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Tuesday, July 14, 2009 Indenture

CRESCENT SPRINGS
INDENTURE OF TRUST AND RESTRICTIONS
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CRESCENT SPRINGS
INDENTURE OF TRUST AND RESTRICTIONS
MCBRIDE & SON HOMES, INC. (the
"Declarant"), and CRESCENT SPRINGS
HOMEOWNERS' ASSOCIATION, a Missouri
nonprofit corporation (the "Association"),

About Me

Crescent Springs HOA

Crescent Springs HOA
Trustees: Pete Saputo Matt
Facchin Aliz Smith

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Schmidt's mail box

**Marsh's Pool
project**

**Project Approval
Form**

Indenture

make and enter into this Indenture of Trust and Restrictions ("Indenture") effective as of ____, 2003.

WHEREAS, Declarant is the owner of certain real property located in the City of Valley Park, S1. Louis County, Missouri, which is more particularly described as:

See Exhibit A attached hereto and incorporated herein.

WHEREAS, Declarant desires to create on the above-described property pursuant to the City of Valley Park Ordinances which shall be a residential community to be known as "Crescent Springs" with open spaces, streets, roads, walkways and other common ground and facilities ("Community"); and

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

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in the Community, to form a nonprofit 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, Declarant has caused to be incorporated under the laws of Missouri as a nonprofit corporation, Crescent Springs

Homeowners' Association, 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 Declarant and all persons who may purchase, hold or own from time to time any of the property covered by this Indenture;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

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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 Crescent Springs Homeowners' Association, a Missouri nonprofit corporation, and its successors and assigns.
- (b) "Board" shall mean the Board of Directors of the Association.
- (c) "Properties" shall mean and refer to that

certain real property herein described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(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.

(e) "Declarant" shall mean and refer to McBride & Son Homes, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

(f) "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.

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

(h) "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 Declarant 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.

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

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2. EASEMENTS AND PROPERTY RIGHTS

(a) Every Owner 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, subject to the following provisions:

(i) The right of the Directors to take such steps as are reasonably necessary to protect the Common Properties

against foreclosure; and

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

(iii) The right of the Directors to suspend the voting rights and right to use of the recreational facilities by any members or residents for any period during which any assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations; and

(iv) 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

(v) The right of the Directors to dedicate or transfer all or part of the Common Properties, or grant such easements and rights of way in and to the Common Properties, to any public agency, authority, or utility for such purposes and subject to such conditions as may be reasonably necessary for the development of the Community; provided that, subject to the foregoing exception, no conveyance or transfer of all or any of the Common Properties shall be effective unless an instrument agreeing to such conveyance or transfer has been recorded and approved by two-thirds (2/3) of each class of members at a meeting of the members or consented to in writing and signed by at least eighty percent (80%)

of the members pursuant to Section 6(k) hereof; and

(vi) The right of the Declarant or other builder-developers to utilize the Common Properties for promotional purposes during periods of development; and

(vii) 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 if ingress or egress is typically provided to a dwelling unit over a particular portion of the Common Properties, then the right of said Owner of ingress and egress over such particular portion of the Common Properties; and

(viii) 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

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(ix) The right of the Directors to annex additional residential and Common Properties to the Community.

(b) The Common Properties shall be for the benefit, use, and enjoyment of the Owners, present and future, of the Community and, at the discretion of the Board of Directors~ may also be used by residents outside the Community. If residents outside the Community are permitted to use the Common

Properties:

(i) No Owner in the Community shall be denied the use of the Common

Properties for any reason related to the extension of such privilege to non-residents of the

Community;

(ii) All rules and regulations promulgated pursuant to this Indenture

with respect to Owners in the Community shall be applied equally to the Owners;

(iii) All rules and regulations promulgated pursuant to this Indenture

with respect to non-residents of the Community shall be applied equally to the non-residents;

(iv) At any time after recording of this Indenture, a majority of the residents of the Community, by election duly called, may elect to allow or disallow usage of the Common Properties by non-residents of the Community.

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

(d) 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.

(e) 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.

