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14060

AUSTIN LAKES NORTH COMMUNITY  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, made this 20 day of JUNE, 1994, by SANDERS DEVELOPMENT GROUP, INC., hereafter referred to as the "Declarant";

WITNESSETH:

WHEREAS, the Declarant is the sole owner of certain real property located in Hendricks County, Indiana, and described as follows:

See attached Exhibit "A"

AND, WHEREAS, the Declarant desires that a dignified, quality residential community be developed and maintained on the said property, that all site planning, building and landscaping be attractive and harmonious with the surroundings and that the peaceful character of the property be protected; and, to these ends, desires to subject the property to the covenants, conditions and restrictions hereinafter set forth, it being intended that such covenants, conditions and restrictions shall run with the land and shall be binding upon all persons and entities having or acquiring any right, title or interest in any portion of the said property, and shall inure to the benefit of each owner thereof;

NOW, THEREFORE, Declarant, for and in consideration of the premises and the covenants contained herein, does hereby impose upon the said real property the following protective covenants, conditions, and restrictions:

1. Name. The subdivision shall be known and designated as Austin Lakes North Subdivision being located in the township of Washington, County of Hendricks, Indiana. All streets, heretofore dedicated to public.

2. Building Line. Front yard set back lines, and side yard set back lines on corner lots are to be as shown on the plat, between buildings or structures erected or maintained.

3. Utility Easements and Drainage. "Utility easements" as shown, shall be reserved for the use of public utilities for the installation of water, sewer, gas, tile and/or electric lines, poles, ducts, pipes, etc., on, over, under, and to said easement for local public use. These easements are not for the use of, and shall not be used for, high voltage

electric transmission lines or high pressure liquid transmission pipe lines, except by written permission of the owner of the land at the time the said transmission line is to be constructed. "Drainage Easements" reserved as drainage swales, and said swales are to be maintained by any owner such that water from any adjacent lot shall have adequate drainage along such swale. All easements shown as "Utility Easements" are also to be considered drainage easements and are subject to all restrictions of drainage easements. No permanent, or other structures are to be erected or maintained upon any easements shown upon the plat and owners of lots shall take their titles subject to the rights of the above described easements.

**4. Land Use and Building Type.** With the exception of the area designated as the park/playground, no lot shall be used except for residential purposes, nor shall any lot be subdivided. No buildings shall be erected, altered, placed, or permitted to remain on any lot other than one single family dwelling across the center lot line, the lot line restrictions shall not apply to the boundary lines dividing any two said lots.

**5. Architectural Control.** No Lot shall be erected, placed or altered on any lot until the construction plans and specifications and the certified plot plan (conforming in all aspects to the plot plan, as required by FHA) have been approved by the architectural committee, as to the quality and type of material and workmanship, in harmony with external design and with existing structures of finished grade elevations. The ground floor of the main structure, exclusive of open porches and garages, shall not be less than 1400 square feet, or at least 800 feet on the first floor of houses of more than one story. (Determination of sufficiency and adequately of the term "ground floor of main structure" with respect architectural dwellings of a tri-level, bi-level, and one and one-half story design shall rest exclusively with the architectural committee). All drainage conduits or tubes for individual lot driveways shall be subject to approval as to size, material and quality of construction by the engineer.

**6. Building Location.** No building shall be located on any lot nearer to the front line, nor nearer to the side street lines than the minimum setback line shown on the recorded plat. For the purpose of this covenant, eaves, steps and open porches shall not be considered a part of the building, provided, that his shall not be constructed to permit any portion of a building on a lot to encroach upon another lot. After the building has been staked and before construction begins, the project engineer must confirm the location of building with the plot plan.

**7. No swimming pool or associated structure shall be erected or placed on any lot until the construction plans,**

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including a plot plan, have been approved by the architectural committee.

8. **Nuisances.** No noxious or offensive activity shall be carried upon any lot, nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood.

9. **Temporary Structures.** No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot as a residence, or for any other purpose, either temporarily or permanently. For the purpose of this covenant, structures needed and used by the builders shall be allowed to remain during the building period.

10. **Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot except family pets, which may be kept, provided, they are not kept, bred or maintained for commercial purposes, and not to create or constitute a nuisance.

11. **Garbage and Refuse Disposal.** No lots shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept except in sanitary containers. All incinerators, shall be kept clean and sanitary and shall not be used so as to create an offensive sight or odor.

