

Indenture of trust and restrictions
for Greenmar Estates Subdivision
St Louis County, Missouri

This Indenture made and entered into this 24th day of October, 1972 by and between Harry W Freeman and Jeanne M Freeman, his wife, Party of the First Part, and Harry W Freeman Jeanne M. Freeman and Rose Marie Tiemann, all of the County of St Louis, State of Missouri, Parties of the Second Part, hereinafter referred to as "Trustees":

WITNESSETH THAT:

WHEREAS, the St Louis County Council, by Ordinance No 6390, approved the development plan for Greenmar Estates Subdivision, the outboundries of which are described in Exhibit A hereto attached, in accordance with the Planned Environmental Development Ordinance, so that plats of portions of said tract may now be recorded; and

WHEREAS, First Party has recorded the plat of Greenmar Estates Subdivision Plat One on this the 25th day of October, 1972 as Daily No.207 in the St Louis County Recorder's Office and contemplate that the remainder of the aforesaid 80 acres more or less will also be subdivided and that plats thereof, designated as Greenmar Estates Subdivision, Plat 2 and possibly Plat 3, will be recorded in St Louis County Records pursuant to and in conformity with the afore ordinances; and

WHEREAS, common land for park and recreational areas has been reserved in Greenmar Estates Subdivision and common land for similar purposes will be reserved in the subsequent plats of Greenmar Estates Subdivision, and

WHEREAS, as each of the subsequent plats of Greenmar Estates Subdivision is recorded, First Party will adopt this Indenture of Trust and Restrictions and all provisions thereof for each of said plats, except for any changes necessary for plats which include multiple dwelling units; and

WHEREAS, there may be designated, established and recited on the recorded plats of Greenmar Estates Subdivision certain streets, common land and easements which are for the exclusive use and benefits of the residents of Greenmar Estates Subdivision, except for those streets or easements which are or may hereafter be dedicated to public bodies and agencies, and which have been provided for the purpose of constructing, maintaining and operating sewers, pipes, poles, wires, storm water drainage, parks and other facilities and public utilities for the use and benefits of the residents of Greenmar Estates Subdivision; 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 the adoption of a sound urban environment plan and scheme of restrictions, and to apply that plan and scheme of restrictions to all of said land described in Exhibit A, including all common land, and mutually to benefit, guard and restrict future residents of Greenmar Estates Subdivision and to foster their health, welfare and safety; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained, any and all of which are sometimes hereafter termed "restrictions", are jointly or severally for the benefit of all persons who may purchase, hold or reside upon, and of the lots covered by this instrument; and

WHEREAS, First Party, by Deed simultaneously herewith, have conveyed to the Trustees herein designated, the following described real estate, situated in the County of St. Louis, State of Missouri:

The area designated as "Common Ground" on the Plat of Greenmar Estate Subdivision, according to the plat thereof recorded in the 25th day of October, 1972, as Daily No. 207 of the St. Louis County Recorder's office.

WHEREAS, said deed conveys the property described therein to said Trustees for a period of fifty (50) years after which fee simple title to said property will vest in all the then recorded owners of the lots and dwelling units in all recorded plats of Greenmar Estates Subdivision as tenants in common, but the rights of such tenants in common will only be appurtenant to and in conjunction with their ownership of lots and dwelling units in plats of Greenmar Estates Subdivision, and any conveyance or change of ownership of a lot or dwelling unit in a plat of Greenmar Estates Subdivision will carry with it ownership in common property, so that none of the owners of lots or dwelling units in any plat of Greenmar Estates Subdivision and none of the owners of the common property will have such rights of ownership as will permit them to convey their interest in the common property except as incident to the ownership of such lots or dwelling unit, and any sale of any lot or dwelling unit in any plat of Greenmar Estates Subdivision will carry with it, without specifically mentioning it, all the incidents of ownership of the common property; PROVIDED, HOWEVER, that all of the rights, powers and authority conferred upon the Trustees of Greenmar Estates Subdivision shall continue to be exercised by the Trustees.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements made by the parties hereto each to the other, the parties hereto covenant and agree to and with each other, collectively and individually, for themselves, their heirs, successors and assigns, and for and upon behalf of all persons who may hereafter derive title to or otherwise hold through them, together with their heirs, successors, or assigns, any of the lots and parcels of land in an plat of Greenmar Estates Subdivision, all as described herein as follows, to wit:

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RESERVATION OF EXPENDITURES

First Party reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided by them for sewers, gas pipes, water pipes, conduits, poles, wires, street lights, road, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with the respect to the creation of any subdivision in the tracts described in Exhibit A.

DESIGNATION AND SELECTING OF TRUSTEES

The initial trustees shall be Harry W. Freeman, Jeanne M. Freeman and Rose Marie Tiemann, designated herein as Trustees, who, by their signatures to this instrument, consent to serve in such capacity. Whenever any of said Trustees resigns, refuses to act, becomes disabled or dies, the remaining Trustees or Trustee shall appoint a successor or successors until such time that the Party of the First Part does not own any of the property described in Exhibit A hereto attached or owns any property in any plat of Greenmar Estates Subdivision, at which time a meeting of the then record owners in fee simple title to lots in all plats of Greenmar Estates Subdivision shall be called by notice of meeting signed by at least three (3) lot owners, sent by first class mail to, or personally served upon, all of such record lot owners at least ten (10) days before the date fixed for the meeting, for the purpose of electing new trustees. The notice shall specify the time and place of meeting, which place shall be in St. Louis County, Missouri. At such meeting, the owner of the lot improved with a single-family residence shall have one (1) vote and the owner of a lot improved with multiple family dwelling units shall have one (1) vote for each two (2) such units. A majority of all votes in all plats of Greenmar Estates Subdivision shall have the power to elect new trustees, two (2) of whom shall be elected from among the owners of multiple family dwelling units and one from among the owners of single-family residences, each trustee being elected separately. After three (3) have been elected, by lot one shall serve for a term of one (1) year, one for a term of two (2) years and one for a term of three (3) years, their successors being elected to terms of three (3) years each, with each successor being elected from among owners of multiple family dwelling units if his predecessor was elected from among owners of such units, or from among the owners of single family units if his predecessor was so elected. Meetings thereafter shall be called by the Trustees, with notices given in the same manner as hereinable provide and any business relevant or pertinent to the affairs of any plat of Greenmar Estates Subdivision may be transacted at any meeting of lot owners in conforming with this procedure.

One third (1/3) of the Trustees shall be chosen by purchasers of developed lots after 50% of the lots have been sold; two thirds (2/3) of the Trustees shall be chosen by purchasers of developed lots after 95% of the lots have been sold; all of the Trustees shall be chosen by purchasers of developed lots after all of the lots have been sold.

Where the provisions of such a trust indenture cannot be fulfilled by reason of unfilled vacancies among the trustees, the County Council may upon the petition of any concerned resident of property owner of the subdivision, appoint one or more trustees to fill vacancies until such time as trustees are selected in accordance with the trust indentures. Any person so appointed who is not a resident or property owner within the subdivision shall be allowed a reasonable fee for his services by the order of appointment, which fee shall be levied as a special assessment against the property in the subdivision, and which shall not be subject to any limitations on special assessments contained in the trust indenture or elsewhere.

TRUSTEES' DUTIES AND POWERS

First party hereby invests Trustees and their successors with the rights, powers and authorities described in this instrument, and with the following rights, powers and authorities:

- 1) To acquire and hold the common land hereinabove described and conveyed to Trustees by separate instrument on even date herewith, which said common land is set forth and shown on the plat of Greenmar Estates Subdivision, all in accordance with and pursuant to the aforesaid ordinance of the St. Louis County Council and in accordance with and subject to the provisions of this instrument, and to deal with any common lands 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 hereafter may be dedicated to public bodies or agencies), entrance lights, gates, common land, park areas, lakes (including restriction of use of same), shrubbery, storm water sewers, sanitary sewer trunks and lateral lines, pipes, and disposal and treatment facilities as may be shown on any recorded plat of Greenmar Estates Subdivision as is necessary to maintain, repair, rebuild, supervise and insure the proper use of said easements, streets, roads, etc. by the necessary public utilities and others, including the right (to themselves and others to whom they 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 service to the lots shown on said plat.
- 3) To exercise control over the common land shown on said plats; pay real estate taxes and assessment herein provided; 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, morals, recreation, entertainment, education and general use of the owners of lots in Greenmar Estates Subdivision, all in the conformity with applicable laws; to prescribe by reasonable rules and regulations the terms and conditions or the use of common lands, all for the benefit and use of the owners of the lots in Greenmar Estates Subdivision and according to the discretion of the Trustees.
- 4) To dedicate to public use any private streets constructed or to be constructed on the aforescribed tract of land, whenever such dedication would be accepted by a public agency, in the event the recorded plat does not provide for public use and maintenance.
- 5) To prevent, as Trustees 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 Trustees 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 Trustees is intended to be discretionary and not mandatory.

- 6) To clean up rubbish and debris and remove grass and weeds from, and to trim, cutback, remove, replace and maintain trees, shrubbery, and flowers upon any vacant or neglected lots or property, and the owners thereof may be charged for the reasonable expenses so incurred. The Trustees, their agents or employees shall not be deemed guilty or liable for any matter of trespass or any other act for any such injury, abatement, and removal or planting.
- 7) To consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached buildings, outbuildings, accessory buildings, swimming pools or tennis courts proposed for construction and erection on said lots, proposed additions to such buildings or alterations 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 said lots unless there shall be first had the written approval of the majority of the Trustees to the plans and specifications therefor and to the grade proposed therefor. In the event the Trustees fail to approve or disapprove within thirty (30) days after building plans or other specification for fences, swimming pools or tennis courts, accessory buildings and other outbuildings have been submitted to them hereunder, approval will not be required and the related 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 building, outbuilding, swimming pool, tennis court or other structure on any of said lots in order to provide that upon the completion of the project, all debris shall be removed from the site and adjacent lots, and that any and all damages to subdivision improvements shall be repaired.
- 9) To establish rules and regulations for the operation of recreational facilities and swimming pools when the same have been provided in common areas and employ personal to supervise and operate the same. The regulations shall include the conditions under which residence may entertain guests in such facilities, including the charges to residence for their guests.
- 10) To purchase and maintain in force, liability insurance, protecting the Trustees and lot owners from any and all claims, for personal injuries and property damage arising from the use of common areas and facilities.
- 11) 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, servant and labor as they may deem necessary or advisable, and to defend suits brought against them individually or collectively in their capacity as Trustees.

At such time (50 years after the date of any warranty deed by which the Trustees acquire the common land) as the then lot owners of Greenmar Estates Subdivision become owners of part or all of the common land theretofore conveyed to and held by the Trustees, the Trustees shall continue to exercise all the same rights and authorities and shall have the same duties and responsibilities with respect to the said common land as hereinbefore set forth, and particularly, the Trustees shall continue to collect for and make payment of the real estate taxes which may be levied on the common land by St. Louis County and/or by other governmental body or agency.

IV

ASSESSMENTS

The Trustees and their successors in office are hereby authorized, empowered and granted the right to make assessments upon and against lots in Greenmar Estates Subdivision for the purpose herein stated and at the rate hereinafter provided, and in the manner and subject to the provisions of this instrument:

1. (a) The Trustees and their successors in office are authorized to make uniform annual assessments in an amount not to exceed *Fifty Dollars (\$50.00)* per lot in each calendar year upon and against each lot in a plat of Greenmar Estates Subdivision upon which a residence has been constructed and sold either by the Party of the First Part or by any other builder, and in an amount not less than one-half against each completed multiple family dwelling unit, for the purpose of carrying out any and all of the general duties and powers of the Trustees hereunder and for the further purpose of enabling the Trustees to defend and enforce restrictions, adequately, to maintain streets, if required, common land, utilities, parking spaces, entrance gates and trees, 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 Greenmar Estates Subdivision.

(b) In addition to the foregoing authority to make a uniform annual assessment for the purpose of carrying out their general duties and powers, the Trustees shall levy a uniform annual assessment against each completed multiple family unit for maintenance and operation of recreational facilities and swimming pool, the owner or occupant of any single-family resident in any plat who elects to use such facilities paying an amount not to exceed two times the assessment so levied. Should the sums so received be insufficient to pay for the maintenance and operation of these facilities on a non-profit basis, the Trustees are empowered to levy annual assessments against each lot in any plat upon which there is an occupied residence, the owner or occupant of which has not voluntarily elected to use such facilities, such assessment shall not exceed two times the rate levied against completed multiple family units for these purposes, PROVIDED HOWEVER, that no such assessment shall be levied until the facilities have been completed and no part of such assessment shall be expended in payment for the original construction. The Trustees are further authorized to obtain the additional funds through dues to be paid by those residents of Greenmar Estates Subdivision who elect to use the facilities.

