

8809406

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION made this 19 day of May, 1988, by
THE C. P. MORGAN CO., INC., an Indiana corporation ("Developer"),
WITNESSETH THAT:

WHEREAS, Developer is the owner of certain property located
in Hamilton County, Indiana, which is more particularly described
in Exhibit "A" attached hereto and by reference made a part
hereof, a portion of which has been subdivided for development of
single family housing (the "Development") as more particularly
described on the plat thereof recorded on February 2, 1988, in
Book 15, Pages 46-49, in the office of the Recorder of Hamilton
County, Indiana; and

This Instrument Recorded 5-20 1988
Sharon K. Cherry, Recorder, Hamilton County, Ky

WHEREAS, Developer is about to sell and convey the
residential lots situated within the Development and, before
doing so, desires to subject and impose upon all real estate
located within the Development mutual and beneficial
restrictions, covenants, conditions and charges (the
"Restrictions") under a general plan or scheme of improvement and
maintenance for the benefit of the lots and lands in the
Development and future owners thereof; and

WHEREAS, Developer has caused or will cause the incorporation
of Charleston Crossing Homeowners Association, Inc., an Indiana
not-for-profit corporation, for performing certain duties
hereinafter set forth:

NOW, THEREFORE, Developer hereby declares that all of the
lots and lands located within the Development shall be held,
sold, conveyed and improved, subject to the following
Restrictions, all of which are declared and agreed to be in
furtherance of a plan for the improvement and maintenance of said
lots and land in the Development, and are established and agreed
upon for the purpose of enhancing and protecting the value,
desirability and attractiveness of the Development as a whole and
of each of said lots situated therein. All of the Restrictions
shall run with the land and shall be binding upon Developer and
upon the parties having or acquiring any right, title or

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SHARON K. CHERRY
RECORDER
HAMILTON COUNTY, KY

interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Charleston Crossing Homeowners Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

Section 2. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 3. "Common Area" shall mean those areas set aside, leased or owned by the Association for the benefit, use and enjoyment of the Owners and personal property leased or owned by the Association for the benefit, use and enjoyment of the Owners.

Section 4. "Developer" shall mean and refer to The C. P. Morgan Co., Inc., an Indiana corporation.

Section 5. "Development" shall mean and refer to the residential development which now exists or may hereafter be created within the real estate located in Hamilton County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by reference made a part hereof.

Section 6. "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by any plat of the Development which is recorded in the office of the Recorder of Hamilton County, Indiana.

ARTICLE II

COMMON AREAS

Section 1. Members' Rights and Easements of Enjoyment.
Every member shall have a non-exclusive right and easement in and to the Common Areas which shall be appurtenant to and shall pass with membership in the Association subject to the following provisions:

- (a) The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Areas;
- (b) The rights of Developer as provided in this Declaration; and
- (c) All other rights, obligations and duties as set forth in this Declaration, as the same may be supplemented or amended.

Section 2. Use of Common Areas. The Association shall have the right to construct on or within the Common Areas as shown on the various plats of Charleston Crossing as recorded in the Office of the Recorder of Hamilton County, Indiana, for the benefit of all members, which improvements may include theme signage at the entrance to the Development, parks, picnic areas or playgrounds, provided, however, that such improvements do not interfere with the primary purpose of such Common Areas for the detention of surface drainage.

ARTICLE III
ASSOCIATION MEMBERSHIP
AND VOTING RIGHTS

Section 1. Members. Every Owner of a Lot which is subject to assessment and Developer shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Class of Members. The Association shall have two (2) classes of membership:

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

Class B. Class B member shall be the Developer, which shall be entitled to three (3) votes for each Lot owned at any time. Class B membership of Developer shall expire at such time as Developer no longer retains an ownership interest in the Development.

Section 3. Association. The Class A and B members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association.

Section 4. Mandatory Membership. Membership shall be mandatory with mandatory assessments as hereinafter provided and shall be subject to any reasonable rules and regulations of the Association not in conflict with the provisions hereof, the Articles of Incorporation and By-Laws of the Association and any applicable federal, state or local constitution, statute, ordinance, rule or regulation. Such rules and regulations shall be applied uniformly and in a non-discriminatory manner except as provided herein.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Personal Obligation and Lien of Assessments. Developer, for each Lot owned within the Development, hereby covenants and each Owner is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements and operating deficits; such assessments to be established and collected as hereinafter provided. The assessments described herein shall be mandatory upon all of the Lots and shall commence at the time a lot is conveyed to an Owner (other than to a builder during the construction period). The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with

interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by such successors.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the members of the Association and for the maintenance of the Common Areas and other purposes as specifically provided herein.

Section 3. Maximum Annual Assessments.

(a) Until January 1, 1991, the maximum annual assessment on any Lot conveyed by Developer shall be One Hundred and no/100 Dollars (\$100.00) per Lot.

(b) Thereafter, the maximum annual assessment may be increased by not more than twenty per cent (20%) in any year by the Board of Directors.

(c) The maximum annual assessment may be increased by more than twenty per cent (20%) in any year by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any property which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4

shall be sent to all members at least ten (10) days in advance of the meeting. The presence in person or of proxies of members entitled to vote constituting the representation of a majority of the total votes shall constitute a quorum.

Section 6. Uniform Rate of Assessment. Both annual and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all members and may be collected on an annual or monthly basis as determined by the Board of Directors.

Section 7. Due Dates and Notices. The Board of Directors shall fix any increase in the amount of the annual assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every member subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments as to a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If any assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen per cent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action in favor of the prevailing party.

No Owner may waive or otherwise escape liability for assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

DEVELOPER'S RIGHTS

So long as Developer owns any Lot in the Development, Developer shall, at its option, have the right to perform the functions of the Association and the Board of Directors and to manage the Common Areas. Developer's right to manage shall include the right to set annual assessments subject to the limitations herein contained and provided that such assessments shall be reasonably related to the actual cost of maintaining and operating the Common Areas and to adopt rules and regulations governing the use of the Development. Such rights shall be subject to the following:

(a) Developer may manage or cause to be managed the Development and it shall have the right to assess and collect the

maximum annual assessment as set forth in Article IV, Section 3 above. After January 1, 1991, Developer may increase the amount of annual assessment so long as such increase shall not exceed the maximum percentage increase permitted by such Article IV, Section 3, without vote of the members, unless a greater increase is approved by the membership as therein provided.

(b) Developer shall have the right to transfer the management of the Development, or any part thereof, to the Association at any time it believes that the Association is able to manage the Development without undue difficulty. Developer's right to manage the Properties shall expire when Developer no longer retains any ownership interest in any portion of the Lots. So long as the management of the Association is being borne by Developer, the rights of the Association to manage the Lots and set assessments shall be suspended.

ARTICLE VI

MAINTENANCE

Maintenance Obligations of Association. The Association shall provide all maintenance and repairs upon the Common Areas as deemed necessary or appropriate by the Board of Directors. The Board shall further make reasonable arrangements for snow removal from the public streets within the Development.

In the event that the need for maintenance or repair is caused through the willful or negligent act of any member, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment for which such member is liable, shall be deemed to be a mandatory assessment as to any Owner and shall be the personal obligation of such member enforceable as provided in Article IV, