIS
ST. CLAIR COUNTY
FILED FOR RECORD IN
THE RECORDERS OFFICE
1990 MAY 30 AM 9:19
BOOK 2782 PAGE 2218
Michael T. [Signature]
RECORDER

Part of Lot 2 of the Southeast Fractional Quarter (1/4) of Section 31 in Township One (1) North, Range Seven (7) West of the Third (3rd) Principal Meridian; PART of Lot 4 of "The Partition Plat of Edward J. Gay's Land"; Part of Lots 1 and 2 of U.S. Survey 505; Lots 2 and 3 of U.S. Survey 384; and Part of Lot 1 of Section 36, Township One (1) North, Range Eight (8) West of the Third (3rd) Principal Meridian; all in St. Clair County, Illinois and being more particularly described as follows, to-wit:

Commencing at an old stone that marks the Northeast corner of Lot 2 of U.S. Survey 505, thence Northwesterly along the North line of said Lot 2 a distance of 350.00 feet to the Point of Beginning of the following described tract of land, thence Southwesterly along a line making a clockwise angle of $89^{\circ}54'28''$ from the last described course a distance of 415.75 feet to a point, thence Southeasterly along the South line of said U.S. Survey 505, making a clockwise angle of $90^{\circ}06'15''$ from the last described course a distance of 350.00 feet to the Southeast corner of said U.S. Survey 505, thence continuing Southeasterly along the South line of U.S. Survey 384 making a clockwise angle from the last described course of $179^{\circ}22'00''$ a distance of 456.33 feet to an old stone, thence Southeasterly along said South line making a clockwise angle of $180^{\circ}17'10''$ from the last described course a distance of 321.23 feet to a point marking the Southeast corner of Lot 2 of U.S. Survey 384, thence Southeasterly along said South line of U.S. Survey 384 making a clockwise angle of $180^{\circ}09'41''$ from the last described course a distance of 1,555.25 feet to a point marking the Southeast corner of U.S. Survey 384, thence Northeasterly along a line making a clockwise angle of $90^{\circ}52'38''$ from the last described course, a distance of 177.26 feet to a point, thence Northeasterly along a line making a clockwise angle of $179^{\circ}24'43''$ from the last described course a distance of 579.33 feet to a point, thence Southeasterly along a line making a clockwise angle of $269^{\circ}59'30''$ from the last described course a distance of 636.33 feet to a point, thence Northeasterly along a line making a clockwise angle of $74^{\circ}15'15''$

from the last described course, a distance of 307.67 feet to a point, thence Southeasterly along a line making a clockwise angle of $270^{\circ}25'29''$ from the last described course a distance of 406.16 feet to a point, thence Southeasterly along a line making a clockwise angle of $251^{\circ}28'43''$ from the last described course a distance of 290.32 feet to a point, thence Southwesterly along a line making a clockwise angle of $199^{\circ}00'32''$ from the last described course a distance of 433.50 feet to a point on the South line of Lot 2 in the Fractional Section 32 in Township One (1) North, Range Seven (7) West of the Third (3rd) Principal Meridian, thence southeasterly along said South line and perpendicular to the last described course a distance of 650.64 feet to a point, thence Northwesterly along a line making a clockwise angle of $87^{\circ}58'38''$ from the last described course a distance of 1,144.22 feet to an old stone, thence Northwesterly along a line making a clockwise angle of $180^{\circ}15'47''$ from the last described course, a distance of 1,809.57 feet to a point, thence Northwesterly along a line making a clockwise angle of $106^{\circ}28'32''$ from the last described course, a distance of 2,169.36 feet to a point, thence Southwesterly along a line making a clockwise angle of $89^{\circ}59'29''$ from the last described course a distance of 220.61 feet to a point, thence Northwesterly along a line making a clockwise angle of $269^{\circ}53'24''$ from the last described course a distance of 1,174.98 feet to a point, thence Southwesterly along a line making a clockwise angle of $90^{\circ}02'12''$ from the last described course a distance of 2,162.62 feet to a point, thence Northwesterly along a line making a clockwise angle of $270^{\circ}05'32''$ from the last described course a distance of 377.99 feet to a point, thence Southwesterly along a line making a clockwise angle of $124^{\circ}48'40''$ from the last described course a distance of 754.68 feet to a point, thence Southwesterly along a line making a clockwise angle of $145^{\circ}11'20''$ from the last described course a distance of 83.47 feet to a point on the North line of Lot 2 of U.S. Survey 505, thence Northwesterly along said North line and its prolongation making a clockwise angle of $270^{\circ}00'00''$ from the last described course a distance of 2,104.38 feet to a point on the Easterly Right-Of-Way line of Greenmount Road (County Highway 89), thence Southwesterly along said Right-of-Way line making a clockwise angle of $90^{\circ}45'50''$ from the last described course a distance of 70.01 feet to a point, thence Southeasterly along a line making a clockwise angle of $89^{\circ}14'10''$ from the last described course a distance of 2,271.66 feet to a point, thence Northeasterly along a line perpendicular to the last described course a distance of 70.00 feet to a point on said North line of Lot 2 of U.S. Survey 505, thence Southeasterly along said North line perpendicular to the last described course a distance of 240.66 feet to the Point of Beginning and containing 286.06 Acres more or less.

