

**FIRST AMENDMENT OF DEDICATION, PROTECTIVE RESTRICTIONS,  
COVENANTS, LIMITATIONS, EASEMENTS AND APPROVALS APPENDED  
TO THE PLAT OF HAWTHORNE PARK ESTATES, SECTION II,  
IN PERRYTOWNSHIP, ALLEN COUNTY, INDIANA**

**WHEREAS**, NPT Development Corp., Inc., an Indiana corporation executed and placed of record that certain dedication, protective restrictions, covenants, limitations, easements and approvals appended to the Plat of Hawthorne Park Estates, Section II, in Perry Township, Allen County, Indiana recorded April 3, 2013, at Document Number 2013018905 in the Office of the Recorder of Allen County, Indiana, (collectively the "Declaration"); and

**WHEREAS**, pursuant to Article 7.27.2 of the Declaration, the Declarant currently has the right to amend the Declaration; and

**WHEREAS**, capitalized terms used herein shall have the same meaning ascribed to them in the Declaration.

**NOW, THEREFORE**, the Declarant hereby amends the Declaration as follows:

1. There is hereby added to Section 5 (which Section is titled "Covenant for the Association Assessments") an additional section, which shall be in addition to and not in lieu of all of the existing provisions of said Section:

A. **Administrative Fees.** The Association may assess against a Lot a reasonable administrative fee for providing each letter (a "Dues Statement Letter") setting forth the status of any annual or special assessments due from any Lot Owner. From time to time, the Association is requested by sellers, buyers, mortgage lenders and real estate closing service providers on behalf of Lot Owners to set forth the current status of payment of annual and special assessments with respect to any Lot. The Association incurs time, cost and expense in providing such letters. The Dues Statement Letter administrative fee is initially fixed at \$65.00 per letter. The Board of Directors of the Association shall have the right to adjust/increase this administrative fee from time to time.

The Association may assess against a Lot a reasonable administrative fee for providing each letter notifying a Lot Owner of any violation or breach of the Declaration in, on, about or arising from that Owner's Lot (a "Notice of Covenant Violation Letter"). The Association from time to time notifies Lot Owners of violations and breaches of the Declaration. The Association incurs time, cost and expense in receiving and reviewing complaints of any Declaration violations, reviewing the pertinent provisions of the Declaration, onsite inspections, consultation

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**2015012889**

**RECORDED: 03/17/2015 10:41:26 AM**

**ANITA MATHER**

**ALLEN COUNTY RECORDER**

**FORT WAYNE, IN**

**AUDITOR'S OFFICE**

Duly entered for taxation. Subject  
to final acceptance for transfer.

**Mar 17 2015**

**TERA K. KLUTZ**

**AUDITOR OF ALLEN COUNTY**

with third parties, mailing and other time, cost and expenses. After the Association has sent a Lot Owner the first Notice of Covenant Violation Letter, the Association may assess a reasonable administrative fee for sending any second and any subsequent Notice of Covenant Violation Letters sent to the Lot Owner for the same or substantially the same violation. The administrative fee for any second and subsequent Notice of Covenant Violation Letters is initially fixed at \$65.00 per letter. The Board of Directors of the Association shall have the right to adjust/increase this administrative fee from time to time. The second and any subsequent Notice of Covenant Violation Letters may not be sent more often than every twenty (20) days. The assessment of this administrative fee shall be in addition to and not in lieu of any other available remedies of the Association, including the recovery of all legal fees, costs and expenses.

The administrative fees for the Dues Statement Letter and the Notice of Covenant Violation Letter shall become delinquent and shall, together with interest, become a continuing lien on the applicable Lot and shall run with the Lot if not paid within thirty (30) days after the date of the issuance of the applicable letter. If the administrative fee for the Dues Statement Letter or the Notice of Covenant Violation Letter is not paid when due, notice of the lien may be recorded in the Recorder's Office and the Association shall have the right to recover the administrative fee against the Lot Owner personally and/or by foreclosing its lien, and pursuing any other remedy that is available to the Association for non-payment of any annual or special assessment, with the same force and effect as if the administrative fee for a Dues Statement Letter or a Notice of Covenant Violation Letter was a delinquent assessment as provided in the Declaration.