12. **Sight Distance At Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet and six 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 twenty-five feet from the intersection of the street line, or in the case of a property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten feet from the intersection of a street's property line with edge of a driveway. No trees shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines.

13. **Fences.** Ornamental fences or continuous shrub plantings which would in any way, serve the purpose of a fence, shall not be erected until approved by the architectural committee.

14. **Storage Tanks.** Oil or gas storage tanks shall either be buried or located within the house or garage area so that

they are completely concealed from the outside view.

15. **Signs.** No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than five square feet, advertising the property for sale or for rent, or signs used by a builder to advertise the property during construction and sales period.

16. **Architectural Committee.** The Architectural Control Committee shall be composed of Sanders Development Group, Inc., its president, Mark E. Sanders, hereinafter called developer, or his assigns, and a professional engineer of his designation. At all times the said developer and/or his assigns shall have the majority vote of said committee. The said developer shall further have the right to designate a representative to act for and on his behalf. The committee's approval, or disapproval, as required in these covenants shall be in writing. In the event that said written approval is not received from the committee within 14 days from the date of submission, it shall be deemed that the committee has disapproved the presented plan.

17. **Violation.** The violations of any restriction, as herein enumerated, shall give to the said developer or its successors, any and all rights for injunction, damage, or any other action at law or equity which it and its assigns may have to restrain and prohibit the same, in keeping with the restrictions herein set out.

18. **Protective Covenants.** The "Protective Covenants" are to run with the land and shall be binding on all parties and all persons claiming them until January 1, 2020, at which time said covenants shall be automatically extended for successive periods of 10 years unless changed by a vote of the majority of the then owners of the building sites covered by these covenants in whole or in part. Invalidation of any one of the covenants, by judgment or court order will in no way affect the other covenants which shall remain in full force and effect.

19. **Lake Maintenance and Common Area Maintenance.** The Homeowners Association will be responsible for the maintenance of the lake and common areas. Homeowners will pay annual assessments for these services as designated by the Developer and or Association once the subdivision meets the sell-out period.

IN WITNESS WHEREOF, THE UNDERSIGNED HAS SET ITS HAND AND SEAL THIS 20<sup>th</sup> DAY OF JUNE, 1994.

*Mark E. Sanders*

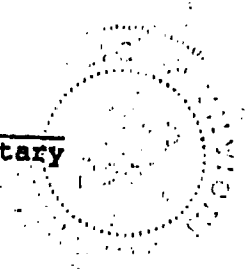
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STATE OF INDIANA )  
COUNTY OF BOONE ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Mark E. Sanders, President of Sanders Development Group, Inc., who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions.

Witness my hand and Notarial Seal this 20<sup>TH</sup> day of June, 1994.

*Jane A. Hendrickson*  
Jane A. Hendrickson, Notary



My Commission Expires:  
6/04/95

County of Residence: Marion

ENTERED FOR RECORD

JUL 7 1994

142 *Jay Beasley* 8:00  
338-342  
HENDRICKS COUNTY RECORDER

Requested By: MIKE R 02/25/2005

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**Cross-Reference:** Austin Lakes North Community Covenants, Conditions and Restrictions recorded with the Recorder of Hendricks County, Indiana on the 7<sup>th</sup> day of July, 1994, in Miscellaneous Book 142, Pages 338-342, as Instrument No. 14060, and the Affidavit recorded with the Recorder of Hendricks County, Indiana, on the 5<sup>th</sup> day of May, 1995, in Book 146, Page 894, as Instrument No. 7096.

### SUPPLEMENT TO AUSTIN LAKES NORTH COMMUNITY COVENANTS, CONDITIONS AND RESTRICTIONS

The SANDERS DEVELOPMENT GROUP, INC., the undersigned, being the "Declarant" identified in the Austin Lakes North Community Covenants, Conditions and Restrictions recorded with the Recorder of Hendricks County, Indiana, on the 7<sup>th</sup> day of July, 1994, in Miscellaneous Book 142, Pages 338-342, as Instrument No. 14060 (hereafter "Covenants") hereby supplements the Covenants as follows:

#### WITNESSETH:

WHEREAS, the Covenants are applicable to (i) *Austin Lakes Section 7*, as per the plat thereof recorded with the Recorder of Hendricks County, Indiana, on the 7<sup>th</sup> day of July, 1994, as Instrument No. 14059, plat cabinet 2, slide 152, pages 1-2, (ii) *Austin Lakes, Section 8* recorded with the Recorder of Hendricks County, Indiana, on the 10<sup>th</sup> day of April, 1995, in plat cabinet 3, slide 41, pages 1-2, as Instrument No. 5485, (iii) *Austin Lakes, Section 9*, recorded with the Recorder of Hendricks County, Indiana, on the 19<sup>th</sup> day of August, 1996, as Instrument Number 9600017686, in plat cabinet 4, slide 12, pages 1-2, (iv) *Austin Lakes, Section 10*, recorded with the Recorder of Hendricks County, Indiana, on the 29<sup>th</sup> day of May, 1997, as Instrument Number 9700010400, in plat cabinet 4, slide 92, pages 1-2, slide 93, page 1, and (v) *Austin Lakes, Section 10A*, recorded with the Recorder of Hendricks County, Indiana, on the 30<sup>th</sup> day of May, 1997, as Instrument Number 9700010545, in plat cabinet 4, slide 94, pages 1-2, and (vi) the real estate described in what is attached hereto and incorporated herein by reference as Exhibit "A" which will subsequently be

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platted into additional sections of Austin Lakes. All of the foregoing real estate shall hereafter collectively be referred to as the "Property".

NOW, THEREFORE, the Declarant hereby declares that all of the Lots (as defined in Article I below) in the Property, as they are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied and improved, are subject to the existing Covenants and are further subject to the following supplemental Covenants, Conditions and Restrictions (hereafter "Supplemental Covenants"), all of which are declared to be in furtherance of a plan for the improvement and sale of the Property and each Lot situated therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the property as a whole and each of the Lots situated therein. The Covenants and Supplemental Covenants shall run with the Property and shall be binding upon the Declarant, its successors and assigns, and upon the parties having or acquiring any interest in the Property or any part or parts thereof subject to these restrictions. These restrictions shall enure to the benefit of the Declarant and its respective successors entitled to the property or any parts thereof.

## ARTICLE I

### *Definitions*

The following terms, when used throughout this Declaration, shall have the following meanings and definitions:

Section 1.1 "Association" means the **AUSTIN LAKES NORTH HOMEOWNERS ASSOCIATION, INC.**, a non-profit corporation, its successors and assigns.

Section 1.2 "Common Area" means: (1) those portions of the Property, including improvements thereto, facilities and personal property owned, to-be-owned, leased or to-be-leased

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by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined), (2) Lake Area, as defined below, and (3) items (if any) deemed Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereafter defined) as a "Block", "Common Area", "C.A.", or such other areas within the Property that are not otherwise identified on the Plat (as hereafter defined) as a lot or street. The Common Area to be conveyed to the Association.

Section 1.3 "Development Period" means that period of time commencing with the Declarant's acquisition of the property and ending when the Declarant has completed the development and sale of, and no longer owns, any Lot or any portion of the property.

Section 1.4 "Lot" or "Lots" means, as the context requires, any parcel or parcels of land designated as such upon the Plat (as hereinafter defined) or, after construction, that parcel of land upon which there is constructed a residence that is conveyed to an Owner (as hereinafter defined) by the Declarant. Subject to any necessary approval of the appropriate governmental authority, a "Lot" may contain portions of real estate greater or less than its originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a residence.

Section 1.5 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declarant.



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Section 1.6 "Plat" means the subdivision plats of the Property, which are recorded with the Recorder of Hendricks County, Indiana, as the same may be hereafter amended or supplemented pursuant to this Declaration.

## ARTICLE II

### *Property Rights, Easements and Encroachments*

Section 2.1 Owners' Easements of Enjoyment of Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to any Common Area, which nonexclusive right and easement or enjoyment shall be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:

(a) The rights of Declarant as provided in this Declaration, as the same may be amended from time to time;

(b) The easements reserved elsewhere in these Supplemental Covenants and the right of the Association to grant further reasonable utility easements across and through the Common Area owned by the Association for the benefit of its members; and

(c) All other rights, obligations and duties as set forth in these Supplemental Covenants, as the same may be from time to time amended or supplemented.

Section 2.2 Delegation of Use. In accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association, and subject to the rights of others as set forth in these Supplemental Covenants, any owner may assign his or her right of enjoyment of the Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

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Section 2.3 Certain Obligations and Access Rights to the Common Area.

