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Johnson County Iowa
Kim Painter County Recorder

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RESTRICTIVE COVENANTS

CARDINAL POINTE SOUTH PARTS ONE AND TWO

This Declaration is made by Clear Creek, L.L.C. and The Crossing Development LC, referred to herein collectively as the "Declarant".

**ARTICLE I
Recitals**

1.01 Declarant is the owner of certain real estate in Johnson County, Iowa, described as Cardinal Pointe South Part One and Cardinal Pointe South Part Two, Iowa City, Iowa, according to the recorded plats thereof.

1.02 In order to establish a general plan for the improvement and development of the subdivisions, Declarant desires to impose on certain lots within the subdivisions, restrictions for the benefit of all present and future owners of the Lots and Dwelling Units within the subdivisions.

1.03 It is the intent of the Declarant to impose the obligations under these Restrictive Covenants upon Lots prior to improvement of them and upon Dwelling Units located upon the Lots after improvements are constructed so that benefits and obligations of ownership shall be equitably distributed among the Owners of Property within the Subdivisions. These Restrictive Covenants shall be interpreted and enforced consistent with that intent.

**ARTICLE II
Definitions**

2.01 "Building" shall mean and refer to any structure which is constructed on a Lot subject to these Covenants.

2.02 "Declarant" shall mean and refer to Clear Creek, L.L.C. and The Crossing Development LC, and their successors and assigns.

2.03 "Developer" shall mean and refer to SouthGate Development Services, L.L.C. and its successors and assigns.

2.04 "Lot" shall mean and refer to any numbered parcel of land shown and included within the Plats of Cardinal Pointe South Part One and Cardinal Pointe South Part Two.

2.05 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Dwelling Unit, as those are herein defined, including contract vendees, but excluding those having such interest merely as security for the performance of any obligation such as Mortgagees.

2.06 "Subdivision" shall mean and refer to Cardinal Pointe South Part One and Cardinal Pointe South Part Two, collectively, or to either of them, as the context may require.

2.07 "Association" shall mean and refer to Cardinal Pointe South Homeowners Association.

2.08 "Dwelling Unit" shall mean and refer to a group of adjoining habitable rooms located within a structure and forming a single unit with facilities used or intended to be used by one household for living, sleeping, cooking and eating meals. This shall include detached single family dwellings, duplex units, and condominiums.

In the case of a detached single family dwelling or duplex unit this shall encompass the real estate upon which the structure is situated. In the case of a condominium this shall encompass the Condominium Unit and the appurtenant common elements.

2.09 "Private Open Space" shall mean and refer to those Outlots labeled as such on the final plats of the Subdivisions.

2.10 "Property" shall mean and refer to Lots or Dwelling Units as the context may require, it being the intent of the Declarant to impose the obligations under these Restrictive Covenants upon Lots prior to improvement of them and upon Dwelling Units located upon the Lots after improvements are constructed.

ARTICLE III Applicability

3.01 Declarant hereby declares that all Property in the Subdivision, except Lot 9 Part One, are now held and shall be transferred, sold, leased, conveyed and occupied subject to the restrictions and covenants

herein set forth which are for and shall inure to the benefit of and pass with each and every Lot and Dwelling Unit and apply to and bind the heirs, successors in interest and assigns of each and every Owner.

3.02 Each purchaser of any of the Lots or Dwelling Units covenants and agrees with Declarant, its successors in interest and assigns to use the Lots or Dwelling Units only in accordance with the restrictions herein set forth and to refrain from using the Lots or Dwelling Units in any way inconsistent with or prohibited by the provisions of this Declaration.

3.03 Every person who now or hereinafter owns or acquires any right, title or interest in or to any Lot or Dwelling Unit is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said Lot or Dwelling Unit.

3.04 All restrictions contained herein shall operate as covenants running with the title to the Lots and Dwelling Units and shall inure to the benefit of all Owners of Lots and Dwelling Units within the Subdivision, and their heirs, successors and assigns.

3.05 These Restrictive Covenants shall not be binding upon any of the Lots in the Subdivision so long as said title thereto remains in either Declarant's name.

3.06 Declarant delegates to Developer the right, power, and authority to act on behalf of and in the stead of Declarant for all purposes under these Restrictive Covenants.

