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**Barbara J. Hall**  
Recorder of Deeds  
St. Charles County, MO  
BY: Ginger Phillips

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# Recorder of Deeds Certificate St. Charles County Missouri

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Barbara J. Hall  
Recorder of Deeds  
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INDENTURE OF TRUST AND RESTRICTIONS FOR  
AUBURN MEADOWS  
ST. CHARLES COUNTY, MISSOURI

THIS INDENTURE OF TRUST AND RESTRICTIONS FOR AUBURN MEADOWS (the "Indenture"), made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between Blondin and Blondin Properties, LLC and R & M Pence, LLC, Missouri Limited Liability Companies (hereinafter referred to as "Grantors"), and James J. Blondin, James A. Blondin and Robert Pence, Sr., all of St. Charles County, Missouri, (hereinafter collectively referred to as "Trustees").

WITNESSETH THAT:

WHEREAS, Grantors are the owners of a tract of real property located in St. Charles County, Missouri, as more particularly described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the Plat of AUBURN MEADOWS has been approved and recorded in the office of the St. Charles County Recorder of Deeds at Plat Book 41 Page 360 (the "Plat"); and

WHEREAS, common Land has been reserved on the plat of AUBURN MEADOWS. There has been designated, established and recited on such plat streets, Common Land and easements which are for the exclusive use and benefit of the owners and residents of the AUBURN MEADOWS, except the 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 sidewalks, sewers, pipes, storm water drainage, homes, landscaping, parks and other facilities and public utilities for the use and benefit of the residents of AUBURN MEADOWS; and

WHEREAS, it is the purpose and intention of this Indenture to preserve AUBURN MEADOWS as a restricted neighborhood and to protect the same against certain uses by the adoption of this Indenture, and to apply the terms and restrictions of this Indenture to all of said land described herein, including all Common Land and mutually to benefit, guard and restrict future residents of AUBURN MEADOWS and to foster their health and safety; and

WHEREAS, all terms, reservations, limitations, conditions, easements and covenants herein contained, and all of which are sometimes hereafter termed "restrictions", are jointly and severally for the benefit of all persons who may purchase, hold or reside within AUBURN MEADOWS.

NOW, THEREFORE, in consideration of the premises Grantors covenant and agree for themselves, their 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 and assigns, any of the lots and parcels of land in AUBURN MEADOWS, that AUBURN MEADOWS shall be subject to the terms, conditions and restrictions hereof as hereinafter set forth:



## Article I Duration of Trust

The Indenture of Trust herein created shall continue until such time as all the plats of PROPERTY constituting AUBURN MEADOWS may be vacated by the County of St. Charles, Missouri, or its successors, after which period of time fee simple title to the Common Land shall vest in the then record owners of all lots *constituting* a part of AUBURN MEADOWS, as tenants in common. The rights of said tenants in common shall only be appurtenant to and in conjunction with their ownership of lots in said plats, and any conveyance or change of ownership of any lot shall carry with it ownership in Common Land so that none of the owners of lots and none of the owners of the Common Land shall have such rights of ownership as to permit them to convey their interest in the Common Land except as is incident to the ownership of a lot, and any sale of any lot shall carry with it without specifically mentioning it all the incidents of ownership of the Common Land, provided, however, that all of the rights, powers and authority conferred upon the Trustees shall continue to be possessed by said Trustees.

## Article II Reservation of Grantors' Rights

### 1. Right To Add Additional Property To AUBURN MEADOWS.

Grantors reserve the right (without the requirement of first obtaining any approval of the lot owners or Trustees) to add to that Property which is subject to this Indenture and designated as part of AUBURN MEADOWS on the Plat. This right shall include the ability of the Grantors to provide for a public or private road and any utility, cable television or other easements necessary to service such additional parcel of property and to connect any such easement and public or private road to the road and easements created by the Plat or by the terms of this Indenture. Any such additional property shall be made subject to the terms of this Indenture as then in force, including any amendments hereto. In the event that Grantors make such additional property part of AUBURN MEADOWS, Grantors, and not Trustees, shall receive any payments or access charges paid by the purchasers of such additional property for the right to access the road. Additionally, Grantors may provide access to subdivision roads for adjacent lot owners who may or may not be subject to the subdivision indentures should it be necessary to satisfy existing legal easements.

### 2. Reservation of Expenditures.

Grantors reserve the right to receive and retain any monetary consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided (including any amounts paid into escrow) for sewer, gas pipes, water pipes, conduits, poles, wires, street lights, roads, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to AUBURN MEADOWS.