(a) Except as otherwise set forth in these Supplemental Covenants, the Association, subject to the rights of the Owners as set forth in these Supplemental Covenants, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area owned by the Association and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted a general right of access and easement to all of the Common Area owned by the Association and across the Lots, at reasonable times and at any time in case of emergency, as reasonably required by its officers, directors, employees and their agents and independent contractors, to the full extent necessary or appropriate to perform its obligations and duties as set forth in these Supplemental Covenants. The easements and rights specified herein also are reserved for the benefit of Declarant so long as Declarant owns any portion of the Property and for so long as Declarant may be liable under any builder's warranty.

Section 2.4 General Drainage, Utility, Sewer and Other Development Easement - The following rights reserved in this Section shall not be exercised, after the conveyance of any Lot, in a manner that (i) unreasonably and adversely affects any Residence or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property.

(a) Declarant hereby reserves unto itself during the Development Period, and thereafter unto

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any public or private utility, a general easement ("Drainage, Utility and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennae and other equipment and facilities) to serve any Residence constructed on the Property. Any Drainage, Utility, Sewer and other Development Easement shall include all areas of the Property outside any Residence, with the exception of any areas covered by chimneys, or patios. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Association, of any Common Area. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an easement ("Lake Easement") and right-of-way in and to any Lake Area (s) or areas now or hereafter shown on the Plat as a "Block", "Common Area", or "Lake" or any other Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in these Supplemental Covenants and/or establishing and maintaining proper surface water drainage

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throughout the Property, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Association deem necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(c) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the right and an undefined sign and facilities easement ("Sign and Facilities Easement") to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or

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permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hendricks County, Indiana.

(e) The title of the Association (as to the Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

Section 2.5 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area.

Section 2.6 Fee Title to Lot. The fee title to any Lot described as bounded by any street, lane, walkway, park, pond, lake, or any other common property which has not been dedicated or accepted by the public and the fee title to any Lot shown on any Plat as abutting upon any such common property shall not extend upon such common property and the fee title to such common property is reserved to the grantor to be conveyed to the Association.

Section 2.7 Designated Drainage, Utility, and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, utility easements, sewer easements, sanitary sewer easements and storm sewer easements, or any combination thereof, which are hereby reserved to the

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appropriate governmental entities, public utilities, and private utilities for the installation and maintenance of swales, ditches, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities. Purchasers of Lots in this subdivision shall take title subject to such easements hereby created and subject at all times to the rights of proper authorities to service and maintain such drainage facilities and easements, and no permanent structure of any kind and no part thereof except fences which do not retard or impede the flow of drainage water and which receive the requisite architectural approval, shall be built, erected or maintained on said drainage easements, except by the Declarant or its assigns. It shall be the responsibility of the Association and the Owners of the areas enclosed within such easements to maintain such areas in such conditions that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department or any private or public utility. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to such areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. It shall be the responsibility of the Association and the Owner of any Lot or parcel of land within the Plat to comply at all times with the provisions of the drainage plan as approved for the applicable Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the Declarant, the developer, or their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

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Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners of other land contained within the Plat, upstream and downstream. It shall be the responsibility of the Association and the Owners of these natural valleys and channels to use their land and maintain said natural valleys and channels in such manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

Section 2.8 Designated Mounding, Landscaping, and Screening and Sign Easements. Any strips of grounds shown or designated on the Plat for (i) mounding easements, (ii) landscape or landscape maintenance easements, and/or (iii) sign easements, are hereby reserved for such (i) mounding easements, (ii) landscape easements and/or landscape maintenance easements and/or (iii) sign easements. Declarant hereby reserves unto itself during the Development Period, and, thereafter, unto the Association, any such easements for the purposes of (i) providing signs which either advertise the Property and the availability of Lots or identify the Property or, (ii) installing landscaping, mounding, and screening. Declarant reserves unto itself during the Development Period and thereafter unto the Association, the exclusive and sole right to erect signs and install landscaping, mounding, and screening within these strips of ground shown on the Plat as landscaping, mounding, and sign easements. Notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period. Furthermore, notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, or other improvements shall be erected between (i) any landscape easement or landscape maintenance easement, and (ii) any perimeter roadway,

public highway or right-of-way along the perimeter or boundary of the Property, except by the Declarant.

Section 2.9 Street Dedication. All streets now or hereafter located upon the Property are hereby dedicated to the public.