(f) Should any portion of any Single Family Dwelling or other improvement as originally constructed, or any planting or tree, overhang or encroach on an adjacent Lot, the Owner of any such Single Family Dwelling or other improvement, planting or tree shall have a license 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 or to trim such overhanging or encroaching planting or tree. Should any portion of any Single Family Dwelling or other improvement as originally constructed overhang or encroach on an adjacent Lot ("Encroachment"), the Directors are hereby appointed as agent and attorney-in-fact for and on behalf of each of the Owners affected by the Encroachment and may petition the proper authorities for a boundary line adjustment or request such variance as may be necessary ("Adjustment/Variance") to allow for said Encroachment and the Directors, as agent and

attorney-in-fact, may also execute and file of record such easement or other necessary documents of record on behalf of each Owner to effectuate such Adjustment/Variance granted upon the determination and payment of reasonable compensation, if any, to the Owner affected by such change to be paid from funds assessed against the Owner benefiting therefrom. All Owners shall be bound by any resulting

Adjustment/Variance granted.

(g) There have been or may be 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
5
hereof.

(h) There shall be and hereby is imposed a non-exclusive perpetual easement
fifteen (15) feet in width along the rear lot lines
and four (4) feet in width along the side lot
lines of all Lots for sump pump drainage
purposes. Without limiting the generality of any
other provision of this Indenture, the
Association may, but shall not be obligated to,
maintain,
clean and repair all such sump pump drainage
easements, and is hereby granted easements in
gross for ingress to and egress from such sump
pump drainage easements and as otherwise
required to perform the foregoing.

(i) There shall be and hereby is imposed a non-exclusive perpetual easement
ten (10) feet in width along the rear lot line of
all Lots for the construction and placement of a
sight-proof privacy fence not to exceed six (6)
feet in height as may be deemed necessary by
the respective Declarant of said Lot for privacy
screening and aesthetic improvement to the
Community.

3. CREATION OF ASSOCIATION

(a) Every Owner of a Lot which is subject to assessment shall be a member

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of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

(b) The Association shall have two classes of voting memberships:

(i) Class A: Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. .

(ii) Class B: The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(A) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(B) December 31, 2005

4. DURATION

The covenants and restrictions established by

this Indenture shall run with the land and continue and be binding upon Declarant and the Directors and upon their successors and assigns for the longer of the following: (i) for the duration of the subdivision, or (ii) for a period of twenty (20) years from the date this Indenture is recorded, and shall automatically be continued thereafter for successive periods of fifteen (15) years each; provided, however, that the fee simple record Owners of the Lots now subject and hereafter made subject to this Indenture, by the approving vote of two-thirds (2/3) of the Lot Owners entitled to vote at a meeting of the Lot Owners, or the consent given in writing by at least eighty percent (80 %) of the Lot Owners, pursuant to Section 6(k) hereof, may terminate the Indenture or release all of the Properties restricted thereby at the end of said twenty (20) year period or any fifteen (15) year period thereafter, by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing same for record in the office of the Recorder of Deeds of St. Louis County, Missouri, at least one (1) year prior to the expiration of said twenty (20) year period or of any fifteen (15) year period thereafter. 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 vote of the members as provided above. 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. Any interest in real property which may vest at any time in the future as a result of this Indenture shall vest, if at all, within 21 years of the date hereof.

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5. COVENANT FOR MAINTENANCE ASSESSMENTS

(a) Except as set forth in Subsection 5(h), the Declarant, 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, (ii) monthly assessments or charges, (iii) 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 5(e) below. (iv) a one time working capital assessment which shall be due immediately upon the first conveyance of any Lot (and not on any subsequent conveyance) after a Single Family Dwelling has been constructed upon such Lot in the amount of \$300.00 for purposes of providing working capital for the Association; such assessment is to be treated as a special assessment hereunder and shall be a charge against the title of each such Lot and shall be a continuing lien and otherwise shall be collectible and enforceable in accordance with this Section 5.

(b) Any and all annual and special assessments, and charges as provided in this Section 5 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 5 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.