## Article III Designation and Selection of Trustees and Meetings of Lot Owners

### 1. Original Trustees.

The original Trustees shall be James A. Blondin, James J. Blondin and Robert Pence, Sr., who, by their signatures hereto, consent to serve in such capacity until their successors are elected or appointed as hereinafter provided. Should an original Trustee or a successor Trustee appointed by Grantors resign other than as required by Section 2 of this Article III, refuse to act, become disabled or die, Grantors shall have the power to appoint, by duly written, recorded instrument, a

successor Trustee who shall serve until his successor is elected by the lot owners in the manner herein provided.

**2. Election of Trustees.**

At such time as fifty percent (50%) of the total lots authorized to be developed have been sold and conveyed for residential use, Grantors shall cause the resignation of one (1) of the original Trustees, and a successor Trustee shall be elected by the then lot owners. At such time as ninety-five percent (95%) of the total authorized lots have been sold and conveyed for residential use, Grantors shall cause the resignation of a second original Trustee, and a successor shall be elected by the then lot owners. The two (2) Trustees elected by the lot owners pursuant to the foregoing provisions shall serve until such time as all lots authorized to be developed in AUBURN MEADOWS by the Ordinance have been sold and conveyed for residential use, then the term of such elected Trustees shall expire and Grantors shall cause the resignation of the third original Trustee then serving hereunder, and the then lot owners shall elect three (3) successor Trustees, one (1) of which shall be elected to serve for one (1) year, one (1) of which shall be elected to serve for two (2) years, and one (1) of which shall be elected to serve for three (3) years from the date of the election. Thereafter, all Trustees shall be elected for terms of three (3) years each.

**3. Manner of Conducting Elections; Meetings of Lot Owners.**

All elections by lot owners shall be preceded by notice signed by the Trustees then in office, or should there be no Trustees, then by three (3) such owners, sent by mail to or personally served upon all owners at least ten (10) days before the date fixed for the meeting to be held for the purpose of electing Trustees. The notice shall specify the time and place of the meeting which shall be in St. Charles County, Missouri. At such meeting or at any adjournment thereof, the majority of the lot owners attending such meeting, in person or by proxy, shall have the power to elect such Trustees, who shall thereupon serve until their successors have been duly appointed or elected and qualified. At such meeting, each lot owner, whether attending in person or by proxy, shall be entitled to one (1) vote, which, when the owner constitutes more than one person or entity, shall be cast as they among them shall determine; in no event shall more than one (1) vote be cast with respect to any lot. The result of any election of Trustees shall be certified by the person elected as chairman and secretary at such meeting, and their certification shall be acknowledged and recorded. Any business relevant or pertinent to the affairs of AUBURN MEADOWS may be transacted at any meeting of lot owners called in conformity with the procedure described above. Twenty-five percent (25%) of the lot owners (constituted by the presence of one person per lot, either in person or by proxy) shall constitute a quorum for the purpose of electing Trustees and for the purpose of conducting any other business coming before the meeting.

**4. Qualification of Trustees.**

Any Trustee elected under the provisions of this Article shall be a lot owner in AUBURN MEADOWS, or an officer or agent of a corporate owner, and *if* such owner sells his or her lot or resigns, refuses to act, becomes disabled or dies, the remaining Trustees shall appoint an owner to act as the successor for the unexpired portion of the term of the Trustee no longer acting.

## Article IV Trustees' Duties And Powers

The Trustees shall have the rights, powers and authorities described throughout this Indenture and the following rights, powers and authorities:

**1. Acquisition of Common Land.**

To acquire and hold the Common Land in accordance with and pursuant to the provisions of this Indenture, and to deal with any such Common Land as hereinafter set forth. The Common Land shall include all that land designated on the Plat to be private roads and any cul-de-sac and any property (designated by the terms of this Indenture or by designation of the Plat or any subsequent Plat) as being subject to the Trustees' right to create an Easement for those purposes described below in Section Three (3) and Five (5) even though such property is held in fee by individual lot owners.

**2. Control of Common Land.**

To exercise control over such easements, streets, sidewalks (except for those easements, streets and sidewalks which are now or may hereafter be dedicated to public bodies or agencies), entrances and entrance markers, lights, gates, landscaping, park areas, lakes, cul-de-sacs, islands, medians, shrubbery, storm water sewers, pipes, and disposal and treatment facilities constituting Common Land as may be shown on the recorded Plat of AUBURN MEADOWS, as is necessary to maintain, repair, rebuild, supervise and insure the proper use of said easements, streets and 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, sidewalks, sewers, pipes, poles, wires and other facilities and public utilities for services to the lots of AUBURN MEADOWS, and the right to establish traffic rules and regulations for the usage of driveways, streets (whether public or private) and parking lots in AUBURN MEADOWS.