### ARTICLE III

#### *Association Membership, Voting Rights, Board of Directors and Professional Management*

Section 3.1 Membership. Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 3.2 Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.



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Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) when the total number of votes outstanding in the Class A membership is equal to the total number of votes outstanding in the Class B membership; or, (b) December 31, 2012 .

Section 3.3 Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

#### ARTICLE IV

##### *Mortgages*

Section 4.1 Mortgagee Rights. In addition to any other rights provided elsewhere in these Supplemental Covenants to mortgagees, any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Common Area owned by the Association or any other property owned by the Association; and may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this Section shall be entitled to

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immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 4.2 Right of First Refusal. The Association DOES NOT have the "right of first refusal" to purchase any Dwelling Unit. Any right of "right of first refusal" subsequently granted to the Association through amendment of the covenants of these Supplemental Covenants, Association Articles, Association By-Laws or any other document governing the development and administration of the Properties must receive the prior written approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development. Any "right of first refusal" subsequently added to the covenants of these Supplemental Covenants, Association Articles, Association By-Laws or any other document governing the development and administration of the Property must not impair the rights of a first mortgagee to:

(a) Foreclose or take title to a residence, and the Lot upon which the residence is situated, pursuant to the remedies in the mortgage;

(b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor;

or

(c) Sell or lease a unit acquired by the mortgagee.

Section 4.3 Unpaid Dues or Charges. Any first mortgagee who obtains title to a residence, and the Lot upon which the residence is situated, pursuant to the remedies in the mortgage or through foreclosure, will not be liable for the residence's unpaid dues or charges accrued before the acquisition of the title to the residence by the mortgagee.

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## ARTICLE V

### *General Provisions*

Section 5.1 Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 5.2 Amendment. These Supplemental Covenants and the covenants, conditions and restrictions set forth in these Supplemental Covenants, as from time to time amended in the manner hereafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties closing under them. These Supplemental Covenants may be amended or modified at any time by an instrument recorded in the Office of the Recorder of Hendricks County, Indiana, approved and signed by at least seventy-five percent (75%) of the then Owners. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. Except as prohibited below, these Supplemental Covenants may also be amended by Declarant, if it then has any ownership interest in the Property, at any time within four (4) years after the recordation hereof. Any amendment must be recorded. Neither the Association, the Owners or Declarant shall effect any of the following changes without the prior written approval of two-thirds (2/3) of the Owners of Lots

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(excluding Declarant or Builder):


(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Owners. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area owned by the Association by the Owners is not a transfer in the meaning of this clause;

Section 5.3 HUD Amendment Approval. All other provisions of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property notwithstanding, so long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development:

- (a) Annexation of additional properties;
- (b) Dedication or Mortgaging of Common Area; and
- (c) Amendment of the Covenants or these Supplemental Covenants.

**SANDERS DEVELOPMENT GROUP, INC.,  
an Indiana corporation**

Dated: 6-29-99

By:   
Mark Sanders, President

9900019789  
Filed for Record in  
HENDRICKS COUNTY IN  
THERESA D LYNCH  
On 07-01-1999 At 02:45 pm.  
COVENANTS 50.00  
Vol. 129 Pg. 693 - 712

Requested By: MIKE R 02/25/2005

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STATE OF INDIANA )  
 ) SS:  
COUNTY OF Hendricks )

Before me, a Notary Public in and for said County and State, personally appeared Mark Sanders, for and on behalf of *Sanders Development Group, Inc., an Indiana corporation*, who acknowledged the execution of the foregoing, and who, having been duly sworn, stated that any representations therein contained are true.

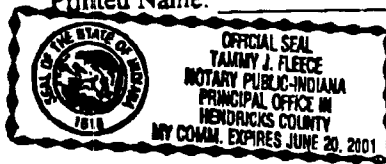
Witness my hand and Notarial Seal this 29th day of June, 1999.

My Commission Expires: \_\_\_\_\_

Tammy J. Fleece  
Notary Public

Residing in \_\_\_\_\_ County

Printed Name: \_\_\_\_\_



This Instrument was Prepared by: Charles D. Frankenberger, Nelson & Frankenberger, 3021 East 98<sup>th</sup> Street, Suite 220, Indianapolis, Indiana 46280 (317) 844-0106

F:\User\dm\TRI-NORTH\m16 Lates NORTH\m16\m16 to CCRa.wpd

## EXHIBIT "A" Page 1

M

A part of the Northeast Quarter and Northwest Quarter of Section 1, Township 15 North, Range 1 East, Washington Township, Hendricks County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of said Quarter Section, thence North 89 degrees 09 minutes 46 seconds East (assumed bearing) along the South line thereof and along the South line of Austin Lakes, Section 8, the plat of which is recorded in Plat Cabinet 3, Slide 41, pages 1 and 2 in the Office of the Recorder of Hendricks County, Indiana a distance of 750.30 feet to the Southeast corner of said Austin Lakes, Section 8, said Southeast corner being also the Southwest corner of Austin Lakes, Section 9, the plat of which is recorded in Plat Cabinet 4, Slide 12, pages 1 and 2 in said Office of the Recorder ( the next eleven described courses being along said Austin Lakes Section 9); 1.) thence continue North 89 degrees 09 minutes 46 seconds East along the South line of said Quarter Section a distance of 602.88 feet to a point which bears South 89 degrees 09 minutes 46 seconds West 2.20 feet from the Southeast corner of the Southwest Quarter of said Northeast Quarter Section; 2.) thence North 01 degrees 05 minutes 40 seconds West a distance of 715.50 feet to the Northwest corner of land described in Deed Record 225, pages 227 and 228 in the said Recorder's Office; 3.) thence North 89 degrees 19 minutes 04 seconds East along the North line of said land a distance of 2.20 feet to the East line of the Southwest Quarter of the said Northeast Quarter Section; 4.) thence North 01 degrees 05 minutes 40 seconds West 185.09 feet along the said East line to the Point of Beginning; 5.) thence South 89 degrees 04 minutes 04 seconds West a distance of 164.75 feet; 6.) thence North 00 degrees 55 minutes 56 seconds West a distance of 114.19 feet; 7.) thence South 89 degrees 04 minutes 04 seconds West a distance of 140.00 feet; 8.) thence South 00 degrees 55 minutes 56 seconds East a distance of 199.91 feet; 9.) thence South 89 degrees 04 minutes 04 seconds West a distance of 57.82 feet; 10.) thence South 00 degrees 55 minutes 56 seconds East a distance of 140.00 feet; 11.) thence South 89 degrees 04 minutes 04 seconds West a distance of 800.00 feet to the Northeast corner of said Austin Lakes, Section 8; thence North 00 degrees 55 minutes 56 seconds West a distance of 190.00 feet; thence North 89 degrees 04 minutes 04 seconds East a distance of 57.82 feet; thence North 00 degrees 55 minutes 56 seconds West a distance of 90.00 feet; thence South 89 degrees 04 minutes 04 seconds West a distance of 329.58 feet; thence North 00 degrees 55 minutes 56 seconds West a distance of 191.34 feet; thence North 32 degrees 25 minutes 00 seconds East a distance of 111.08 feet; thence North 48 degrees 26 minutes 34 seconds East a distance of 110.75 feet; thence North 64 degrees 34 minutes 31 seconds East a distance of 111.03 feet; thence North 89 degrees 04 minutes 04 seconds East a distance of 570.13 feet; thence North 00 degrees 45 minutes 01 seconds West a distance of 108.58 feet; thence North 89 degrees 14 minutes 59 seconds East a distance of 190.00 feet; thence South 00 degrees 45 minutes 01 seconds East a distance of 19.91 feet; thence North 89 degrees 14 minutes 59 seconds East a distance of 120.90 feet; thence South 00 degrees 45 minutes 01 seconds East a distance of 98.07 feet to the South line of the Northwest Quarter of said Northeast Quarter; thence North 88 degrees 20 minutes 20 seconds East along said South line to the Southeast corner of said Quarter-Quarter section; thence South 01 degrees 05 minutes 40 seconds East along the East line of said Northeast Quarter section a distance of 450.06 feet to the Point of Beginning, containing 18.675 acres, more or less.