Notwithstanding anything herein to the contrary, the lien of the assessments provided for

herein shall be subordinate to the lien of any first mortgage and non-payment of any such annual or special assessment shall not constitute a default under any federally insured mortgage. Furthermore, mortgagees of any such financing on a Lot and/or improvements thereon shall not be required to collect, retain or escrow any assessments as referenced hereinabove.

(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 "improvement, maintenance and operation of the Common Properties and all facilities thereon, including, but not limited to, the

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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) (i) 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, provided that any such assessment shall have the consent

given in writing and signed by at least eighty percent (80%) of the members, pursuant to Section 6(k) hereof, or the approving vote of two-thirds (2/3) of the vote of each class of members who are voting, in person or by proxy, at a meeting duly called for such purpose, written notice of which shall have been sent to all members not less than thirty (30) days nor more than sixty (60) days in advance and shall set forth the purpose of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(ii) The provisions of this Section 5 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.

(iii) The Directors are hereby authorized to make and collect a special annual assessment for maintenance of storm water facilities until such time as all storm water

sewers and facilities are dedicated to and accepted by the Metropolitan St. Louis Sewer District or its successors or assigns.

(e) In addition, the Directors may levy a special assessment or charge against any Owner and/or Lot or all Owners and Lots for all costs and expenses incurred, including costs of collection, interest, attorneys fees and other associated costs for purposes of (i) making repairs or maintenance to a Lot or improvement thereon, which repairs or maintenance the Owner has failed to make, (ii) for repairing any damage caused by an Owner or such Owner's employees, agents, invitees or tenants or (iii) removal of unapproved or unauthorized signage erected anywhere on the Properties. Nothing herein shall be deemed to impose absolute liability without respect to fault or negligence upon the Owners for damage to the Common Properties or the Lots.

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

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(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) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner other than Declarant, the maximum annual assessment shall be five hundred dollars (\$500.00) per Lot.

(A) From and after January 1 of the year

Immediately following the conveyance of the first Lot to an Owner other than Declarant, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(B) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner other than Declarant, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose or the consent in writing of at least eighty percent (80%) of the members pursuant to Section 6(k) hereof.

(C) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(iii) Subject to requisite member approval as set forth herein, 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.

(iv) Any charge or assessment imposed by the Association, with the exception of an assessment under Section 5(e) hereof, shall be divided among Owners on the

basis of an equal amount per Lot.

(v) 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. Louis 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.

(vi) 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 5(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 Missouri.

(iii) All Lots owned by the Declarant or successor builder-developers 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) Each Lot Owner shall be responsible for the maintenance, repair and replacement of the lateral sewage line or lines servicing such Owner's Lot.

G) 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

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(k) Nothing contained herein shall abridge or limit the rights or

responsibilities of Mortgagees and nothing herein shall be construed to require a Mortgagee to collect the assessments provided for herein.

(1) This Section 5 does not prohibit the Association from taking a deed in lieu of foreclosure.

(m) 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.

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

6. SELECTION OF DIRECTORS; MEETINGS OF OWNERS

(a) The Board of Directors of the Association shall consist of three (3) members. The original directors are John F. Eilennann, Jf. ("Director 1"), James R. Piper, Sr. ("Director 2") and Christopher Ferrari ("Director 3"). During the period of service of Director 1, Director 2, or Director 3 or their appointed successors ("Original Directors"), one or more shall be subject to removal, with or without cause, and Declarant 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 Original Directors 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 rights and powers hereby granted or bestowed upon them as Directors under this Indenture, then Declarant 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 City of Valley Park Board of Aldermen (and the City of Valley Park Board of Aldermen shall have the right and power) to appoint or cause to be appointed 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 Declarant 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:

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(i) After Declarant 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, Director 1, or his appointed successor Director shall resign and his or her successor shall be elected by the members other than Declarant 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 other than Declarant under the provisions of Section 6(c) following.

(ii) After Declarant 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, Director 2, or his appointed successor Director shall resign and his or her successor shall be elected by the members other than Declarant 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 other than Declarant under the provisions of Section 6(c) following.