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THIRD AMENDMENT TO THE ORCHARDS
INDENTURE OF TRUST AND RESTRICTIONS

This Third Amendment to The Orchards Indenture of Trust and Restrictions ("Third Amendment") is made effective as of this 25th day of July, 1990, by The Orchards Joint Venture, an Illinois general partnership ("Grantor"), pursuant to the authority granted to Grantor in Section 2(b) and in Section 13(e) of The Orchards Indenture of Trust and Restrictions recorded on May 3, 1990 as Document A01020363 in Book 2780, Page 257 ("Indenture"), as amended by Document A01023580 in Book 2782, Page 2215 ("First Amendment") and Document A01023581 in Book 2782, Page 2218 ("Second Amendment") of the Office of the Recorder of Deeds for St. Clair County.

WITNESSETH:

WHEREAS, as of the date first above written, the Grantor owns one (1) or more Lots of the Properties subject to the Indenture; and

WHEREAS, Grantor desires to amend, modify and change the Indenture as described in this Third Amendment.

NOW, THEREFORE, in consideration of the premises and the authority of Grantor to amend, modify and change the Indenture pursuant to Sections 2(b) and 13(e) thereof, the Indenture is hereby amended, modified and changed as follows:

1. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to the Indenture is located in Belleville, St. Clair County, Illinois and is more particularly described in the legal description contained in Exhibit A attached to this Third Amendment. The Exhibit A attached to this Third Amendment is made a part of the Indenture by this reference and supersedes and replaces the Exhibit A originally attached to the Indenture and to the Second Amendment.

2. This Third Amendment shall not amend, modify or change the Indenture in any way whatsoever, except as specifically provided herein. Except as amended, modified or changed by this Third Amendment, all of the other terms, conditions, covenants, and agreements contained in the Indenture, as amended by the First Amendment and/or the Second Amendment, shall remain in full force and effect and be enforceable as provided thereunder. Unless specifically defined herein, all capitalized terms used herein shall have the same meanings as defined in the Indenture.

3. In the event that any of the provisions of this Third Amendment are deemed to be unenforceable or invalid by a court of competent jurisdiction, all of the other provisions contained herein and all of the provisions of the Indenture shall remain in full force and effect as if such unenforceable or invalid provisions was not contained herein. This Third

Amendment shall be governed by and construed under the laws of the State of Illinois.

IN WITNESS WHEREOF, Grantor has executed this Third Amendment in effective as of the date first above written.