## EXHIBIT "A" Page 2

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A part of the Northwest Quarter of the Northeast Quarter of Section 1, Township 15 North, Range 1 East, Washington Township, Hendricks County, Indiana, more particularly described as follows:

Commencing at the Northwest Corner of said Northeast Quarter; thence North 88 degrees 25 minutes 08 seconds East, along the North line of said Quarter, a distance of 204.80 feet to the **Point of Beginning**; thence continue North 88 degrees 25 minutes 06 seconds East, along said North line, a distance of 836.70 feet; thence South 00 degrees 45 minutes 01 seconds East a distance of 1315.28 feet; thence South 89 degrees 14 minutes 59 seconds West a distance of 120.90 feet; thence North 00 degrees 45 minutes 01 seconds West a distance of 19.91 feet; thence South 89 degrees 14 minutes 59 seconds West a distance of 190.00 feet to a point on the East line of Austin Lakes Section 10 as recorded in Plat Cabinet 4, Slide 92, pages 1 & 2, and Slide 93, page 1 in the Office of the Hendricks County Recorder; thence North 00 degrees 45 minutes 01 seconds West, along said East line, a distance of 77.53 feet to the Northeast corner of Austin Lakes Section 10; thence South 89 degrees 14 minutes 59 seconds West along the North line of Austin Lakes Section 10 a distance of 190.00 feet; thence North 00 degrees 45 minutes 01 seconds West a distance of 140.00 feet; thence South 89 degrees 14 minutes 59 seconds West a distance of 60.00 feet; thence North 00 degrees 45 minutes 01 seconds West a distance of 612.20 feet; thence North 89 degrees 14 minutes 59 seconds East a distance of 69.48 feet; thence North 00 degrees 45 minutes 01 seconds West a distance of 94.08 feet; thence North 37 degrees 30 minutes 01 seconds West a distance of 111.99 feet to a point on a curve to the left having a radius of 280.00 feet, the radius point of which bears South 37 degrees 30 minutes 01 seconds East; thence Southwesterly along said curve an arc distance of 18.33 feet to a point that bears North 41 degrees 15 minutes 01 seconds West from said radius point; thence North 41 degrees 15 minutes 01 seconds West 207.98 feet; thence South 43 degrees 13 minutes 25 seconds West a distance of 199.89 feet; thence North 00 degrees 45 minutes 01 seconds West a distance of 266.83 feet to the **Point of Beginning**, containing 16.91 acres, more or less

## EXHIBIT "A" Page 3

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Part of the Northeast and Northwest Quarters of Section 1, Township 15 North, Range 1 East, Washington Township, Hendricks County, Indiana, more particularly described as follows:

Commencing at the Northeast Corner of said Northwest Quarter; thence South 88 degrees 34 minutes 11 seconds West, along the North line of said Quarter Section, a distance of 15.00 feet to the Northwest corner of land described as Parcel "A-1" in Deed Record 288, Page 362 in the Office of the Hendricks County Recorder and the **Point of Beginning**; thence South 00 degrees 45 minutes 01 seconds East, along the West line of said Parcel "A-1", a distance of 850.04 feet; thence North 88 degrees 25 minutes 06 seconds East a distance of 219.80 feet to the Southeast corner of land described as Parcel "A" in Deed Record 288, Page 362 in said Recorder's Office; thence North 00 degrees 45 minutes 01 seconds West, along the East line of Parcel "A", a distance of 583.17 feet; thence North 43 degrees 13 minutes 25 seconds East a distance of 199.89 feet; thence South 41 degrees 15 minutes 01 seconds East a distance of 207.98 feet to a point on a curve having a radius of 280.00 feet, the radius point of which bears South 41 degrees 15 minutes 01 seconds East; thence Northeasterly along said curve an arc distance of 18.33 feet to a point that bears North 37 degrees 30 minutes 01 seconds West from said radius point; thence South 37 degrees 30 minutes 01 seconds East a distance of 111.99 feet; thence South 00 degrees 45 minutes 01 seconds East a distance of 94.08 feet; thence South 89 degrees 14 minutes 59 seconds West a distance of 69.48 feet; thence South 00 degrees 45 minutes 01 seconds East a distance of 612.20 feet; thence North 89 degrees 14 minutes 59 seconds East a distance of 50.00 feet; thence South 00 degrees 45 minutes 01 seconds East a distance of 140.00 feet to the North line of Austin Lakes Section 10 as recorded in Plat Cabinet 4, Slide 92, Pages 1 & 2, and Slide 93, Page 1 in the Office of the Hendricks County Recorder (the next 15 courses being along the Northerly lines of Austin Lakes Section 10): 1) thence South 89 degrees 14 minutes 59 seconds West a distance of 880.00 feet; 2) thence South 17 degrees 03 minutes 20 seconds West a distance of 222.71 feet; 3) thence South 34 degrees 40 minutes 55 seconds West a distance of 176.31 feet; 4) thence North 46 degrees 26 minutes 19 seconds West a distance of 136.68 feet to a point on a curve having a radius of 460.00 feet, the radius point of which bears North 46 degrees 26 minutes 19 seconds West; 5) thence Northeasterly along said curve an arc distance of 24.83 feet to a point that bears South 49 degrees 31 minutes 51 seconds East from said radius point; 6) thence North 49 degrees 31 minutes 51 seconds West a distance of 183.84 feet; 7) thence South 43 degrees 21 minutes 13 seconds West a distance of 85.68 feet to a point on a curve to the left having a radius of 575.00 feet, the radius point of which bears North 74 degrees 50 minutes 11 seconds East; 8) thence Southeasterly along said curve an arc distance of 47.86 to a point that bears South 70 degrees 04