(c) If at any time the Trustees consider it necessary to make any expenditure requiring an assessment additional to the annual assessment, they shall submit a written outline of the contemplated project and the amount of the assessment required, to the then owners of residence and dwelling units. If such assessment is approved either at a meeting of the owners of residence and dwelling units called by the Trustees by fifty-five percent (55%) of the votes cast in person or by proxy, or on written consent of fifty-five (55%) of the total votes, the Trustees shall notify all owners of the additional assessment; PROVIDED, HOWEVER, that in determining such required fifty-five percent (55%) majority, each owner of a single-family residence shall be entitled to one (1) full vote and each owner of a multiple-family dwelling unit shall be entitled to one-half (½) of a full vote, except that only those who have paid all assessment theretofore made, shall be entitled to vote on any question. 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 the paragraph. Notice of each special assessment shall be given in the same manner as notices of annual assessments are given, with such assessment becoming delinquent thirty (30) days after the date of such notice.

(d) Should a residence or multi-family building become subject to assessments after January 1 in any year, and should an annual or a special assessment have been levied for that year, then such assessment shall be adjusted so that such residence or dwelling unit shall be charged with a portion of the assessment prorated for the balance of that year.

(e) In addition to the foregoing assessments, each single-family residence and each multiple-family dwelling unit shall annually be assessed for sanitary sewer purposes by Fenton Sewer District, its successors and assigns in such amounts as the Party of First Part of the Trustees, by a written contract, may agree.

2. All assessments shall bear interest at the rate of eight percent (8%) per annum from the date of delinquency and such assessment, together with interest shall constitute a lien upon the property against which it is assessed until the amount, together with interest and charges, is fully paid. As an assessment becomes delinquent, the Trustees may execute and acknowledge an instrument reciting the levy of the assessment and cause the same to be recorded in the Records Office of St. Louis County, Missouri. Such assessment may be enforced in the same manner as is provided by law for the enforcement of special tax lien against real estate, except that such assessment shall not have priority over existing mortgages, or deeds of trust. Should and owner pay an assessment after the recording of a notice thereof, as herein provided, the Trustees shall release said lien (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 lots affected, and the Trustees shall cause to be noted from time to time in the minutes of their proceedings, the payments made on account of assessments.
3. The Trustees shall deposit the funds coming into their hands as Trustees in a bank protected by the Federal Deposit Insurance Corporation or in a savings and loan association protected by the Federal Savings and Loan Insurance Corporation. The treasurer being bonded for the proper performance of the duties in an amount fixed by the Trustees.
4. The Trustees are authorized and empowered to procure such insurance, including but not limited to public liability and property damage, as they may deem necessary and proper.

INDENTURE OF RESTRICTIONS

The Party of the First Part, being the owner of the following described real estate lying and being situated in St. Louis County, Missouri, and being more particularly described as Exhibit A:

Part of Lot 2 of WILLIAM CLARK and WILLIAM CARR's SUBDIVISION of the Northern part of U.S. Survey 1330, Township 44 North, Range 5 East and described as follows: From an iron pin, the point of beginning, which is North 81 degrees 47 minutes 600 feet from the Southeast corner of Lot No. 2 of William Clark and William Carr's Subdivision of the Northern part of U.S. Survey 1330, Township 44 North, Range 5 East, in St. Louis County, Missouri; thence continuing along the aforesaid line 1,323.55 feet to a stone at the Southwest corner of the before said Lot No. 2; thence on the East line of Anderson Bowles Estate North 18 degrees 7 minutes East 2,283.12 feet to a stone at the South line of Vandover Hills Plat No. 3; then going South 81 degrees 46 minutes East along the South line of Vandover Hills Plats 3, 2, 1, 1,502.17 feet to a point on the West line of Bowles Avenue, 40 feet wide; thence going South 7 degrees 59 minutes 30 seconds West along the West line of Bowles Avenue, 1,698.70 feet to a point; thence leaving said road going North 81 degrees 47 minutes West 580 feet to a point; thence going South 7 degrees 59 minutes 30 seconds West 550 feet to an iron pin, the point of beginning containing 80.317 acres, more or less.