ARTICLE IV OWNERS ASSOCIATION

4.01 Private Open Space, and common elements and areas, including central mailbox facilities, within the Subdivision, some being shown as Outlots upon the Subdivision plats, shall be owned and maintained by a not for profit membership corporation organized and existing under Chapter 504, Code of Iowa (2007), as from time to time amended. The name of the corporation shall be Cardinal Pointe South Homeowners Association. Owners of Lots and Dwelling Units shall automatically become members of the Association upon taking title to a Lot or Dwelling Unit in the Subdivision.

4.02 All Owners of Lots and Dwelling Units in the Subdivision shall be bound by and comply with the provisions of the Articles of Incorporation and Bylaws of the Association and applicable provisions of other Association documents. All agreements, regulations and determinations lawfully made by the Association and its directors,

officers, or agents shall be binding on all such Owners and other persons.

A failure to comply with the Bylaws or the provisions of the other Association documents, or any agreement or determination thus lawfully made, shall be grounds for an action to recover sums due for damages on the part of the Association or any Owner, as applicable, and any mandatory or other injunctive relief, without waiving either remedy.

4.03 Each Owner taking title to a Lot or Dwelling Unit agrees that the Association has and shall exercise all powers, rights and authority granted unto it and such as are more particularly set forth in the Association documents, including but not limited to the making of periodic assessments to carry out its functions which shall be chargeable to Owners and which shall be a lien on the Property of the Owner.

Assessments for maintenance of Private Open Space and common areas shall be made against each unimproved Lot or each Dwelling Unit, and each unimproved Lot or Dwelling Unit shall have a prorata share of financial responsibility for maintenance based upon the total number of unimproved Lots and Dwelling Units in the Subdivision. Unimproved Lots owned by the Declarant shall not be subject to assessments, and Lots which front on streets not yet paved shall not be subject to assessments.

4.04 The members of the Association shall consist of all of the record Owners of Lots or Dwelling Units in Cardinal Pointe South Part One and Cardinal Pointe South Part Two. Membership in the Association may be expanded to include owners of lots in subsequent parts of Cardinal Pointe South as those parts are final platted.

Change of membership in the Association shall be established by recording in the public records of Johnson County, Iowa a deed or other instrument establishing record title to a Lot or Dwelling Unit in the Subdivision. The membership of the prior Owner shall be thereby terminated. The members of the Association shall be entitled to cast one vote for each Dwelling Unit, irrespective of the number of Owners of the Dwelling Unit.

4.05 The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as appurtenant to the Lot or Dwelling Unit.

4.06 The affairs of the Association shall be conducted by a Board of Directors who shall be designated in the manner provided in the By-Laws.

4.07 If the Owner(s) of any Lot or Dwelling Unit fail to pay

assessments or fees when due, the Association shall have a lien against the Dwelling Unit. This lien shall exist from the date the assessment or fee is imposed and no filing shall be necessary to evidence the lien. However, the Association shall have the right to file a notice of lien against a Dwelling Unit in the public records of Johnson County. All Owners shall promptly discharge any lien which may hereafter be filed against their Dwelling Unit.

4.08 In the event the Association incurs attorney's fees or other expenses of collection of sums due from a Dwelling Unit Owner(s), the Dwelling Unit Owner(s) shall be liable for and pay those expenses.

4.09 The Association shall not be liable for any injury or damage to property whatsoever unless caused by the gross negligence of the Association. No diminution or abatement of common expense assessments shall be claimed or allowed for inconvenience or discomfort arising from maintenance of the common areas, or from any action taken to comply with any law, ordinance or orders of a government authority.

ARTICLE V
General Restrictions

5.01 With the exception of Lot 9 Part One all the Lots shall be used solely as residential Lots. All structures on all residential Lots shall be set back a minimum of twenty-five (25) feet from the front Lot line.

5.02 No trailer, basement, shack, garage, or barn on a Lot shall at any time be used as a residence temporarily or permanently, nor shall any residence of a temporary nature be permitted.

No detached outbuildings of any type or size are permitted, whether on a slab, foundation, or portable (moveable). This includes, but is not limited to, storage sheds.