GRANTOR:

THE ORCHARDS JOINT VENTURE

By: MCBRIDE & SON ASSOCIATES, INC., as general partner

By: GREENMOUNT CORPORATION, as general partner

By: [Signature] Carl W. Lehne, Vice President

By: [Signature] Edward V. Rust, President

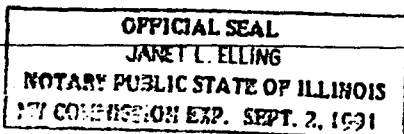
STATE OF ILLINOIS)
COUNTY OF ST. CLAIR)

On this 25th day of July, 1990, before me appeared Carl W. Lehne, to me personally known, who, being by me duly sworn, did acknowledge before me that he is the Vice President of McBride & Son Associates, Inc., a corporation of the State of Missouri and a general partner of The Orchards Joint Venture, an Illinois general partnership, and that the foregoing instrument was signed in behalf of said corporation as general partner of The Orchards Joint Venture, by authority of its Board of Directors; and said Carl W. Lehne acknowledged said instrument to be the free act and deed of said corporation as general partner of The Orchards Joint Venture.

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.

[Signature] Notary Public

My Commission Expires:



STATE OF ILLINOIS)
)
COUNTY OF ST. CLAIR)

On this 25th day of July, 1990, before me appeared Edward V. Rust, to me personally known, who, being by me duly sworn, did acknowledge before me that he is the President of Greenmount Corporation, a corporation of the State of Illinois and a general partner of The Orchards Joint Venture, an Illinois general partnership, and that the foregoing instrument was signed in behalf of said corporation as general partner of The Orchards Joint Venture, by authority of its Board of Directors; and said Edward V. Rust acknowledged said instrument to be the free act and deed of said corporation as general partner of The Orchards Joint Venture.

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.

Janet L. Elling

Notary Public

My Commission Expires:

OFFICIAL SEAL
JANET L. ELLING
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. SEPT. 2, 1991

BOOK 2788 PAGE 1545
JUL 28 PM 1:46
RECORDED

RECORDED

EXHIBIT A

Part of Lot 2 of the Southeast Fractional Quarter (1/4) of Section 31 in Township One (1) North, Range Seven (7) West of the Third (3rd) Principal Meridian; Part of Lot 4 of "The Partition Plat of Edward J. Gay's Land"; Part of Lots 1 and 2 of U.S. Survey 505; Lots 2 and 3 of U.S. Survey 384; and Part of Lot 1 of Section 36, Township One (1) North, Range Eight (8) West of the Third (3rd) Principal Meridian; all in St. Clair County, Illinois and being more particularly described as follows, to-wit:

Commencing at an old stone that marks the Northeast corner of Lot 2 of U.S. Survey 505, thence Northwesterly along the North line of said Lot 2 a distance of 350.00 feet to the Point of Beginning of the following described tract of land, thence Southwesterly along a line making a clockwise angle of $89^{\circ}54'28''$ from the last described course a distance of 415.75 feet to a point, thence Southeasterly along the South line of said U.S. Survey 505, making a clockwise angle of $90^{\circ}06'15''$ from the last described course a distance of 350.00 feet to the Southeast corner of said U.S. Survey 505, thence continuing Southeasterly along the South line of U.S. Survey 384 making a clockwise angle from the last described course of $179^{\circ}22'00''$ a distance of 456.33 feet to an old stone, thence Southeasterly along said South line making a clockwise angle of $180^{\circ}17'10''$ from the last described course a distance of 321.23 feet to a point marking the Southeast corner of Lot 2 of U.S. Survey 384, thence Southeasterly along said South line of U.S. Survey 384 making a clockwise angle of $180^{\circ}09'41''$ from the last described course a distance of 1,555.25 feet to a point marking the Southeast corner of U.S. Survey 384, thence Northeasterly along a line making a clockwise angle of $90^{\circ}52'38''$ from the last described course, a distance of 177.26 feet to a point, thence Northeasterly along a line making a clockwise angle of $179^{\circ}24'43''$ from the last described course a distance of 579.33 feet to a point, thence Southeasterly along a line making a clockwise angle of $269^{\circ}59'31''$ from the last described course a distance of 636.33 feet to a point, thence Northeasterly along a line making a clockwise angle of $74^{\circ}15'15''$