by this Indenture do impose upon all lots and common land in Greenmar Estates Subdivision, the following restrictions and conditions, to-wit:

1. Term: These restrictions shall 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 these covenants shall be automatically extended for continuing successive terms of ten (10) years each unless an instrument, signed by the then owners of a majority of the lots and dwelling units (each dwelling unit being considered one-half of one lot in determining whether there is a majority) in all plats of Greenmar Estates Subdivision has been recorded, agreeing to change these covenants in whole or in part.
2. Land Use and Building Type: All lots in Greenmar Estates Subdivision shall be used only for single family residential dwellings and multi-family dwellings, not to exceed two and one-half stories of height.
3. Dwelling Cost, Quality and Size: The construction cost of each residential dwelling in Greenmar Estates Subdivision shall not be less than \$8,500.00 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to secure that all dwellings shall be of quality workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost of the main structure, exclusive of one-story open porches and garages, shall not be less than 768 square feet.

4. Placement of Improvements: Building shall be placed on lots only in the manner approved by the Trustees, with the front and side building set-back lines being at least those required by St. Louis County zoning ordinances for the subdivision.
5. Easements: The easements shown on the recorded plat for installation and maintenance of utilities and drainage facilities are hereby reserved and the same shall run with the land.
6. Signs: No signs shall be erected or displayed in public view on any lot except the (1) sign, not larger than five (5) square feet, advertising the property for sale or rent, EXCEPT, THAT, any signs may be erected by the Party of the First Part in the development of the subdivision. Should the Party of the First Part not develop all the lots and should-be convey lots to other builders, the Trustees may grant such other builders or developers the right to place suitable signs on lots during construction and prior to initial sale of the buildings constructed thereon.
7. Livestock and Poultry: No animals livestock or poultry shall be raised, bred or kept on any lot, EXCEPT, THAT, household pets, in limited numbers, may be kept provided they are not maintained for any commercial purpose.
8. Fences: No fences or screening shall be erected or maintained on any lot between the building set-back lines and the street upon which that lot fronts. Fences may be maintained on other portions of lots only within written consent of the Trustees as to locations, materials used and heights of fences. The decision of the Trustees shall be conclusive.
9. Nuisances: No noxious or offensive activity shall be carried on any lot, nor shall anything be done thereon which may be or become a nuisance or annoyance.
10. Liability of Trustees: Trustees not to be Compensated: The Trustees shall not be personally responsible for any act in which they are empowered to exercise their judgment and discretion, and shall only be held accountable for their willful misconduct. They shall not be required to expend any money for payment of taxes, maintenance of storm and sanitary sewers, parkways, street lighting or any other improvements, in excess of the assessments collected by them. They may retain a reasonable cash reserve from such assessments and expend only such sums for maintenance and improvements as they, in their sole discretion deem necessary. Neither the Trustees nor successor Trustees shall be entitled to any compensation for services performed pursuant to this covenant.
11. Slope Control Areas: Slope control areas are reserved as shown on the recorded Subdivision Plat. Within these slope control areas of no structure, planting or other material shall be placed or permitted to remain, or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control area of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which public authority or utility company is responsible.
12. Sight Distance at Intersections: 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. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

13. Amendments: This Indenture of Trust and Restrictions and any part thereof may be altered, amended or discontinued by a written agreement signed by the then record owners of the fee simple title of two-thirds (2/3) of the unit owners in the subdivision then included under the terms of this Indenture. Any such amendments, alteration, change or discontinuance shall, when duly certified and acknowledged by the Trustees and recorded with the Office of the Recorder of Deeds for the County of St. Louis, Missouri, become a part of the amendment, alteration, change or discontinuance shall require the consent of the Party of the First Part so long as it is a unit owner in any plat of Greenmar Estates Subdivision.
14. Invalidation: Invalidation of any one of the covenants of this Indenture shall in no way affect any other provision hereof.