**3. Maintenance of Common Land and Easements.**

To exercise control over the Common Land and Easements for the exclusive use and benefit of residents of AUBURN MEADOWS, and to pay real estate taxes and assessments on said Common Land and Easements out of the general assessment hereinafter authorized; to maintain and improve the Common Land and Easements 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 and health, welfare, safety, morals, recreation, entertainment, education, and general use of the lot owners and residents of AUBURN MEADOWS, all in conformity with applicable laws; and to prescribe by reasonable rules and regulations the terms and conditions of the use of Common Land and Easements, all for the benefit and use of the lot owners and residents of AUBURN MEADOWS and according to the discretion of the Trustees.

**4. Dedication.**

To dedicate to public use the private streets constructed in AUBURN MEADOWS whenever such dedication would be accepted by a public agency.

**5. Easements.**

To grant and create easements for public and private streets, sewers, utilities, cable television and other types of services which benefit the lot owners on and over: (i) the property designated on the Plat to be a street; (ii) that property within a strip of land twenty (20) feet in width on the interior side of and parallel to all lot lines shown on the Plat; and, (iii) any property designated on a subsequent easement plat to be subject to this right of the Trustees to create or grant an easement.

**6. Enforcement.**

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 governing the use of the 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.

**7. Vacant and Neglected Lots.**

To clean up rubbish and debris and remove grass and weeds from and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon any vacant or neglected lots or parcels of land in AUBURN MEADOWS, and the owners thereof may be charged with the reasonable expense so incurred. The Trustees, their agents or employees, shall not be deemed guilty or liable in law or in equity for any manner of trespass or any other act or any injury, abatement, removal or planting.

**8. Plans and Specifications.**

As more specifically provided in Article V hereof, to consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached buildings, outbuildings, accessory buildings, mail boxes, swimming pools or tennis courts proposed for construction and erection on any lot, proposed additions to such buildings or alterations in external appearance of buildings already constructed.

**9. Deposits.**

To require a *Five Thousand Dollar (\$5,000.00) escrow* deposit or bond in connection with the proposed erection of any building or structure, fence, detached building, outbuilding, swimming pool, tennis courts, or other structure on any lot or on the Common Land approved in accordance with Section 8 of this Article IV and Article V of 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.

**10. Insurance.**

To purchase and maintain in force such insurance as they may deem appropriate, including, but not limited to, property insurance and liability insurance protecting the Trustees and the lot owners from any and all claims for personal injuries and property damage arising from use of the Common Land and facilities.

**11. Employment.**

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, servants and labor as they may deem necessary or advisable, and to defend suits brought against them individually or collectively in their capacity as Trustees.

**12. Condemnation.**

In the event it shall become necessary for any public agency to acquire all or any part of the Common Land for a public purpose, the Trustees are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary to that purpose. Should acquisition by eminent domain become necessary, only the Trustees need be made parties, and any proceeds received shall be held by the Trustees for the benefit of those entitled to the use of said Common Land.

**13. Boundary Adjustments.**

To provide for any adjustments in the boundary or lot line of any lot and the Common Land and to execute such instruments as may be necessary for that purpose.

## Article V Architectural and Environmental Control

From and after the conveyance of an improved lot by Grantors, no building, fence, wall or other structure, swimming pool, tennis courts or other recreational facility or equipment shall be commenced, erected or maintained on such lot, nor shall any exterior addition to, removal of all or any part thereof, or exterior change or alteration (structural or non-structural) in any improvement on such lot be made, nor shall any item, apparatus or device be attached to or the color or other exterior appearance of any structure upon any such lot be changed until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of same shall have been submitted to and approved in writing as to harmony of external design, types of materials, colors and location in relation to surrounding structures and topography by the Trustees. In the event the Trustees fail to approve or disapprove any design, materials, colors or location within forty-five (45) days after all required plans and specifications have been submitted to the Trustees (and fees if required, have been paid), approval will not be required and this provision will be deemed to have been fully complied with. The Trustees are authorized where they deem appropriate to charge a review fee for any submissions to defray the costs of reviews it conducts or authorizes.