from the last described course, a distance of 307.67 feet to a point, thence Southeasterly along a line making a clockwise angle of $270^{\circ}25'29''$ from the last described course a distance of 406.16 feet to a point, thence Southeasterly along a line making a clockwise angle of $251^{\circ}28'43''$ from the last described course a distance of 290.52 feet to a point, thence Southwesterly along a line making a clockwise angle of $199^{\circ}00'32''$ from the last described course a distance of 433.50 feet to a point on the South line of Lot 2 in the Fractional Section 32 in Township One (1) North, Range Seven (7) West of the Third (3rd) Principal Meridian, thence Southeasterly along said South line and perpendicular to the last described course a distance of 650.64 feet to a point, thence Northwesterly along a line making a clockwise angle of $87^{\circ}58'38''$ from the last described course a distance of 1,144.22 feet to an old stone, thence Northwesterly along a line making a clockwise angle of $180^{\circ}15'47''$ from the last described course, a distance of 1,809.57 feet to a point, thence Northwesterly along a line making a clockwise angle of $106^{\circ}28'32''$ from the last described course, a distance of 2,169.36 feet to a point, thence Southwesterly along a line making a clockwise angle of $89^{\circ}59'29''$ from the last described course a distance of 220.61 feet to a point, thence Northwesterly along a line making a clockwise angle of $269^{\circ}53'24''$ from the last described course a distance of 1,174.98 feet to a point, thence Southwesterly along a line making a clockwise angle of $90^{\circ}02'12''$ from the last described course a distance of 2,162.62 feet to a point, thence Northwesterly along a line making a clockwise angle of $270^{\circ}05'32''$ from the last described course a distance of 377.99 feet to a point, thence Southwesterly along a line making a clockwise angle of $124^{\circ}48'40''$ from the last described course a distance of 754.68 feet to a point, thence Southwesterly along a line making a clockwise angle of $145^{\circ}11'20''$ from the last described course a distance of 83.47 feet to a point on the North line of Lot 2 of U.S. Survey 505, thence Northwesterly along said North line and its prolongation making a clockwise angle of $270^{\circ}00'00''$ from the last described course a distance of 2,051.43 feet to a point on the Easterly Right-Of-Way line of Greenmount Road (County Highway 89), thence Southwesterly along said Right-of-Way line making a clockwise angle of $90^{\circ}45'50''$ from the last described course a distance of 70.01 feet to a point, thence Southeasterly along a line making a clockwise angle of $89^{\circ}14'10''$ from the last described course a distance of 2,271.66 feet to a point, thence Northeasterly along a line perpendicular to the last described course a distance of 70.00 feet to a point on said North line of Lot 2 of U.S. Survey 505, thence Southeasterly along said North line perpendicular to the last described course a distance of 240.66 feet to the Point of Beginning and containing 286.06 Acres more or less.

**FOURTH AMENDMENT TO THE ORCHARDS
INDENTURE OF TRUST AND RESTRICTIONS**

This Fourth Amendment to The Orchards Indenture of Trust and Restrictions ("Fourth Amendment") is made effective as of this 15th day of August, 1991, by The Orchards Joint Venture, an Illinois general partnership ("Grantor"), pursuant to the authority granted to Grantor in Sections 2(b), 13(e) and 13(j) of The Orchards Indenture of Trust and Restrictions recorded on May 3, 1990 as Document A01020363 in Book 2780, Page 257, as amended by Document A01023580 in Book 2782, Page 2215 ("First Amendment"), Document A01023581 in Book 2782, Page 2218 ("Second Amendment") and Document A01030282 in Book 2788, Page 1545 ("Third Amendment") of the Office of the Recorder of Deeds for St. Clair County, Illinois (the "Indenture").

