

**INDENTURE OF TRUST AND RESTRICTONS
OF
ENGLEWOOD**

ST. CHARLES COUNTY, MISSOURI

This indenture, made and entered into this 1st day of November, 1979, by and between **CINCO DEVELOPMENT CO.**, a Missouri corporation, hereinafter referred to as “Party of the First Part,” and **ENGLEWOOD RESIDENTS ASSOCIATION**, a **Not-For-Profit Corporation** of the State of Missouri, Party of the Second Part, hereinafter referred to as “**Trustee**”.

WITNESSETH: WHEREAS, the Party of the First Part is the owner of a tract of land situated in the County of St. Charles, State of Missouri, which is more particularly described in Exhibit “1”, attached hereto and incorporated herein by reference, and

WHEREAS, Party of the First Part contemplates that the aforesaid property shall be subdivided and that the plats thereof designated ENGLEWOOD Plat No. 1, ENGLEWOOD Plat No. 2, ENGLEWOOD Plat No. 3, etc., will be prepared and recorded in the St. Charles County Recorder’s office; and

WHEREAS, “Common Ground” for parks and recreational areas has been reserved in said above-described tract as indicated on said plat and to be indicated on the subsequent plats of said above-described tract, which plats including the said “Common Ground” of said subdivision shall be recorded in the Office of the Recorder of Deeds of St. Charles County at such time as they are approved by the proper officials of St. Charles County; and

WHEREAS, there have been and will be designated established and recited on the recorded plats of ENGLEWOOD, certain streets, common ground, and certain easements which are for the exclusive use and benefit of the owner or owners of the lots shown and to be shown on said subdivision plats (except those streets or easements which are now or may hereafter be dedicated to public agencies) and which have been provided for the purpose of constructing, maintaining and operating sewers, pipes, poles, wires, storm water drainage, parks, lakes and other facilities and public utilities for the use and benefit of the owner of the lots shown and to be shown on said plats of the above described tract; and

WHEREAS, it is the purpose and intention of this Indenture to preserve said tract of land as a restricted neighborhood and to protect the same against certain uses by adopting of a common neighborhood plat and scheme of restrictions and to apply that plan and restriction not only to all

of said land and every parcel, and all "Common Ground" but also in favor of or against said parcel as against or in favor of all other parcels within said areas in the hands of the present or subsequent owners thereof, and mutually to benefit, guard and restrict present or future title holders of any or all of said parcels and to foster the health, welfare, safety and morals of all who own, or reside in said areas; and

WHEREAS, all reservations, limitations, conditions, easements, and covenants herein, any and all of which are thereafter termed "Restrictions" are jointly or severally for the benefit of all persons who may purchase, hold or own from time to time any of the several lots covered by this instrument; and

WHEREAS, Party of the First Part has, by separate instrument simultaneously herewith, conveyed fee simple title to the Trustee and established the following as "Common Ground":

The area designated as "Common Ground" on the plat of ENGLEWOOD, according to Plat thereof recorded on the 1st day of November, 1979 as Daily No. 20597 in the St. Charles County Recorder's Office.

NOW, THEREFORE, in consideration of the premises and of the mutual premises, covenants and agreements made by the parties hereto each and to the other, the parties hereto covenant and agree to and with each other, for themselves, and their successors and assigns, and for and upon behalf of all Persons who may hereafter derive to or otherwise hold through them, their successors or assigns, any of the lots and parcels of land in ENGLEWOOD, and in each further plat of ENGLEWOOD from the afore described property, all as described herein as follows, to-wit:

I: RESERVATION OF EXPENDITURES:

The Party of the First Part reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sum previously expended or subsequently provided by it for joint main sewers, gas pipes, water pipes, conduits, poles, wires, street lights, roads, streets, recording fees, subdivisions fees, consultation fees, or fees, charges and expenses incurred with respect to the creation of the subdivision of the within described tract.

II. TRUSTEE'S DUTIES AND POWERS:

The Party of the First Part hereby invest the Trustee and its successors and assigns with the rights, powers and authorities described in this instrument, and with the following rights, power and authorities:

1. The Trustee shall acquire and hold the “Common Ground” hereinabove described and conveyed to the Trustee by separate instrument on even date herewith, which said “Common Ground” is set forth and shown on ENGLEWOOD Plat No. 1, a subdivision, and any subsequently recorded plat of ENGLEWOOD for which land this Indenture of Trust and Restrictions is adopted.