(iii) After Declarant 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, Director 3, or his appointed successor Director 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 6(c) following.

(iv) Declarant, in its sole discretion, 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 6(b)(ii) and (iii) above. In anticipation of the Declarant exercising this option, the Association may call a special election in accordance with the provisions of this Indenture to elect an Owner or

Owners to be the nominee(s) for Director(s) to be appointed by the Declarant under the provisions of this subparagraph (iv). In the event the Declarant 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 6(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 the Declarant, just as if such nominee(s) were elected pursuant to the provisions of 6(b)(ii) and (iii), and no Director(s) shall be elected by

the members under the provisions of 6(b)(ii) and (iii) and the appointed nominee(s) shall serve

as Director(s) until all Directors are to be elected by the Owners under the provisions of paragraph 6(c). The Declarant shall exercise its option to appoint the Association nominee(s) by recording a written instrument evidencing the exercise of such option in the St. Louis County, Missouri land records.

(c) After Declarant 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:

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(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 6(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 President, one (1) member to serve as Vice-President, and one (1) member to serve as Secretary/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 6(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 City of Valley Park, and there may be special meetings of the Association as may be called by anyone of the Directors, also to be held at a convenient place in the City of Valley Park. No less than ten (10) days I 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.

.A11,y designation of a proxy shall be on a form approved by the Directors and shall be filed with the Directors at least forty-eight (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.

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(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 IIVoting Member. II 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 anyone 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 Original Directors, 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. Except as otherwise provided herein, 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 ten percent (10%) of the votes of each class

of members 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 a 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 by unanimous consents in lieu of a meeting.

G) For the period from the date of execution hereof until such time as there

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are fewer than two Original Directors still serving, 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.

(k) Notwithstanding anything contained herein to the contrary, any action required or permitted to be taken herein by approval of the Members may only be taken without a meeting of the Members, if the action is approved by Members holding at least eighty percent (80%) of the voting power. The action must be evidenced by one or more written consents, signed by Members representing at least eighty percent (80%) of the voting power and delivered to the Association. Such written consents shall be filed by the Secretary with the minutes of the proceedings of the Members and shall have the same force and effect as a vote at a meeting duly held. Written notice of such Member approval shall be given to all Members who have not signed a written consent. If written notice is required because consents have not been received from

all
of the Members, such Member approval shall be
effective ten (10) days after such written notice
is
given.

7. RESERVATION OF EXPENDITURES

The Declarant 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. Declarant 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.

8. 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 Crescent springs indenture-blackline-012203 17 Directors shall be deemed final. It is the intent of this Indenture that the restrictions of this Section shall not apply for Declarant 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, 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.

9. DIRECTORS' DUTIES AND POWERS

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

- (a) To acquire and hold the Common Properties and to transfer or sell the Common Properties in accordance with the provisions provided for herein including Sections 2(a)(v), 4 and 11(h), to exercise control over the Common Properties, continuously 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 in accordance with the provisions of Section 2(a)(v) , 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 5(e) hereof.

(c) To exercise such control over the easements, streets, drives, trail systems, walkways and rights-at-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 Crescent springs Indenture-blackline-012203 18 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, 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 Declarant, 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 Declarant (including any successor buildet or developer) 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

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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, make and execute promissory notes or incur liabilities and obligations with respect thereto and to grant a lease or leasehold security interest in Common Properties to

secure such obligations such that the secured party could charge admissions for the use of said

Common Properties to Owners or a wider public until the loan with respect thereto was repaid.

(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.

(1) 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 subject to the provisions of Section 2(a)(v). Should acquisitions by eminent domain become necessary, only the Directors need be made parties, and subject to the reservation by Declarant, as provided in Section 7 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 Valley Park, as applicable, and any other governmental entity of which the Properties may become a part. Specifically, and not by way of limitation, the Crescent springs indenture-blackline-012203 20 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, upon proper approval from appropriate governmental authorities, 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 Valley Park 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.

(r) The Directors may remove any signage erected or constructed anywhere within the Properties which signage was not approved by the Directors and is not otherwise specifically allowed hereunder.