WITNESSETH:

WHEREAS, as of the date first above written, the Grantor owns one (1) or more Lots of The Properties subject to the Indenture; and

WHEREAS, Grantor desires to amend, modify and change the Indenture as described in this Fourth Amendment.

NOW, THEREFORE, in consideration of the premises and the authority of Grantor to amend, modify and change the Indenture pursuant to Sections 2(b), 13(e) and 13(j) thereof, the Indenture is hereby amended, modified and changed as follows:

1. Grantor hereby removes and deletes from the Properties subject to the covenants and restrictions of the Indenture the real estate described on Exhibit A, which is attached hereto and incorporated herein by this reference.

2. A new Subsection (e) is hereby added to Section 9 of the Indenture as follows:

(e) Until the Owner of an Estate Lot has completed or caused to have been completed the construction of a Single Family Dwelling on such Estate Lot as contemplated in Subsection (c) of this Section 9, such Owner shall not sell, transfer, assign or convey such Estate Lot or enter into an agreement, whether verbal or written, providing for such sale, assignment, transfer or conveyance, without first giving written notice to Grantor of such Owner's intention to do so ("Sale Notice"). Upon the giving of the Sale Notice, Grantor shall have the option to purchase such Estate Lot (and all improvements as may have been placed thereon) at the same purchase price as was paid by the

Owner to Grantor for such Lot. Grantor may exercise such option by giving written notice thereof to the Owner within thirty (30) days after the Sale Notice is given by the Owner to Grantor. In the event that Grantor exercises its option under this Subsection (e), the closing of Grantor's purchase of the Estate Lot pursuant to such exercise shall occur on the thirtieth (30th) day following the date of such exercise unless such thirtieth (30th) day is a Saturday, Sunday or legal holiday, in which case the date of closing shall be extended to the next succeeding business day. At the closing of such purchase, Grantor shall pay the purchase price for such Estate Lot to the Owner by cashier's check or wire transfer of immediately available funds and the Owner shall execute and deliver to Grantor a General Warranty Deed in form and substance reasonably satisfactory to Grantor conveying to Grantor good, absolute and marketable fee simple title to such Estate Lot free and clear of all mortgages, liens and other encumbrances other than the lien for real estate taxes not yet due and payable, which real estate taxes shall be prorated between Grantor and the Owner at the closing based upon the latest information available. Grantor shall pay any and all recording fees, escrow fees, real estate transfer taxes, title insurance premiums and other closing costs incurred in connection with the purchase by Grantor from the Owner of such Estate Lot. The foregoing provisions of this Subsection (e) shall be inapplicable to the grant of a mortgage or other security interest in an Estate Lot by the Owner in connection with the financing of the Owner's construction of a Single Family Dwelling on such Estate Lot.

3. This Fourth Amendment shall not amend, modify or change the Indenture in any way whatsoever except as specifically provided herein. Except as amended, modified or changed by this Fourth Amendment, all of the other terms, conditions, covenants and agreements contained in the Indenture, as amended by the First Amendment, Second Amendment and Third Amendment shall remain in full force and effect and be enforceable as provided thereunder. Unless specifically defined herein, all capitalized terms used herein shall have the same meanings as defined in the Indenture.

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FIFTH AMENDMENT TO THE ORCHARDS INDENTURE OF TRUST AND RESTRICTIONS

This Fifth Amendment to The Orchards Indenture of Trust and Restrictions ("Fifth Amendment") is made effective as of the 18th day of February, 1994, by The Orchards Joint Venture, an Illinois general partnership ("Grantor"), pursuant to the authority granted to Grantor in Section 13(e) of The Orchards Indenture of Trust and Restrictions recorded on May 3, 1990 as Document A01020363 in Book 2780, Page 257, as amended by Document A01023580 in Book 2782, Page 2215 ("First Amendment"), Document A01023581 in Book 2782, Page 2218 ("Second Amendment"), Document A01030282 in Book 2788, Page 1545 ("Third Amendment"), and Document A01076561 in Book 2827, Page 1334 ("Fourth Amendment") of the Office of the Recorder of Deeds for St. Clair County, Illinois (the "Indenture").