It is the intent of this Indenture that all buildings and structures on all lots shall be constructed of attractive compatible exterior material of high quality. The front elevation of all main residences must consist of at least 75% Brick or Stone. The total habitable square foot area of the primary residence located upon any lot for a single story residence shall not be less than 2400 square feet. The total habitable square foot area of the primary residence located upon any lot for a one and one half story shall not be less than 2600 square feet or two story residence shall not be less than 2800 square feet with a minimum of 1400 square feet on the lower level. The total habitable area shall not include: (i) attic, (ii) garage, or, (iii) any portion of the basement. Brick or stone "wrap-a-rounds" must extend a minimum of two feet to both sides of the residence. *There shall be no more than eight (8) inches of exposed concrete foundation on any residence.* The minimum roof pitch of all elevations on any lot shall be at least an 8:12 slope or greater. No structure shall have a garage, the entrance of which faces the front yard of the lot. All garages must be of such minimum size as to accommodate three cars, but no more than four cars. The Trustees may, in their sole judgment grant a variance from these minimum square footage requirements and prohibition against a front-facing garage entrance. In its review of submissions, the Trustees shall evaluate the construction standards, building materials and colors for all proposed construction on the lots to insure that they are in conformance with such objectives. Accessory buildings, enclosures, appurtenant structures to or extrusions from any building or structure on any lot shall be of similar or compatible materials, design and construction. Exterior finishes and elevations once approved shall not be altered without the express written consent of the Trustees.

## Article VI Sewers and Drainage Facilities

### 1. Trustees' Responsibility – Common Land.

The Trustees shall be responsible for the maintenance, repair and replacement of the storm sewers, if any, any retention basins, and any other drainage facilities located on and servicing any Common Land or improvements thereon.

### 2. Owners' Responsibility.

Each lot owner shall be responsible for the maintenance, repair and replacement of any individual

waste treatment system or septic sewer system. In the event a community or off-site sewer system becomes available, each lot owner shall be responsible for the maintenance of the lateral sewage line or lines servicing such owner's lot.

## Article VII ASSESSMENTS

### 1. General.

Grantors, for each lot hereby covenant, and each owner of any lot by acceptance of a deed, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay (i) annual assessments or charges; and (ii) special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments together with such interest thereon and costs of collection thereof shall be a charge on the lot and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, shall also be the personal obligation of the person or persons who were the owners of such lot at the time the assessment fell due.

### 2. Purpose.

The assessments levied under this Article shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the AUBURN MEADOWS and in particular for the rendering of services in the furtherance of such purposes, including the carrying out of all functions herein authorized, and for the acquisition, improvement, maintenance and operation of the Common Land and all facilities thereon and easements, but not limited to, the payment of taxes and insurance thereon, 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.

### 3. Annual Assessments.

The maximum annual assessment shall, until increased as herein authorized, be Four Hundred and 00/100. Dollars (\$400.00) per lot with the exception of lots #25 & 26 each of which will be assessed One Hundred Dollars (\$100.00) per year. The Trustees may increase such assessment for any assessment year by a percentage which is equal to the percentage increase in the Consumer Price Index as indicated by the last available Index published prior to the assessment year over the corresponding last available Index published prior to commencement of the first assessment year hereunder. If such Index is discontinued, the Trustees shall utilize a successor index, determined by the Trustees in their sole judgment, to be most similar to the discontinued Index.

The Trustees may, after consideration of current maintenance costs and future costs and needs, fix the actual assessment for any year at a lesser amount. The Trustees may change the basis and maximum amount of assessments provided for herein upon the approval of a majority of the Trustees and the assent of a majority of the owners voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall have been sent to all owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Each annual assessment shall be levied prior to or during the year for which it is levied, notice thereof being given by first class mail addressed to the last known or usual post office address of each owner and deposited in the United States mail with postage prepaid or by posting of a notice of the assessment upon the lot against which it applies. Each annual assessment shall be due on



the date that is thirty (30) days after such mailing or posting, and shall become delinquent if not paid within thirty (30) days following such due date.

#### 4. Storm Water Facilities.

In addition to the foregoing, the Trustees are authorized to make separate annual assessments not to exceed Two Hundred and No/100 Dollars (\$200.00) per lot (*exempting lot #25 & #26 which would not benefit from any such repair or improvement*) for the purpose of maintaining or repairing storm water storage, disposal or sewer facilities located within AUBURN MEADOWS; provided, however, the separate power granted to the Trustees by this Section 4 shall expire with the calendar year following the acceptance of any such storm water facilities for maintenance by any appropriate government body or public utility. Any assessment made under authority granted in this, Section 4, shall be assessed and collected in the same manner as the assessments under Sections 3 and 7 of this Article, and the Trustees shall have the same powers of collection and lien rights against the lots as provided in said Sections 3 and 7 of this Article.