The Trustee shall deal with any “Common Ground” so acquired under the provisions hereinafter set forth.

2. To exercise such control over the easements, streets, and roads (except for those easements, streets, and roads which are now or may hereafter be dedicated to public bodies or agencies), entrances, lights, gates, common land, lakes, park areas, shrubbery, storm water sewers, sanitary sewers trunks and lateral lines, pipes, and disposal and treatment facilities as may be shown on the recorded plat of said above described tract of lands as is necessary to maintain, repair, rebuild, supervise and insure the proper use of said easements, streets, common ground, lake and roads, etc., by the necessary public utilities and other, including the right to it and others to whom it may grant permission to construct, operate and maintain on, under and over said easements and streets, sewers, pipes, poles, wires and other facilities and public utilities for services to the lots and dwellings shown on said plats. Together with the right to grant easements on said “Common Ground”.

To abandon an easement or portion thereof by executing and recording a proper and appropriate instrument in the Office of the Recorder of Deeds of St. Charles County, Missouri, but such easement or portion thereof may be abandoned only when the Trustee determines that is in the best interest of the subdivision that same be abandoned.

3. To exercise control over the Common Land as shown on said ENGLEWOOD Plat No. 1 and any subsequently recorded plat of ENGLEWOOD; to pay real estate taxes and assessments on said Common Land out of the general assessment hereinafter provided for, to maintain and improve same with shrubbery, vegetation, decorations, buildings, recreational facilities of any kind or description, other structures, and any and all other types of facilities in the interest of health, welfare, safety, recreation, entertainment, education and general use of the lot owners of said subdivision all in conformity with all applicable laws; to prescribe by reasonable rules and regulation the terms and conditions including reasonable fees and charges of the use of said Common Land and all improvements thereon, all for the benefit and use of the lot owners of this Subdivision and according to the discretion of the said Trustee.

4. Publicly to dedicate any private streets constructed or to be constructed on said Common Land and, whenever such dedication would be accepted by a public agency, in the event the recorded plat does not provide for public use and maintenance.

In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the Trustee for any public purpose, the Trustee, during the period of Trust as well as at the times fixed for the appointment or election of a Trustee, is hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Trustee need be made a party, and in any event the proceeds received shall be held by the Trustee for the benefit of those entitled to the use of the common property, roads and easements.

5. To prevent, as Trustee of an express trust, any infringement and to compel the performance of any restriction set out in this Indenture or established by law and also any rules and regulations issued by said Trustee covering the use of said Common Land or any matters relating thereto. This provision is intended to be cumulative and not to restrict the right of any lot owner to proceed in his own behalf, but the power and authority herein granted to the Trustee is intended to be discretionary and not mandatory.
6. To clean up rubbish and debris and remove grass and woods from and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon any vacant or neglected lots or property, and the owners thereof may be charged with the reasonable expenses so incurred. The Trustee or its officers, agents, or employees shall not be deemed guilty or liable for any matter of trespass or any other act for any such injury, abatement, removal or planting.
7. To consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached building, outbuildings, accessory buildings, swimming pools or tennis courts proposed for construction and erection on said lots, proposed additions to such buildings or alteration in the external appearance of buildings already constructed, it being provided that no buildings or structures, fences, detached buildings, outbuildings, accessory buildings swimming pools, tennis courts or other structures may be erected or structurally altered on any of said lots unless there shall be first had the written approval of the Trustee to the plans and specifications therefore and to the grade proposed therefore. In the event that Trustee fails to approve or disapprove within thirty

(30) days after building plans or other specifications for fences, swimming pools or tennis courts, accessory buildings and other outbuildings have been submitted to it hereunder, approval will not be required and the applicable restrictions shall be deemed to have been fully complied with.