WITNESSETH:

WHEREAS, as of the date first above written, the Grantor owns one (1) or more Lots of The Properties subject to the Indenture; and

WHEREAS, Grantor desires to amend, modify and change the Indenture as described in this Fifth Amendment.

NOW, THEREFORE, in consideration of the premises and the authority of Grantor to amend, modify and change the Indenture pursuant to Section 13(e) thereof, the Indenture is hereby amended, modified and changed as follows:

1. Section 1(d) of the Indenture is hereby amended by deleting said provision in its entirety and substituting in lieu thereof the following provision:

(d) "Common Properties" shall mean and refer to (i) those areas of land owned by the Association, (ii) those areas of land owned by any governmental unit, public body or agency and/or (iii) the easement, license or other occupancy or use rights which the Association may have in any portion of the Properties or other land or properties adjacent thereto whether as an appurtenance thereto or otherwise, and which are intended to be devoted to the common use and enjoyment of the Owners of the Properties including, without limitation, parks, open spaces, playgrounds, streets, subdivision entrance areas and monuments, street lights, storm water control easement areas and facilities, paths, walkways and other trail systems, and other facilities for the benefit in common of such Owners. Common Properties shall not include the Golf Course or the Golf Course Site unless specifically designated as such by written agreement.

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2. Section 11(d) is hereby amended by deleting said provision in its entirety and substituting in lieu thereof the following provision:

(d) To plant, care for, maintain, spray, trim, protect and replace trees, shrubbery and vegetation within any streets, drives, trail systems, walkways and rights-of-way (whether or not such have been or may hereafter be dedicated to public bodies or agencies), to decorate the entrance way to the subdivision by appropriate landscaping or by a subdivision sign or in such other manner as the Directors shall deem appropriate.

3. Section 12(a)(xi) of the Indenture is hereby amended by deleting said provision in its entirety and substituting in lieu thereof the following provision:

(xi) No exterior television, radio aerial, antenna, receiving dish, satellite dish, or any other device for the reception or transmission of radio or television or other electronic signals (hereinafter referred to as an "Antenna") shall be erected or maintained upon any Lot or upon the exterior of any dwelling or upon any of the Common Properties except with the prior written approval of the Directors. The Directors or their designated committee shall approve an application for the installation of an Antenna only upon the following conditions:

(A) Only one Antenna may be maintained on any Lot.

(B) The Antenna shall be for the personal use of the Owner or resident of the Lot.

(C) The Antenna shall not be visible in the view from the street towards the dwelling on the Lot (including the view from both streets for dwellings on corner Lots).

(D) The Lot Owner shall satisfy one of the following:

(1) The Antenna shall not be visible from the neighboring Lots, streets, Common Properties or Golf Course; or

(2) The Antenna shall be disguised to resemble and in fact shall be visually indistinguishable from structures, devices or improvements

otherwise allowed by the Directors and/or this Indenture.

(E) The Antenna shall not pose any known or verifiable hazards to the health of the residents of the Lot of the neighboring Lots. The Directors may require, in their sole discretion, that certain tests be performed on the Antenna at the expense of the Lot Owner at any time before or after the installation of the Antenna.

(F) The Directors or their designated committee shall have the power to require such specific forms of screening (fencing, shrubbery, etc.) as the Directors deem appropriate in order to effectuate the intent of this Section 12(a)(xi).

(G) All installations must comply with local zoning requirements and building codes if applicable.

(H) The Directors reserve the right to require any repair, maintenance, additional landscaping or testing to the Antenna at any time after the installation thereof. Failure to comply with this Section 12(a)(xi) shall be enforceable by a schedule of fines as published by the Directors from time to time. Said fines shall be collected and enforced in the same manner as an assessment. The Directors shall have the further right to take such action to enforce this Section 12(a)(xi) with all remedies available to it in law or equity.