5.03 No use will be made of any Lot, or any portion thereof, or any Building or structure thereon, which may be or become an annoyance or nuisance to the neighborhood.

5.04 Each Property Owner shall at all times keep said Owner's Property and the improvements thereon in a safe, clean, neat and sanitary condition.

5.05 No industry, business, trade or profession shall be conducted, maintained or permitted on any Property which would cause an annoyance or nuisance to the neighbors or neighborhood; or which would entail more than occasional clients or customers, except for Lot 9 Part One which is intended for commercial uses.

5.06 No animals, livestock or poultry of any kind shall be raised, bred or kept on any Property except that cats, dogs or other usual household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All pets must be managed by their owners so that they will not become a nuisance to the neighbors. Pets which continually make loud noises, damage flora of neighbors or attack other pets or persons shall be considered a nuisance.

5.07 The Owner of any Building damaged by fire or Act of God shall within ninety (90) days, unless an extension of time is obtained from the Declarant, commence restoration or removal of said building and shall diligently pursue said restoration or removal to completion.

5.08 Outdoor clothes drying equipment shall be permitted only in rear yards. Only "umbrella" single pole outdoor clothes drying equipment shall be permitted. All clotheslines on the umbrella shall be maintained intact at all times and the pole shall be painted or otherwise maintained to maintain a rust-free surface and appearance to the pole.

5.09 Camping trailers, motor homes, boats, trailers, snowmobiles, all terrain vehicles, or similar recreational vehicles or equipment shall not be allowed to be stored anywhere on a Property unless the above equipment is stored in an attached garage.

5.10 No fence shall be constructed on any Lot in the Subdivision closer to the front of the Lot than the front wall of the principal structure located upon the Lot. Fences shall not exceed the height allowed by City Ordinances without a building permit or exception, and shall be constructed of polycovered black chain link, decorative steel or iron, painted or stained wooden fences, or vinyl. All fencing shall be installed and maintained in workman like fashion and shall be painted or stained, replaced, or repaired as needed to meet that standard. Any such fence shall comply with all applicable building and zoning codes. Owners are encouraged to plant shrubs, vines, or other vegetation to make fencing less obvious and more visually pleasing.

5.11 Each Lot Owner agrees to be responsible for the installation of a sidewalk on said Owners Lot in accordance with the Agreement between the Declarant and the City of Iowa City, Iowa.

5.12 Each Owner of a Property shall furnish to the Association a mailing address where notices may be sent to such Owner.

ARTICLE VI
Architectural Control and Construction

6.01 No building, fence, wall or other structure shall be commenced, erected or maintained on any Lot, nor shall any exterior addition to or

change or alteration therein, be made until an application for approval of the plans and specifications shall have been submitted to and approved by the Declarant or its nominee as hereinafter provided. Initially Declarant's nominee shall be the Developer.

6.02 The application for approval shall include complete plans and specifications for the proposed construction. All yards of each Lot shall be sodded at the time the structure on the Lot is completed. An Owner may seek an exception to sodding the rear yard of a Lot due to size or an alternate landscaping or vegetation plan for the rear yard. Any exception must be in writing. The application shall also set forth a time schedule for the construction of such improvements, and in no event will an application be approved when the proposed construction will not be commenced within one (1) year from the date of the application.

6.03. Exterior surfaces of the dwellings shall be constructed only of brick, stone, or horizontal lap siding. No vertical siding of any kind shall be permitted. T-1-11 inverted batten or board and batten are not permitted. Other materials may be permitted when specifically approved in writing by the Declarant. The initial exterior paint color of each dwelling shall be subject to the approval of the Declarant. A-frames, pre-manufactured, or dome houses are not permitted.

6.04 The Declarant or its nominee or assignee shall approve or disapprove the application within a period of thirty (30) days, and in the event of disapproval, shall specify the exact reasons therefore.

6.05 In the event any proposed construction is not commenced within one (1) year from the date said construction has been approved by the Declarant, said approval shall lapse and it shall be the responsibility of the Lot owner to reapply for approval prior to the commencement of construction. Once commenced, construction shall proceed in a reasonably diligent manner to completion; provided, however, that landscaping may be staged over a period not to exceed three (3) years with the prior approval of the Declarant.