minutes 04 seconds West from said radius point; 9) thence South 19 degrees 55 minutes 56 seconds West a distance of 55.70 feet; 10) thence South 70 degrees 04 minutes 04 seconds West a distance of 50.00 feet; 11) thence South 19 degrees 55 minutes 58 seconds East a distance of 86.70 feet to the point of curvature of a curve to the left having a radius of 525.00 feet, the radius point of which bears North 70 degrees 04 minutes 04 seconds East; 12) thence Southeasterly along said curve an arc distance of 138.50 feet to a point that bears South 54 degrees 57 minutes 09 seconds West from said radius point; 13) thence South 54 degrees 57 minutes 09 seconds West a distance of 133.59 feet; 14) thence North 65 degrees 19 minutes 00 seconds West a distance of 90.56 feet; 15) thence South 89 degrees 08 minutes 20 seconds West a distance of 181.80 feet to the Southeast corner of Austin Lakes Section 10A as recorded in Plat Cabinet 4, Slide 94, Pages 1 & 2 in the Office of the Hendricks County Recorder; thence North 00 degrees 51 minutes 40 seconds West, along the East line of Austin Lakes Section 10A, a distance of 325.00 feet to the Northeast corner of Austin Lakes Section 10A; thence North 89 degrees 08 minutes 20 seconds East a distance of 80.00 feet; thence North 00 degrees 14 minutes 36 seconds West a distance of 35.81 feet; thence North 88 degrees 49 minutes 25 seconds East a distance of 4.38 feet to the Southeast corner of a tract of land described in Deed Record 312, Pages 81-83 in the Office of the Hendricks County Recorder; thence North 00 degrees 20 minutes 47 seconds West, along the East line of said tract, a distance of 1149.11 feet; thence North 88 degrees 34 minutes 11 seconds East a distance of 200.32 feet to the Southeast corner of a tract of land described in Deed Record 323, Page 891 in said Recorder's Office; thence North 01 degrees 38 minutes 49 seconds West, along the East line of said tract, a distance of 220.00 feet to the North line of the Northwest Quarter; thence North 88 degrees 34 minutes 11 seconds East, along said North line a distance of 52.46 feet to the Northwest corner of a Right of Way Dedication recorded in Volume 51, Pages 771 & 772 in said Recorder's Office; thence South 00 degrees 54 minutes 27 seconds East, along the West line of said Right of Way Dedication, a distance of 20.00 feet to the Southwest corner of said Dedication; thence South 86 degrees 20 minutes 48 seconds East, along the South line of said Dedication, a distance of 140.68 feet to the West line of a tract of land described in Deed Record 324, Page 756 in said Recorder's Office; thence South 01 degrees 25 minutes 49 seconds East, along the West line of said tract, a distance of 187.54 feet to the Southwest corner of said tract; thence North 88 degrees 34 minutes 11 seconds East, along the South line of said tract, a distance of 170.00 feet to the Southeast corner of said tract; thence North 01 degrees 25 minutes 49 seconds West, along the East line of said tract, a distance of 180.00 feet to the South line of said Right of Way Dedication; thence North 88 degrees 34 minutes 11 seconds East, along said South line, a distance of 64.71 feet; thence North 83 degrees 29 minutes 39 seconds East, along said South line, a distance of 228.08 feet to the Southeast corner of said Dedication; thence North 00 degrees 54 minutes 27 seconds West, along the East line of said Dedication, 20.00 feet to the Northwest corner of said Dedication and the North line of the Northwest Quarter; thence North 88 degrees 34 minutes 11 seconds East, along said North line 130.64 feet to the Point of Beginning, containing 39.34 acres, more or less.