(I) The granting of the written permission to install the Antenna pursuant to this Section 12(a)(xi) shall be a revocable license issued by the Directors to the Lot Owner and his/her/its successors which may be revoked if the Lot Owner does not remain in compliance with the terms of this Section 12(a)(xi), as amended from time to time.

4. This Fifth Amendment shall not amend, modify or change the Indenture in any way whatsoever except as specifically provided herein. Except as amended, modified or changed by this Fifth Amendment, all of the other terms, conditions, covenants and agreements contained in the Indenture, as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment, shall remain in full force and effect and be enforceable as provided thereunder. Unless specifically defined herein, all capitalized terms used herein shall have the same meanings as defined in the Indenture.

5. In the event that any of the provisions of this Fifth Amendment are deemed to be unenforceable or invalid by a court of competent jurisdiction, all of the other provisions

STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

On this 18th day of February, 1994,
before me appeared Edward V. Rust, to me personally
known, who, being by me duly sworn, did acknowledge before me
that he is the _____ President of Greenmount Corporation, a
corporation of the State of Illinois and a general partner of The
Orchards Joint Venture, an Illinois general partnership, and that
the foregoing instrument was signed in behalf of said corporation
as general partner of The Orchards Joint Venture, by authority of
its Board of Directors; and said Edward V. Rust
acknowledged said instrument to be the free act and deed of said
corporation as general partner of The Orchards Joint Venture.

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.

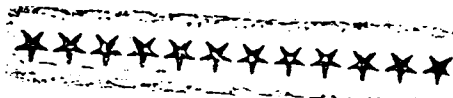
Mark J. Stegman
Notary Public

"OFFICIAL SEAL"
Mark J. Stegman
Notary Public, State of Illinois
St. Clair County
My Commission Expires 3/10/96

Return to:

This document prepared by and
after recording mail to:

Mark J. Stegman
THOMPSON & MITCHELL
525 West Main Street
P. O. Box 750
Belleville, IL 62222-0750



May 29, 1990

THE ORCHARDS ARCHITECTURAL STANDARDS

1. Minimum Dwelling Size (Excludes garage and other non-conditioned square footage):
 - a. Ranch - 2,000 s.f.
 - b. 1 1/2 Story - 1,600 s.f. on first floor.
 - c. 2 Story - 2,500 s.f.

All houses must have at least a two car attached garage. Estate lot houses must have either side or rear entry garages, unless the Architectural Control Committee (A.C.C.) approves front entry because of lot conditions.
2. Building Setbacks:
 - a. 25 ft. minimum setback from front lot line.
 - b. 12 ft. minimum setback from side lot line for estate lots.
 - c. 8 ft. minimum setback from side lot line for standard lots.
3. Driveways:
 - a. Standard Lots - Concrete.
 - b. Estate Lots - Concrete or asphalt upon approval by the A.C.C.
4. Architectural Control Committee must approve the following upon submittal of plans and specifications:
 - a. Front elevation of house.
 - b. Choice of materials used and combinations of materials used (i.e. brick, stone, siding, roofing).
 - c. Choice of exterior colors.
 - d. Fencing.
 - e. Landscape plans.
 - f. Removal of trees larger than 3" in diameter.
 - g. Location of secondary structures, pools, etc.
5. The following materials are prohibited: Asbestos shingles, concrete block, 4 x 8 sheet siding, board and batten, oversize brick.

6. Exposed concrete foundation walls must be painted. (Color to be standardized throughout the Orchards Subdivision and selected by A.C.C.) House plan and grading plan must minimize exposed concrete. Fully exposed back foundation walls must be covered with siding, brick, or stone to normal concrete exposure above grade.
7. Carports and storage sheds are not permitted.
8. Auxiliary parking pads are not permitted without approval by the A.C.C.
9. Procedure - All plans and specifications and other requests must be submitted to the Architectural Control Committee for approval. The Committee must act to approve or disapprove within 60 days after the plans and specifications are submitted or the approval shall be considered granted.

Agreed Upon:

Buyer

Date: _____