8. To require a reasonable deposit in connection with the proposed erection of any building or structure, fence, detached buildings, outbuilding, swimming pool, tennis court or other structure on any of said lots in order to provide that upon completion of the project, all debris shall be removed from the site and from adjacent lots, and that any and all damages to subdivision improvements shall be repaired.
9. To establish and fix minimum costs which shall apply to buildings and structures which may be erected on said lots as the Trustee deems necessary and desirable in order to maintain a high character of the buildings and structures which may be erected on said lots. Minimum costs so established shall at all times be subject to revision or abandonment at the discretion of the Trustee in order to provide that the buildings and structures which may be erected on said lots shall be fairly uniform in character irrespective of cost or other circumstances.
10. The Trustee may provide said subdivision with adequate fire and police protection and for the collection of trash, rubbish or garbage and may otherwise provide for the public health, safety, welfare and morals of property and assume contracts for such purposes covering such periods of time as it may consider advisable.
11. The Trustee may 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.
12. The Trustee in exercising the rights, powers, and privileges granted to it, and in discharging the duties imposed upon it by the provisions of this Indenture, may from time to time enter into contracts, employ agents, attorneys, accountants, servants, clerks, other employees and labor as it deems necessary or advisable, and to institute and prosecute such suits as it deems necessary or advisable, and defend suits as it deems necessary or advisable, and defend suits brought against it in its capacity as Trustee or against its officers, Directors and employees.
13. At the discretion of the Trustee, in the interest of the health, welfare, safety and morals of the lot owners and home owners of the land now or in the future subject to this Indenture, and provided that same is not prohibited by law or Federal,

State, County or Municipality regulation, said Trustee shall have the right and power:

- A.** To provide lights on streets, parks, gateways, entrances, common property and other public or semi-public places; to erect and maintain signs for the marking of streets; to repair, oil, maintain, repave and reconstruct paved streets or roads, lanes, and pedestrian ways and to clear streets, gutters, sidewalks and pedestrian ways; to provide for the plowing and removal of snow and ice from sidewalks and streets; to plant, care for, maintain, spray, trim and protect trees, shrubbery and vegetation on streets, public property, common property and elsewhere in the interest of health, welfare, safety and morals within the land subject hereto;
 - B.** To provide at suitable locations, receptacles for the collection of rubbish and for the disposal of such rubbish as is collected, and for the collection and disposal of garbage.
- 14.** The right and power to establish, operate, conduct, regulate, maintain, and repair such common property, buildings, and facilities as may exist or be established on the land subject hereto; 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 government thereof.
- 15.** The Trustee shall have the full and unqualified right, power and authority concerning all of the property, real personal or mixed, owned or held by said Trustee to:
 - A.** Make all contracts and incur all liabilities necessary, related or incidental to exercise of the Trustee's power and duties hereunder including the construction of improvements;
 - B.** Purchase insurance against all risks, casualties and liabilities of every nature and description.
 - C.** To borrow money on same; 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;
 - D.** To make all types of permanent, temporary, construction or other loans;

E. To use, handle, manage, control, operate, hold, deal in and in all respects treat with same, limited only as provided in this instrument.

16. Notwithstanding any other provision of this Indenture, in the event that the trust with respect to common property is in effect at the end of thirty (30) years from the date of this Indenture or, if earlier terminated, at the time of such termination, the Trustee shall convey by Warranty Deed, all of the common property, if any, to the then owners of lots in ENGLEWOOD SUBDIVISION (regardless of plat number) as joint tenants, but the rights of said joint tenants shall be only appurtenant to and in conjunction with their ownership of lots in said ENGLEWOOD, and any conveyance or change of ownership of any lot or lots in ENGLEWOOD shall carry with it ownership in common property so that none of the owners of lots in ENGLEWOOD (regardless of plat number) and none of the owners of the common property shall have such rights of ownership as to permit them to convey their interest in the common property except as an incident to the ownership of a regularly platted lot and any sale of any lot in ENGLEWOOD (regardless of the plat number) shall carry with it without specifically mentioning it, all the incidents of ownership of the common property; provided, however, that all the rights, powers and authority conferred upon the Trustee of ENGLEWOOD shall continue to be possessed by the said Trustee.