2. The original Section 6.8 and Section 6.9 of the Declaration is deleted in its entirety, and Section 6.8 and Section 6.9 is amended and restated in its entirety, and shall now be as follows:

**6.8 Non-liability of Architectural Control Committee.** Plans and specifications are not reviewed for engineering or structural design or quality of materials, or to assure that any improvements constructed pursuant thereto are located within recorded setbacks established by either the Plat, Declaration, Covenants or applicable zoning ordinances, or designed or constructed pursuant to the Declaration, Covenants or building codes, and by approving such plans and specifications, neither the Architectural Control Committee, the Developer, its representatives, nor the Association assumes liability or responsibility therefor for any violation thereof or any defect in any structure constructed from such plans and specifications, nor for any acts or omissions of any Builder in connection therewith. To the maximum extent lawfully allowable, neither the Architectural

Control Committee, the Developer, its representative, the Association, the Board of Directors, nor the officer, directors, members, employees, agents, or any appointed representative of any of them shall be liable by way of any legal or equitable relief or in damages to anyone by reason of any act, omission, mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, modification, or disapproval of any such plans and specifications. Every Lot Owner, for himself and for all parties claimed by or through such Lot Owner, agrees not to bring any action or suit against the Architectural Control Committee, the Developer, its representatives, the Association, the Board of Directors, or the officers, directors, members, employees, agents, or appointed representatives of any of them to recover seeking any legal or equitable relief or damages and hereby releases all of them to the maximum extent lawfully allowable from any and all claims, demands, and causes of action arising out of or in connection with any act, omission, negligence, or nonfeasance and hereby waives the provisions of any law which provide that a general release does extend to claims, demands, and causes of actions not known at the time this release is given.

**6.9 Fence and Landscaping Restrictions.** No fence, tree, bush, shrubbery, earthen mound or other planting or sight obstruction shall be erected, planted or maintained in the rear yard of Lots 34 through 37 and Lots 44 through 51 that unreasonably obstructs the sight or view of lakes and ponds in the Subdivision unless approved by the Architectural Control Committee in its sole and absolute discretion. In exercising its discretion, the Architectural Control Committee may, in its discretion, approve reasonable sight or view obstructions of lakes and ponds in such rear yards in the Subdivision, such as by way of illustration and not limitation, certain types of trees, or black wrought iron fences, and may deny approval of unreasonable sight or view obstruction, such as stockade or chain link fences, spruce trees or arborvitae plantings. The Architectural Control Committee and the Association reserve the right to come on or about Lots 34 through 37 and Lots 44 through 55 to remove sight obstructions, including removing fences or trimming or removing trees, bushes, shrubbery and other plantings or erected sight obstruction located in such rear yards that obstruct the sight or view thereon at the Lot Owner's expense if the Lot Owner fails to promptly eliminate or reduce the sight or view obstruction after written request from the Architectural Control Committee. For purposes of this Section, the rear yard is defined as any portion of these Lots that is located between the rear of the exterior of the residence located on the Lot and the rear Lot line.

4. Except as expressly modified or amended by this First Amendment, all other terms and provisions of the Declaration remain unchanged and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this First Amendment effective as of this 9th day of March, 2015.

"Declarant"

NPT Development, Corp.,  
an Indiana corporation

By: \_\_\_\_\_

Its: President

Printed Name: Joseph L. Zehr

STATE OF INDIANA )

) SS:

COUNTY OF ALLEN )

Before me, the undersigned Notary Public in and for said County and State, personally appeared Joseph L. Zehr, the President of NPT Development Corp., and acknowledged execution of the above and foregoing this 9th day of March, 2015.

My Commission Expires:  
October 17, 2019

Resident of:  
Allen



Signature of Notary Public

Lisa A. Downey

Printed Name of Notary Public

This instrument prepared by VINCENT J. HEINY, Attorney at Law, Haller & Colvin, P.C., 444 East Main Street, Fort Wayne, Indiana 46802, Telephone: (260) 426-0444. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by Law. /s/Vincent J. Heiny