#### 5. Special Assessments.

If, at any time, the Trustees consider it necessary to make any expenditure requiring an assessment against the lots which is 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 lot owners. If such assessment is approved, either at a meeting of the owners called by the Trustees, by a majority of the votes cast in person and by proxy, or on written consent of a majority of the total votes entitled to vote thereon, the Trustees shall notify all lot owners of the additional assessment; PROVIDED, HOWEVER, that in determining such required majority, each owner shall be entitled to one (1) full vote for each lot owned by such owner, except that only those who have paid all assessments theretofore made shall be entitled to vote. The limit of the annual assessments for general purposes set forth in Section 3 of this Article shall not apply to any assessment made under the provisions of this Section 5. Any assessment made under authority granted in this, Section 5, shall be assessed and collected in the same manner as the assessments under Sections 3 and 7 of this Article, and the Trustees shall have the same powers of collection and lien rights against the lots as provided in Sections 3 and 7 of this Article. *Lots #25 & 26 shall be exempt from any special assessment unless the Trustees determine that the contemplated project will directly benefit either of such lots. Upon such determination the Trustees shall limit the amount of the special assessment attributable to each such affected lot (lots #25 & #26) to twenty-five per cent (25%) of the agreed upon per lot special assessment attributable to each of the remaining lots. Any such exemption for lots #25 & #26 shall not affect the right of such lot owners to participate in the herein outlined voting procedure.*

#### 6. Prorations.

Should a lot become subject to assessments after January 1 in any year, and should an annual or special assessment have been levied for that year, then such assessment shall be adjusted so that such lot shall be charged with a portion of the assessment prorated for the balance of that calendar year.

#### 7. Interest and Liens.

All assessments shall bear interest at the rate of one percent (1%) over the from time-to-time floating rate of prime interest charged by Enterprise Bank of St. Peters, N.A., St. Peters, Missouri, or such other bank as the Trustees may from time to time designate, to its best and most creditworthy customers from the date of delinquency, and such assessment, together with interest and costs of collection, including, without limitation reasonable attorney's fees, shall constitute a

lien upon the lot against which it is assessed until the amount together with interest and charges, is fully paid. The Trustees may institute any appropriate legal action to enforce such lien, including, without limitation, the sale of the lot by judicially ordered sale or sale pursuant to the procedures for enforcement of special tax liens against real estate. 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 Recorder's Office of St. Charles County, Missouri. The recording of such an instrument shall not be required to perfect the lien above granted. Should a lot owner pay an assessment after the recording of a notice thereof, as herein provided, the Trustees shall cause to be executed and recorded (at the expense of the owner of the affected lot) a release of the said lien.

The lien on the assessments provided for herein shall be subordinate to the lien of any institutional (bank, savings and loan association, pension or retirement fund, insurance company or federally insured mortgage) first mortgage now or hereafter placed upon any lot with respect to which assessments have become due and payable prior to a sale or transfer of such lot pursuant to foreclosure or transfer in lieu of foreclosure. Such sale or transfer shall not relieve such lot from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment. As used herein, the term "mortgage" or "mortgages" shall include deed or deeds of trust.

#### **8. Exemptions.**

The following properties subject to this Indenture shall be exempt from the assessment charges and liens created herein: (i) All Common Land; (ii) All lots owned by Grantors, until occupied as a residence or until title to the lot has been transferred to the first purchaser thereof at retail (as distinguished from sales in bulk or at wholesale to others for development or resale). No lot devoted to residential use shall be exempt from assessment hereunder.

#### **9. Keeping of Funds.**

The Trustees shall deposit the funds coming into their hands as Trustees in a bank or savings and loan protected by the Federal Deposit Insurance Corporation or a similar agency, the treasurer being bonded for the proper performance of his duties in an amount fixed by the Trustees.

#### **10. Ordinance Compliance.**

Notwithstanding any other conditions herein, the Trustees shall make suitable provisions for compliance with all subdivision and other ordinances, rules and regulations of the County of St. Charles, Missouri, or its successor, including, but not limited to, street lights, and for such purposes shall not be limited to the maximum assessment provided for herein.

### **Article VIII Restrictions**

In addition to the limitations and restrictions imposed by other provisions of this Indenture and the Ordinance, the following restrictions are imposed upon and against each lot, and the Common Land.

#### **1. Building Use.**

No building or structure shall, without the approval of the Trustees, be used for a purpose other than that for which the building or structure was originally designed.

**2. Re-subdivision.**

No Lot shall be re-subdivided nor shall a fractional part of any Lot be sold without the consent of the Trustees, which consent shall not be unreasonably withheld. In the event that either of the foregoing is approved, then the assessment attributable to the lot so subdivided shall be pro-rated between the resulting lots. Provided, however, so long as Grantors own any lot, Grantors may re-subdivide lots to correct errors in the original platting or construction, any such re-subdivision by Grantors only will be with the prior consent of the St. Charles County Director of Planning or his Successor.