III. ASSESSMENTS:

The Trustee and its successors and assigns are hereby authorized, empowered, and granted the right to make assessments upon and against the several lots and said parcels of land in the Subdivision for the purposes herein stated and at the rate hereinafter provided, and in the manner and subject to the provisions of this instrument:

1.
 - A. The Trustee and its successors and assigns are authorized to make uniform assessments, except as hereinafter provided, of an amount not to exceed One Hundred and Fifty Dollars (\$150.00) per lot in each calendar year upon and against the lots in said Subdivision for the purpose of carrying out any and all of the general duties and powers of the Trustee as herein described and for the further purpose of enabling the Trustee to defend and enforce restrictions, adequately to maintain streets, if required, "Common Ground", utilities, recreational facilities, parking spaces and trees in the crosswalks, and to dispose of garbage or rubbish to perform or execute any powers or duties provided for in this instrument, or otherwise properly to protect the health, safety and general welfare of the residents in said Subdivision.

- B.** Commencing with the sixth annual assessment to be made hereunder, and each five (5) years thereafter, the fixed annual assessment per lot shall not exceed the greater of:
- i.** \$150.00 or
 - ii.** The number of dollars equivalent to the purchasing power of \$150.00 for the month in which this Indenture is recorded.

Such number of dollars shall be determined by dividing \$150.00 by the index for said month of recording as computed in the Consumer Price Index made by the Bureau of Labor Statistics of the United States Department of Labor, and then multiplying the quotient by the similar index number for the month in which the sixth annual assessment (and each succeeding sixth annual assessment thereafter) commences. If the Bureau of Labor Statistics shall change the base period in effect during the month in which this Indenture is recorded, the new index figure applicable as a divisor and multiplier shall be correspondingly changed. In the event such statistics shall no longer be available, the most nearly similar statistics showing the purchasing power of United States Dollars shall be used instead, and the table to be used shall be designated by the Trustee.

- C.** If at any time the Trustee shall consider it necessary to make any expenditure requiring an assessment additional to the assessments above provided, it shall submit in writing to the then owners of lots for approval an outline of the plan for the project contemplated and the estimated amount required. If such project and the assessment so stated be approved either at a meeting of the owners of lots called by the Trustee, upon not less than ten (10) days written notice, by a two-thirds (2/3) majority vote of those present in person or by proxy, or on written consent of two-thirds (2/3) of the said owners, the Trustee shall notify all owners in said tracts of the additional assessment. The limit of the annual assessments for general purposes as set forth in 1.A above, shall not apply to any assessment made under the provision of this paragraph 1.C. In no event shall any meeting be valid unless a quorum is present as defined in the By-Laws of the Trustee.

- 2.** All assessments, made by the Trustee for the purposes hereinabove enumerated, shall be made in the manner and subject to the following procedure, to-wit:

- A.** The Trustee shall annually prepare a budget in which the anticipated revenue and anticipated expenditures for the ensuing year are set forth. The

Trustee shall attempt to limit the anticipated expenditures so that the same do not exceed the anticipated revenues.

- B.** Notice of all assessments may be given by mail addressed to the last known or usual post office address of the holder of a fee simple estate and deposited in the United States mail with postage prepaid, or may be given by posting a brief notice of the assessment upon lot or dwelling unit itself.
 - C.** Every such assessment shall become due and payable within thirty (30) days after notice is given as hereinabove provided. From and after the date when said payment is due, it shall bear interest at the rate of eight percent (8%) per annum until paid, and such payment and interest shall constitute a lien upon said lot, and said lien shall continue in full force and effect until said amount is fully paid. At any time after passage of the resolution levying an assessment and is entry in its minutes, the Trustee may, in addition, execute and acknowledge an instrument reciting the levy of the assessment with respect to any one or more lots or dwelling units and cause same to be recorded in the Recorders Office in the County of St. Charles, State of Missouri, and the Trustee may, upon payment, cancel or release any one or more lots or dwelling units from the liability of assessments (as shown by recorded instrument) by executing, acknowledging, and recording (at the expense of the owner of the property affected) a release of such assessment with respect to any lot or dwelling unit affected, and the Trustee shall cause to be noted from time to time in the minutes of its proceedings, the payments made on account of any assessments.
- 3.** The Trustee shall deposit the funds coming into its hands as Trustee in a State or National Bank, protected by the Federal Deposit Insurance Corporation, at interest, when deemed feasible by it, in its discretion. The Trustee shall designate one of its officers as "Treasurer" of the Subdivision funds collected under this instrument and said funds shall be placed in the custody and control of such Treasurer. The Treasurer shall be bonded for the proper performance of his duties in an amount to be fixed by the Trustee.
 - 4.** The Trustee is authorized and empowered to procure such insurance, including but not limited to public liability and property damage, as it may deem necessary and proper.
 - 5.** The assessment provisions of this Indenture shall not apply to any vacant lot owned by the Party of the First Part, nor to any lot having thereon a building which lot and building are offered for sale by the Party of the First Part.

6. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. The sale or transfer of any lot pursuant to the foreclosure of any deed of trust or mortgage or any proceeding lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

IV. INDENTURE OF RESTRICTIONS:

Party of the First Part, being the owner of the tract of real estate lying and situated in the County of St. Charles, State of Missouri, and being more particularly described in Exhibit "1", by this Indenture does impose upon all the lots and "Common Ground" in the aforementioned tract the following restrictions and conditions, to wit:

1. These restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for continuing successive periods of ten (10) years each unless an instrument signed by the then owners of a majority of the lots is recorded, agreeing to change said covenants in whole or in part.
2. No lot shall be used except for such purposes as shall be permitted by the applicable zoning ordinances of St. Charles County, Missouri, and no building shall be erected, placed or permitted to remain on any lot other than such building as shall meet all applicable building and zoning codes of St. Charles County, Missouri.
3. No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines shown on the recorded plats of said Subdivision. For the purpose of the covenant, eaves, steps and open porches shall not be construed to permit any portion of a building to encroach upon another lot.
4. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of said Subdivision. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage

channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

5. No nuisance or noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No building or premises shall be used for purposes prohibited by law or ordinance. Nothing contained hereby shall restrict, inhibit or prevent the Party of the First Part from building and selling houses in the Subdivision.
6. No fences or hedges shall be erected or placed on any lot nearer to any street than the minimum building set back lines shown on the recorded plats of said Subdivision, nor shall any fence or hedge on a side yard be erected or placed in front of the line of the rear building wall. The type of all fences must be approved by the Trustee. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersections of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Notwithstanding any other provision of this Indenture. No fence, hedge, plantings, or trees of any kind, shall be erected or placed, or planted on any lot which abuts or adjoins any part of the Common Ground without the express consent of the Trustee.
7. 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.
8. No sign of any kind shall be displayed to the public view except one sign of not more than four square feet advertising the property for sale or rent, or except signs used by a builder to advertise the property during the construction and sales period.

9. All garages and carports must be attached to the main house (dwelling) unless otherwise approved by the Trustee, bath houses or other outbuildings shall be permitted if approved by the Trustee.
10. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other household pets which may be kept, provided they are not kept, bred or maintained for any commercial purposes. Nothing shall be done which, in the opinion of the Trustee, may be or hereafter become a nuisance with respect to such permitted pets; and each lot owner shall comply with all ordinances and subdivision regulations of St. Charles County, Missouri, relating to the number, supervision, control, responsibility and maintenance of animals and/or pets in residential areas.
11. Personal property, including but not limited to boats and trailers, shall not be placed or stored in the open or in unenclosed carports on any lot nearer to the front lot line than the rear line of the building, nor in the case of corner lots, nearer to the side building lines. This shall not prohibit the parking of passenger automobiles, licensed and in operating conditions.
12. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.
13. Except temporarily in connection with construction work by a builder, no lot shall be used or maintained as a dumping ground for rubbish, and trash, garbage or other waste shall not be kept except in sanitary containers and shall be left for collection only at the rear of the dwelling. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
14. No lot shall be re-subdivided nor shall a fractional part of any lot be sold without the consent of the Trustee. This provision shall not, however, require the consent of the Trustee for the sale of an entire lot as shown on a recorded plat.
15. Nothing contained in this instrument shall restrict, limit, inhibit or prevent Party of the First Part from developing the Subdivision and building structures and improvements in accordance with the plans and designs of Party of the First Part and selling the same.

16. No water course or finished grade which is once approved and established shall be altered or changed without the express, written approval of the Trustee.