10. USE RESTRICTIONS

(a) The following restrictions shall apply to all portions of the Properties, and Declarant, 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 Declarant, or any successor builder-developer, 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.

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(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 to exceed 2 feet x 4 feet in dimension) on a Lot or (B) signs erected or displayed by Declarant or by a successor builder-developers 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) No "clothesline, and no above-ground swimming pools shall be allowed, constructed or placed upon any Lot in any portion of the Properties, and no inground swimming pools shall be allowed, constructed or

placed upon any Lot in any portion of the Properties without the prior written approval of the Directors.

(ix) (A) No fences or screening of any kind shall be erected or maintained on any Lot without the prior written consent of the Directors as to location, material and height, and the decision of the Directors to approve or reject a fence shall be conclusive. Nothing herein contained shall (i) prevent placement of fences by the Association on the Common Ground or (ii) affect or limit the rights of Declarant to erect privacy fences pursuant to Section 2(i) hereof. The Board may require an application be submitted setting forth the proposed location, material and height of all such fences.

(B) The Directors I review of all fences for approval shall assure that such fences adhere to the following standards and requirements unless applicant can demonstrate to the satisfaction of the Directors that strict adherence to such standards and requirements would (a) create an undue hardship on applicant; and (b) approval would be in the best interests of the subdivision.

(1) Maximum height of 48" for full perimeter Crescent springs indenture-blackline-012203 22 fencing.

(2) Fencing shall only enclose the rear yards of any residence. Rear yard fencing shall be full perimeter and no fencing shall be erected or maintained on any Lot between the rear of the

residence constructed upon such Lot and the street upon which such Lot fronts. Fencing must start at the rear corners of the residence constructed. Fencing must be within four inches (4") of the Lot lines and Lot corners. With respect to corner lots, fencing along the side of the rear yard facing the street shall not be placed any nearer to said street than four inches (4") of the building line limit established by

the subdivision plat. Lots may have exceptions at the sole discretion of the Directors.

(3). All fencing will be either/or:

(a) Wrought iron or aluminum simulated wrought iron.

(b) Wood picket style.

(c) White vinyl fencing.

(4) All fencing to be made only of the following materials:

(a) Wrought iron or aluminum simulated wrought iron.

(b) Cedar or wolmanized (treated

(c) White vinyl fencing.

(5) All picket fence to be installed with the good side facing out.

(6) The Directors, in their discretion; may, but shall not be obligated to, require that all Lots be professionally surveyed to assure proper fence locations prior to installation thereof.

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(7) All wood fences are to remain in their natural state, that is, they cannot be painted a color.

(8) Chain link fence is acceptable only around the detention basins located within the

subdivision common ground.

(9) Swimming pool and patio privacy fencing will be handled on a case-by-case basis.

Request must be made in writing as stated above.

(10) All posts shall be anchored in a base of concrete at least one (1) foot six (6) inches into the soil.

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

(xi) 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 8 hereof.

(xii) 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 "Antenna") shall be erected or maintained on any Lot or upon the exterior of any dwelling or the Common Property 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 per Lot.

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

(C) The Antenna shall not be visible in the view from the street towards the dwelling (including the street view of 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 or common areas; or
- (2) The Antenna shall be disguised to resemble and in fact shall be visually indistinguishable from structures, devices or improvements otherwise allowed in the Community and/or by this Crescent springs indenture-blackline-012203 24 Indenture.

(E) The Antenna shall not pose any known or verifiable hazards to the health of the residents of the Lot Owner or 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.

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

(II) 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 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 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 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 as amended from time to time.

(xiii) 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.

(xiv) Personal property, including, without limitation, boats, trailers,

trucks with a gross vehicle weight in excess of one (1) ton, 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 A.M. and 8:00A.M.

(xv) 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

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or receptacles shall be removed and secured within the improvements for each Lot prior to sundown of the same day.

(xvi) All water and other sewer systems servicing the Property (other than lawn sprinkler systems servicing any single Lot or a sprinkler system servicing the Common Properties) shall be constructed by the Declarant 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, other than a lawn sprinkler system servicing a single Lot.