**3. Commercial Use.**

Except for the promotional activities conducted by Grantors in connection with and the marketing and sale of residences and the conduct of a home occupation (such as Avon and Mary Kay representatives or home offices used in internet marketing by the owner of the premises) in strict accordance with the provisions of the applicable zoning ordinances, no commercial activities of any kind shall be conducted on any lot. Commercial activities are defined as any activity which includes the use of the premises for retail or wholesale sales activities of any product or service; or the warehousing of any product, material or equipment used in or for purposes of retail or wholesale sales or service activities; or the use of the premises as an office or service facility frequented by customers or clients; or any use of the premises that requires the presence of employees engaged in retail or wholesale sales activities or any product or service.

The purpose of this prohibition is to maintain the residential quality of Auburn Meadows. If any activity conducted on the premises becomes a nuisance or annoyance to the neighborhood because of such things as increased traffic, parking limitations or noise, the Trustees may require the Lot Owner to cease such activities, curtail such activities or modify the operation of such activities so as to better preserve the residential quality of Auburn Meadows.

**4. Nuisances.**

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a lot.

**5. Maintenance.**

Each owner shall maintain and keep his/her lot in good order and repair and shall do nothing that would be in violation of the law. The lawns must be mowed and maintained at a height of not more than eight inches.

**6. Obstructions.**

There shall be no obstruction of any portion of the Common Land or any storage or construction or planting thereon by a lot owner. No clothes, laundry or other articles or equipment shall be placed, hung, exposed or stored in any portion of the Common Land or in any portion of the exterior or yard area of any lot or on or about the exterior of any building.

**7. Animals.**

Each lot may maintain one (1) horse per fenced acre of ground along with an approved barn or shelter for the horse or horses. No other animals, reptiles, birds, rabbits, fowl, poultry, cattle or

livestock of any kind shall be brought onto or kept on any lot, except that no more than two dogs, cats, or other household pets (except house pets with vicious propensities) may be kept or maintained on any lot, provided that such pets not be kept for any commercial purpose and provided that no "runs or other outside structures are erected or installed therefore. All owners of household pets must comply with applicable leash laws of the County of St. Charles, Missouri. The keeping of any pet that by reason of noise created by the pet or any other factor constituting a nuisance (as determined by the Trustees in their sole judgment) or annoyance to the neighborhood is prohibited.

**8. Trucks, Boats, Etc.**

Trucks that are larger than 1/2 ton, buses, commercial vehicles, boats, motorcycles, ATVs, campers, house trailers, boat trailers or trailers of any other description shall not be permitted to be parked or stored on any lot unless they are parked or stored in an enclosed garage, accept only during periods of approved construction on the lot. No vehicles will be parked overnight on any public or private street or driveway. If any such motor vehicle or trailer is improperly stored or parked, the Trustees may take the necessary steps to remove the vehicle at the owner's expense. The Trustees may make exceptions to the restrictions contained in this Paragraph 8 so long as such exceptions are in writing and apply uniformly to all lots.

**9. Abandoned Vehicles.**

No abandoned cars, motorcycles, jeeps, trucks or motor vehicles of any kind whatsoever that are unable to move under their own power may be stored or suffered to remain upon any lot. If any such motor vehicle is so stored, parked or remains on a lot, the Trustees may take the necessary steps to remove the vehicle at the owner's expense.

**10. Vehicular Sight Lines.**

No fence, wall, tree, hedge or shrub planting shall be maintained in such manner to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no live tree shall be removed without the written approval of the Trustees.

**11. Temporary Structures.**

Without the express written consent of the Trustees, no structure of a temporary character, trailer, tent, shack, garage, barn or other out building shall be used or maintained on any lot at any time either temporarily or permanently.

**12. Signs.**

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 signs: (i) erected or displayed by Grantors in connection with the development of AUBURN MEADOWS and the marketing and sale of residences therein (ii) one sign on any one lot of not more than five (5) square feet advertising such lot and the residence thereon for sale or rent.

**13. Garbage, Debris and Trash.**

No portion of any Lot shall be used or maintained by anyone as a dumping ground for rubbish, trash or garbage. No rubbish, trash, garbage or any receptacle for the same shall be placed on the exterior of a lot except on the day of regularly scheduled collection or unless such receptacle is expressly approved in writing by the Trustees. The provision of this subparagraph 13 shall not apply to Grantors or its representatives during any period of construction.