V. GENERAL PROVISIONS:

1. The members of the Trustee corporation shall be those persons who are the lot owners of the lots which are subject to this Indenture; said memberships being appurtenant to and in conjunction with the ownership of such lots. Any conveyance or change of ownership of any lot shall carry with it membership in the Trustee corporation. No member shall have a right to convey his membership in the Trustee corporation, except as an incident to the ownership of a regularly platted lot. The rules and provisions relating to the election of directors and the government of the affairs of the Trustee corporation shall be provided for in the By-Laws thereof.
2. There are and will be situated in the above described tract certain areas designated as "Common Ground". The Trustee shall hereafter maintain and develop said Common Ground and related facilities in accordance with the aforesaid development plan.
3. This Indenture may be amended, modified and changed from time to time in accordance with the following provisions.
 - A. For a period of five (5) years from the date hereof, the Trustee may amend, modify, and change this indenture by recording with the Recorder of Deeds of St. Charles County, Missouri, such amendment, modification, or change, which document shall make specific reference to this Indenture; provided, however, the Trustee may not increase the annual assessment except as otherwise provided herein.
 - B. Thereafter, this Indenture may be amended, modified, or changed by the written consent of two-thirds (2/3) of the owners of the lots subject hereto and subject to the further approval of a majority of the Board of Directors of the Trustee. Any such amendment, modification, or change shall be recorded with the Recorder of Deeds of St. Charles County, Missouri.
4. Any other provision hereof to the contrary notwithstanding, the obligations and rights of the Trustee hereunder to maintain the Common Ground and the improvements thereon referred to herein shall not cease nor may this Indenture be amended, modified, or changed to reduce or eliminate any of the duties, obligations and rights in such connection granted to and imposed on the Trustee under any subparagraph of Paragraph IV herein, nor may this Indenture be amended to eliminate the trusteeship herein created.

5. The Trustee is authorized and empowered to cooperate and to contract with the Trustee of adjoining or nearby tracts in the development and maintenance of facilities inuring to the benefit and general welfare of the inhabitants of the entire area.
6. The Trustee is authorized to act through a representative; provided, however, that the Trustee shall only be responsible for its wrongful acts and shall not be responsible for wrongful acts of others. Neither the Trustee nor its directors, officers, or agents, shall be held liable for injury or damage to persons or property by reason of any act or failure to act of the Trustee, its directors, officers or agents. The Trustee shall be entitled to compensation for services performed pursuant to this covenant; provided, however, that the annual compensation payable to any lot owner acting as a director or officer of the Trustee corporation shall not exceed the annual assessment against such owner's lot.
7. All covenants and agreements herein are expressly declared to be independent and not interdependent; nor shall any laches, waiver, estoppel, condemnation or failure of title as to any part or lot of said tract be of any effect or modify, invalidate or annul any grant, covenants or agreements herein, with respect to the remainder of said tract, saving always the right to amendment; modification or repeal as hereinabove expressly provided.
8. It is further provided, declared and agreed that if the owner or owners of said parcel of land subject hereto or any lot or portion thereof, their heirs, executors, administrators, grantees or assigns, or any one of them, hereinafter owning any of the parcels of land or part thereof embracing any one or more of such covenants shall infringe or attempt to infringe or omit to perform any covenant or restriction aforesaid which is by its provisions to be kept and be performed by it, or him or them, it shall be lawful for any person owning any parcel of land embraced in said covenant, or having a legally recognizable interest in said land (by lien, mortgage, deed of trust or contract or option for purchase), or the said Trustee in behalf of or for the benefit of itself aforesaid, to proceed in law or in equity against the person or persons infringing or attempting to infringe or omitting to perform such covenant either to prevent it, him or them from doing so or to recover damages or other dues, including attorney fees and court costs for such infringement or omission. It is hereby declared and provided that while the covenants aforesaid shall be valid and binding, and must be observed, kept and performed by every owner and occupant of said parcels of land, or any part thereof, embraced in such covenant or covenants, yet they are not to be enforced personally against the Party of the First Part or against their successors and assigns, unless they, while owning or occupying or controlling some parcel of land or part thereof, shall have violated or failed to perform the covenant embracing such

parcel or part thereof. It is and is hereby declared to be that each of the covenants and restrictions herein contained shall attach to and remain with each parcel of land in said area and go with all titles, interest and estates in same, and be binding upon every owner or owners, lessees, and their occupants, or any parcel of land as fully as if expressly contained in proper and obligatory covenants and conditions in each contract and covenant of and concerning such parcels of land or any part thereof.