6.06 During construction, it shall be the responsibility of each Lot Owner to insure that construction sites, including adjacent properties, are kept free of unsightly accumulations of rubbish and scrap materials and that construction materials are kept in a neat and orderly manner.

6.07 As part of the construction, each Lot owner and Owner's Builder or Contractor shall be responsible for erosion control both during construction and after such construction has been completed. All Lots shall be graded and maintained in such a manner as to minimize erosion, both at the time of construction, and following completion of construction, so as to minimize damage which might result to other Lots as a result of erosion and surface water drainage.

By acceptance of a deed to a Lot each Owner accepts the Declarant's obligations with respect to such Lot for erosion control from the time of delivery of the deed, and each Lot Owner shall enter into a "Lot Erosion Control Agreement" with Declarant in the form prepared by Declarant at the time of Owner's purchase of a Lot within the Subdivision. The Lot Erosion Control Agreement shall, at a minimum, include provisions for transfer to the Owner of the Declarant's obligations under any NPDES permit in effect for the Subdivision or such other permits or plans which may be in effect for the property with respect to soil erosion control.

At any time required by Developer, any party accepting a deed for the Lot or part thereof, and any Outlot, shall execute the appropriate documentation required by the Iowa Department of Natural Resources or other governmental body to release Developer from responsibility for executing a pollution prevention plan (including monitoring and record keeping) as it applies to the Lot for the period of time after the delivery of a Deed for the Lot, and to release Developer from any other obligation for environmental matters for the period of time after delivery of a Deed.

Each Lot Owner and said Owner's Builder or Contractor shall prepare and comply with a Storm Water Pollution Prevention Plan (SWPPP), if a SWPPP is required by statute or regulation, or by any regulatory agency having jurisdiction over the Lot or Lots owned by Owner.

If the Lot Owner fails to execute such an Agreement or fails to cooperate with the Declarant, the Lot Owner shall indemnify and hold harmless the Declarant and Declarant's agents, employees, and contractors, from all liabilities fines, penalties, costs, expenses, and damages arising from such failure by the Lot Owner.

Each Owner and Occupant of any property within the Subdivision shall maintain drainage of surface water from their property so as not to unreasonably alter existing drainage patterns, and avoid unreasonable accumulation of surface water on any Lot within the Subdivision, whether that of the Owner or any adjoining or nearby property.

ARTICLE VII
Enforcement

7.01 Violation or breach of any restrictions and covenants herein contained shall give to Declarant and every other Owner or property for whose benefit these restrictions and covenants are expressly made, the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these restrictions and covenants to enjoin or prevent them from doing so, to

cause said violation to be remedied or to recover damages for said violation.

7.02 The result of every action or omission whereby any restriction or covenant herein contained is violated, in whole or in part, is hereby declared to be and to constitute a nuisance and every remedy allowed at law or in equity against any Owner, shall be applicable against every such result and may be exercised by Declarant or by any owner of a Lot or Dwelling Unit for whose benefit these restrictions and covenants are made.

7.03 In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the prevailing party or parties shall be entitled to recover reasonable attorneys fees, in such amount as may be fixed by the Court in such proceedings. All remedies provided herein at law or in equity shall be cumulative and not exclusive.

7.04 The failure of Declarant or any other property Owner to enforce any restrictions herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right enforce any other restriction or covenants.

ARTICLE VIII
Duration

8.01 This Declaration, every provision hereof and every covenant and restriction contained herein shall continue in full force and effect for a period of twenty (21) years from the date hereof unless otherwise specifically provided. These Restrictions and Covenants may be renewed by any Owner or the Association by filing a claim as provided for in section 614.24 of the Code of Iowa (2007), as from time to time amended.

ARTICLE IX
Validity

9.01 If any provisions of this Declaration is held to be invalid by a court, the invalidity shall not affect the remaining provisions which shall remain in full force and effect.

ARTICLE X
Amendment

10.01 These Restrictive Covenants may be amended by a vote of two-thirds of the Property Owners, provided that so long as the Declarant holds title to any Lot or Dwelling Unit within the Subdivision, no such Amendment shall be effective unless consented to by the Declarant.