(xvii) 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.

(xviii) 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.

(xvix) 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.

(xx) 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 81. Louis County Department of Highways
and Traffic.

(xxi) No fences, walls, trees, hedges or shrubs
shall be erected or maintained
in such manner so as to obstruct sight lines for
vehicular traffic.

(xxii) . The Board may require a reasonable
deposit in connection with the
proposed erection of any building or structure in
the Property approved in accordance with this
Indenture, in order to provide that upon
completion of the project, all debris shall be
removed from the
site and from adjacent Lots and parcels, and
that any and all damages to subdivision
improvements
shall be repaired.

(xxiii) All driveways serving Single Family
Dwellings shall be concrete. The
Owners must keep such driveways in good
repair and in their natural color. The Board may
require a
driveway to be replaced if the Owner of the
Single Family Dwelling has not kept such
driveway in
good condition and in its natural color. If the
Board deems it necessary, the driveway shall be
replaced
and the Owner shall reimburse the Association
for such expenses. If the Owner fails to
promptly
reimburse the Association for such expenses,
the Association may place a lien against the
Owner's Lot

in accordance with Section 5(e).

(xxiv) No. Single Family Dwelling may be constructed or altered on any

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Lot which has a floor area of less than the following minimum requirements: (A) 1,250 square feet for a single story Single Family Dwelling and (B) 1,500 square feet for a multistory Single Family Dwelling.

11. GENERAL PROVISIONS

(a) Any subsequent builder or developer shall be responsible in the same manner as Declarant 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. . .

(b) 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 I 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 5(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. Louis County, Missouri, 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 5 of this Indenture.

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(c) Subject to the requirements of Section 4, this Indenture and any part thereof may be altered or amended, by a written agreement approved by the vote of two-thirds (2/3rds) of the Owners at a meeting of the Owners, or the consent given in writing and signed by at least eighty percent (80%) of the Owners pursuant to Section 6(k) hereof; and such

written alteration or amendment, recorded with the Office of the Recorder of Deeds for St. Louis County, Missouri, shall become a part of the provisions and restrictions of this Indenture. In addition, so long as Declarant owns a Lot, the Directors may amend this Indenture by written amendment signed by two-thirds (2/3rds) of the Directors and recorded with the Office of the Recorder of Deeds for St. Louis County, Missouri. 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 obligations and the power to levy assessments therefor or to eliminate the requirement that there be Directors unless some person is substituted for the Directors with the responsibility and duties of such Directors. All Crescent springs indenture-blackline-O~2203 27 amendments are to be approved by the City of Valley Park, Missouri Director of Planning prior to recording.

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

(e) 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. Louis County or

any appropriate municipality for each Owner.

(f) Invalidity of anyone 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.

(g) In the event that the Declarant exercises its option to appoint a second

and/or third Director nominated by the Association as set out in Section 6(b)(iv) above thereby

giving the Association control of the Directors, the Declarant and/or successor

builder-developers 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 Declarant 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 Declarant 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 Declarant; 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 Declarant. For the period after Declarant no longer exercises control of the Directors due to accelerated appointment pursuant to Section 6(b)(iv) and prior to the date Declarant has sold and conveyed 95% of the Lots which may be subjected to this Indenture to persons or entities other than a successor builder or developer, the Common Properties shall be operated at the times (both as to hours and days) and in the manner (specifically, without limitation, as to quality of maintenance) which is substantially equivalent to the operation which was provided by the Declarant controlled Directors, unless any such deviation is specifically approved in writing by Declarant. The provisions of this Subsection may not be modified or amended without the written consent of Declarant so long as Declarant owns any Lot in the Properties.

(h) In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the Directors, for any public purpose, the

Crescent Springs indenture-blackline-012203 28

Directors, during the period of this Indenture as well as the times fixed for the appointment or election of Directors, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Directors need be made parties, and in any event, the proceeds received shall be held by the Directors the benefit of those entitled to the use of the common property, roads or easements.

(I) As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of additional Common Properties, and amendment of this Indenture.