9. Notwithstanding any other condition herein, the Trustee shall make suitable provisions for compliance with all subdivision and other ordinances, rules and regulations of St. Charles County or any municipality in which the Subdivision may become a part, including but not limited to street lights and for such purposes shall not be limited to a maximum assessment provided for herein.

IN WITNESS WHEREOF, the Party of the First Part and the Party of the Second Part have hereunto executed this Indenture the day and year first above written.

CINCO DEVELOPMENT CO.

ENGLEWOOD RESIDENTS ASSOC.

BY: _____
Miguel Barrios, President
Party of the First Part

BY: _____
G.J. Miller, President
Party of the Second Part

Gerald L. Winkler, Secretary

Gerald L. Winkler, Secretary

State of Missouri)
)
County of St. Charles) SS.

On this 1st day of November, 1979
before me appeared Miguel Barrios, to me personally known, who, being by me duly sworn did say that he is the President of CINCO DEVELOPMENT CO., 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 MIGUEL BARRIOS 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.

Notary Public
Victoria M. Vogel
My term expires: December 7, 1982

State of Missouri)
)
County of St. Charles) SS.

On this 1st day of November, 1979
before me appeared GERALD J. MILLER, to me personally known, who, being by me duly sworn did say that he is the President of ENGLEWOOD RESIDENTS ASSOCIATION a Not-For-Profit 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 GERALD J. MILLER 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.

Notary Public
Victoria M. Vogel
My term expires: December 7, 1982

EXHIBIT 1

A tract of land in U.S. Survey 1655 and U.S. Survey 1738, Township 47 North, Range 3 East, Ct. Charles, County, Missouri; and described as follows:

Commencing at an old stone at the Southwest corner of U.S. Survey 1655, as aforementioned, said point also being in the centerline of Salt Lick Road, 40 feet wide, thence along said centerline North 27 degrees 58 minutes 02 seconds East, 539.97 feet to a point; thence leaving said centerline and running South 62 degrees 01 minutes 58 seconds East, 20.00 feet to the point of beginning of the herein described tract of land; thence continuing South 62 degrees 01 minutes 58 seconds East, 20.00 feet to a point; thence Southwardly along a curve to the left having a radius of 20.00 feet, an arc length of 31.40 feet (the chord of which bears South 17 degrees 00 minutes 59 seconds East, 28.28 feet) to a point; thence the following: South 62 degrees 00 minutes 00 seconds East, 165.31 feet; North 28 degrees 00 minutes 00 seconds East, 475.00 feet; North 81 degrees 07 minutes 50 seconds East, 154.07 feet; South 47 degrees 33 minutes 55 seconds East, 76.78 feet; North 29 degrees 10 minutes 56 seconds East, 166.19 feet; North 54 degrees 47 minutes 00 seconds East, 92.96 feet; North 71 degrees 18 minutes 30 seconds East, 108.62 feet; North 78 degrees 54 minutes 44 seconds East, 117.06 feet; North 03 degrees 10 minutes 11 seconds East, 61.47 feet; South 62 degrees 10 minutes 24 seconds East, 336.73 feet; South 72 degrees 22 minutes 24 seconds East, 50.00 feet; South 60 degrees 04 minutes 49 seconds East, 1209.04 feet; South 28 degrees 50 minutes 34 seconds West, 493.88 feet; South 28 degrees 47 minutes 40 seconds West, 1026.35 feet; North 61 degrees 12 minutes 50 seconds West, 1263.58 feet; North 61 degrees 33 minutes 12 seconds West, 667.21 feet; North 28 degrees 00 minutes 00 seconds East, 256.41 feet; North 13 degrees 32 minutes 00 seconds East, 98.51 feet; North 28 degrees 00 minutes 00 seconds East, 110.15 feet; and North 62 degrees 00 minutes 00 seconds West, 165.25 feet to a point; thence Westwardly along a curve to the left having a radius of 20.00 feet, an arc length of 31.43 feet (the chord of which bears South 72 degrees 59 minutes 01 second West, 28.29 feet) to a point; thence North 62 degrees 01 minutes 58 seconds West, 20.00 feet to a point, said point being on the Eastern line of Salt Lick Road, as aforementioned; thence along said Eastern road line North 27 degrees 58 minutes 02 seconds East, 100.00 feet to the point of beginning and containing 66.40 Acres.