**14. Landscaping, Utility and Drainage Easements.**

Easements for installation and maintenance of landscaping, utilities and drainage facilities are established in this Indenture and/or will be reserved as shown on the recorded plats of AUBURN MEADOWS. Within these easements, no structure, planting or other material shall be placed or permitted to remain that may damage or interfere with the installation and maintenance of landscaping or utilities, or that may change the direction or flow of drainage channels in the easements, or that may obstruct or retard the flow of water through drainage channels in the easements. The Trustees are hereby granted Easements in gross for ingress and egress to exercise their rights and obligations concerning such easements.

**15. Mining or Drilling.**

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 designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

**16. Fences.**

No fences or screening of any kind shall be constructed, altered or maintained on any lot between the rear building line of the residence constructed on such lot and the street upon which such lot fronts with the exception of lots 25 & 26 which front Foristell Road. Fences may be constructed, altered or maintained on other portions of the lots only (i) if such fence was constructed by Grantors at the time of the construction of the residence on such lot or (ii) with written consent of the Trustees as to location, material and height, and the decision of the Trustees to approve or reject a fence shall be conclusive. All fencing must be white vinyl railing or ornamental metal. All fencing designed to contain horses must be of white vinyl rail construction. Nothing herein contained shall prevent placement of fences by the Trustees on the Common Land.

**17. Television Antennae.**

No exterior television or radio antennae, towers, satellite dishes greater than eighteen (18) inches in diameter, or similar structures will be allowed on any lot in AUBURN MEADOWS.

**18. Swimming Pools.**

No above-ground swimming pool shall be allowed on any lot. In-ground swimming pools shall be permitted only with the approval of the Trustees pursuant to Article VI hereof.

**19. Air Conditioning Units.**

No window air conditioning units shall be placed in any structure without the prior approval of the Trustees. All central air conditioning compressors shall be placed in such a fashion so as not to be visible from the front sight line of the residence.

**20. Driveways.**

All driveways and approaches to garages or outbuildings designed to accommodate vehicular traffic are to be paved by use of either asphalt or concrete and kept in good repair. No gravel, dirt or unpaved approaches designed to accommodate vehicular traffic are allowed on any lot.



21. Mailboxes.

AUBURN MEADOWS is located in a rural route delivery service area for the United States Postal Service. All mailboxes are to be located per the regulations of the United States Postal Service and all mailbox supports are to be constructed of brick and mortar or stone and mortar and are to compliment the exterior covering of the residence.

22. Vegetable and Crop Gardens.

Vegetable and crop gardens are not to exceed Ten Thousand Square Feet (10,000 Sq. ft.) in size and must be located behind the rear building line of the residence constructed on such lot and the street upon which such lot fronts with the exception of lots 25 & 26 which front Foristell Road.

## Article IX General Provisions

These general provisions shall apply to the foregoing Indenture:

1. Enforcement.

Enforcement of any of the restrictions, covenants, terms and conditions hereof shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any such covenants and may be brought to restrain any such violation and/or to recover damages therefore together with reasonable attorney's fees and court costs. The Trustees and their representatives are hereby granted an easement in gross for access to all of the lots for the purpose of fulfilling the rights and obligations hereby granted them.

2. Actions by Trustees.

The Trustees are authorized to act through a representative, provided, however, that all acts of the Trustees shall be agreed upon by at least a majority of the said Trustees. No Trustee shall be held personally responsible for his wrongful acts, and no Trustee shall be held responsible for the acts of others. No Trustee shall be held personally liable for injury or damage to persons or property by reason of any act or failure to act of the Trustees, collectively or individually. The Trustees from time to time serving hereunder, except Trustees appointed pursuant to Article III, Section 4 hereof, shall not be entitled to any compensation or fee for services performed pursuant to this Indenture.

3. Adjoining Tracts.

The Trustees named hereunder shall be the Trustees of AUBURN MEADOWS and are authorized and empowered to cooperate and contract with Trustees 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.

4. Amendments.

The provisions of this Indenture may be amended, modified, changed or added to from time to time by the Grantors by recording an instrument of amendment in the Office of the Recorder of

Deeds for St. Charles County, Missouri; provided that any amendment, modification, change *or* addition so adopted prior to completion of the development shall be reviewed and approved by the Director of Planning for the County of St. Charles, Missouri or his Successor. Thereafter; the provisions of this Indenture may be amended, modified, changed or added to by the written consent of two-thirds (2/3) of all the owners, with any such amendment, modification, change *or* addition being recorded in the Office of the Recorder of Deeds for St. Charles County, Missouri. No amendment, modification, change or addition shall reduce or modify the obligations or rights granted to or imposed upon the Trustees or eliminate the requirement that there be Trustees unless some person or entity is substituted for the Trustees with their responsibilities and duties in a manner approved by the Director of Planning of the County of St. Charles or his Successor.