G) Any exercise or enforcement by Declarant of its rights or powers as authorized or set forth in this Indenture, including but not limited to its rights with respect to amending the terms and provisions hereof, shall not in any way be deemed to cause a forfeiture, elimination, release, reduction, modification or transfer of Declarant's rights, powers and remedies as set forth herein except as specifically provided otherwise.

IN WITNESS WHEREOF, the undersigned have executed this Indenture the day and year first above written.

DECLARANT: CONSENT OF THE DIRECTORS OF
CRESCENT SPRINGS HOMEOWNERS'
ASSOCIATION,

a Missouri nonprofit

Director 1:

..QM1-~.Q~

I .~ohp F. Eilermann, JI.)

Christopher Ferrari

Being all of the Directors

Crescent Springs indenture-blackline-012203 29

STATE OF MISSOURI)

) ss.

COUNTY OF ST. LOUIS)

On this~ayof~j, 2003 before me personally
appeared James R. Piper, Sr., to
me known, who being by ~y sworn, did say that
he/she is the Vice President of
McBride & Son Homes, Inc., a Missouri
Corporation, and that the seal affixed to the
foregoing instrument is the corporate seal of
said corporation by authority of its Board of
Directors; and said James R. Piper, Sr.
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.

My term expires:

STATE OF MISSOURI

COUNTY OF ST. LOUIS

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DONNAL

Notary Public - Notary Seal
 STATE OF MISSOURI
 sr. CJARU:s COUN'O'
 MY COMMISSION100'. DEC. 6,2003

)
) ss.
)

~ . .

On thi~ day o~, 2003, before me personally
 appeared John F. Eilennann,
 Jr., to me known to be the ~rson described in
 and who executed the foregoing instrument,
 and acknowledged that he executed the same
 as his free act and deed.

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.

My term expires: DOONA LKNESE

NoW)' PubIk - Nolarly Seal

STATE OF MISSOURI

sr.awU'£sCOUNTY

..""!" cQMMISSION ~'l)!C' 6,2003

Crescent Springs indenture-blackline-OJ.2203

30

STATE OF MISSOURI)

) ss.

COUNTY OF ST. LOUIS)

On this~~ayof~ ,2003, before me personally
 appeared James R. Piper, Sr.,
 to me known to be the per~cribed in and who
 executed the foregoing instrument, and
 acknowledged that he executed the same as his
 free act .and deed.

Notary Public

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.

~~

My term expires:

DONNALXNESI

Notary Public- Notary Seal

STATE OF MISSOURI

St. CHARLES COUNTY

MY COMMISSION EXPIRES: DEC. 6, 2003

Crescent Springs indenture-blackline- 012203 31

STATE OF MISSOURI))

ss.

COUNTY OF ST. LOUIS)

On this: 14th day of February, 2003, before me
personally appeared Christopher Ferrari,
to me known to be the person described in and who
executed the foregoing instrument, and
acknowledged that he executed the same as his
free act and deed.

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

~~

Notary Public

My term expires:

IX)NNAL ICNF,SE

Notary Public- Notary Seal

STATE OF MISSOURI

St. CHARLES COUNTY

MY COMMISSION EXPIRES: DEC. 6, 2003

Crescent springs indenture-blackline-01.22D3 32

LENDER CONSENT

The undersigned, , holder of a Deed of Trust on the Properties described in the foregoing Indenture, which Deed of Trust is recorded in Book __, Page__ of the Office of the Recorder of Deeds for St. Louis County, Missouri, does hereby consent to and subordinate its Deed of Trust to the foregoing Indenture.

By: -----

Name:-----

Title:-----

STATE OF :MISSOURI)

) ss.

COUNTY OF ST. LOUIS)

On this day of ,2003, before me appeared

_____, to me personally

known, who, being by me

duly sworn, did say that he is the of

_____, 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

. acknowledged said instrument to be the free

act and deed of said corporation.

Notary Public

My term expires:

Crescent springs indenture-blackline-012203 33

EXHIBIT A

LEGAL DESCRIPTION

CRESCENT SPRINGS

.....