**5. Invalidation.**

Invalidation of any one of the covenants of this Indenture shall in no way affect any other provision hereof.

**6. Assignment of Grantors.**

The rights, powers and obligations granted to Grantors may be assigned or transferred by Grantors, in whole or in part, to any other person or entity or persons or entities to whom Grantors sell, transfer or assign all or any of the lots in AUBURN MEADOWS.

**7. Term.**

Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Indenture shall run with and bind the property constituting AUBURN MEADOWS for a term that is the longer of: (i) thirty (30) years from the date of recordation of this Indenture, after which said covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then lot owners of two-thirds (2/3) of the lots subject hereto has been recorded agreeing to terminate this Indenture as of the end of any such ten (10) year period, but in no event prior to the vacation of the plat of AUBURN MEADOWS constituting a portion of AUBURN MEADOWS by the County of St. Charles, Missouri, or its successors; or (ii) as to the subdivision, for the duration of the subdivision encumbered hereby unless continued in effect by the vote of two-thirds (2/3) of the lots in such subdivision by an appropriate instrument filed of record prior to the vacation of such subdivision as aforesaid: No such agreement of termination shall be effective unless made and recorded one (1) year in advance of the effective date of such termination, and unless written notice of the proposed agreement of termination is sent to every lot owner at least ninety (90) days in advance of any action taken. So long as Grantors are the owners of any lot, with the express written approval of the Director of Planning, St. Charles County, Missouri, or his successor, Grantors may remove any such portion from the terms, conditions, restrictions and covenants of this Indenture.

IN WITNESS WHEREOF, Grantors and the Trustees designated herein have executed this Indenture this  
31<sup>st</sup> day of JANUARY, 2005.

Grantor: Blondin and Blondin Properties, LLC  
A Missouri Limited Liability Company,

By: [Signature] JAMES J. BLONDIN  
Its: [Signature]

STATE OF MISSOURI )  
 )SS.  
COUNTY OF ST. CHARLES )

On this 31<sup>st</sup> day of JANUARY, 2005, before me appeared JAMES J. BLONDIN, to me personally known, who, being by me duly sworn, did say that he is the Managing Member of Blondin and Blondin Properties, LLC, a Limited Liability Company of the State of Missouri and that said Indenture of Trust and Restrictions for Auburn Meadows was signed in behalf of said Limited Liability Company, by authority of members; and said JAMES J. BLONDIN acknowledged said instrument to be the free act and deed of the said Limited Liability Company.

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

[Signature]  
Notary Public DONALD E. BECHERER

Donald E Becherer - Notary Public  
Notary Seal for State of  
Missouri - St. Charles County  
My Commission Expires 12/22/2007

My Commission Expires: 12-22-07

Grantor: R & M Pence, LLC  
A Missouri Limited Liability Company,

By: Robert A. Pence Sr. ROBERT A. PENCE SR.

Its: MANAGER

STATE OF MISSOURI )  
 )SS.  
COUNTY OF ST. CHARLES )

On this 31<sup>st</sup> day of JANUARY, 2005, before me appeared ROBERT A. PENCE, SR, to me personally known, who, being by me duly sworn, did say that he is the Managing Member of R & M Pence, LLC, a Limited Liability Company of the State of Missouri and that said Indenture of Trust and Restrictions for Auburn Meadows was signed in behalf of said Limited Liability Company, by authority of members; and said ROBERT A. PENCE, SR acknowledged said instrument to be the free act and deed of the said Limited Liability Company.

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

Donald E Becherer - Notary Public  
Notary Seal for State of  
Missouri - St. Charles County  
My Commission Expires 12/22/2007

Donald E Becherer  
Notary Public DONALD E. BECHERER

My Commission Expires: 12-22-07

Trustees:

James J. Blondin  
James J. Blondin

Robert Pence Sr.  
Robert Pence, Sr.

James A. Blondin  
James A. Blondin

STATE OF MISSOURI           )  
  )SS.  
COUNTY OF ST. CHARLES    )

On this 31<sup>st</sup> day of JANUARY, 2005, before me appeared James J. Blondin, Robert Pence, Sr. and James A. Blondin, to me personally known, who, being by me duly sworn, did say that each is a designated Trustee for Auburn Meadows, a residential subdivision located in the County of St. Charles, State of Missouri, and that each executed the Indenture of Trust and Restrictions for Auburn Meadows and acknowledged said instrument to be the free act and deed of each.

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

Donald E Becherer - Notary Public  
Notary Seal for State of  
Missouri - St. Charles County  
My Commission Expires 12/22/2007

Donald E Becherer  
Notary Public DONALD E BECHERER

My Commission Expires: 12-22-07