A TRACT OF LAND 8EINa All OF LOT 34 AND

PART OF LOTS 33, 39 AND 63 OF THE AMENDED PLAT OF QUINEITE'S SUBDIVISION AS RECORDED IN PLAT BOOK 8 PAGE 132 OF THE ST. LOUIS CITY (FORMER COUNTY) RECORDS, BEING SITUATED IN SECTION 18, TOWNSHIP 44 NORTH, RANGE 5 EAST, ST. LOUIS COUNTY, MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT, A POINT IN THE CENTERLINE, OF CRESCENT AVENUE AT THE INTERSECTION OF THE EASTERLY PROLONGATION, OF THE NORTH LINE OF CRESCENT RIDGE AS PER THE PLAT THEREOF RECORDED IN PLAT BOOK 330 PAGE 51 OF THE ST. LOUIS COUNTY RECORDS; SAID POINT ALSO BEING THE SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO RICHARD M. ROBINSON RECORDED IN DEED BOOK 2099 PAGE 414 OF THE ST. LOUIS COUNTY RECORDS. FROM SAID POINT, AN IRON PIPE FOUND FOR THE NORTHEAST CORNER OF LOT 1 OF SAID CRESCENT RIDGE SEARS NORTH 80°35'41" WEST A DISTANCE OF 26.68 FEET; THENCE, DEPARTING SAID CENTERLINE WITH THE SOUTH LINE OF SAID ROBINSON TRACT, NORTH 80°22'00" WEST 904.36 FEET TO THE SOUTHWEST CORNER OF SAID ROBINSON TRACT, BEING ON THE EAST LINE OF CLIFFRIDGE CONDOMINIUMS AS PER THE PLAT RECORDED IN PLAT BOOK 250 PAGES 11 AND 12 AND FROM WHICH POINT THE NORTHWEST CORNER OF THE AFORESAID CRESCENT RIDGE TRACT

BEARS SOUTH 01°19'57" WEST 4.43 FEET.
 THENCE, WITH THE EAST LINE OF SAID
 CLWFRIDGE CONDOMINIUMS, NORTH
 01°19'67"
 EAST 429.86 FEET TO THE SOUTHWEST
 CORNER OF A TRACT OF LAND RECORDED AS
 THE AMENDED PLAT OF CRESCENT VALLEY IN
 FLAT BOOK 332 PAGE 17 AND FROM
 SAID POINT A FOUND IRON PIPE BEARS
 NORTH 01°19'57" EAST A DISTANCE OF 67.88
 FEET; THENCE, WITH THE SOUTH LINE OF SAID
 PLAT, SOUTH 80°10'50" EAST 433.02
 FEET TO AN IRON PIPE FOUND. FOR THE
 SOUTHEAST CORNER THEREOF; THENCE.
 WITH THE EAST LINE OF SAID PLAT NORTH
 02°46'51" EAST 6.08 FEET TO THE
 SOUTHWEST CORNER OF A TRACT OF LAND
 RECORDED AS THE AMENDED PLAT OF
 CRESCENT OAKS. IN PLAT BOOK 329 PAGE 42;
 THENCE, WITH THE SOUTH LINE
 THEREOF, SOUTH 80°22'00" EAST, 1592.68'
 FEET TO A POINT IN THE AFORESAID
 CENTERLINE OF CRESCENT AVENUE; THENCE,
 WITH SAID CENTERLINE, SOUTH
 37°46'21" WEST 11.60 FEET TO AN ANGULAR
 POINT AND SOUTH 29°40'14" WEST 448.79
 FEET TO THE POINT OF BEGINNING AND
 CONTAINING 426.88±2 SQUARE FEET (9.7998
 ACRES), MORE OR LESS, AS CALCULATED TO,
 THE EXISTING RIGHT OF WAY OF
 CRESCENT AVENUE BEING 15 FEET
 PERPENDICULAR DISTANCE WEST OF AND
 PARALLEL TO THE AFORESAID CENTERLINE
 ACCORDING TO A SURVEY BY THE

STERLING COMPANY DURING JULYI 2002.

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*Posted by **Crescent Springs HOA** at 7:34 AM*

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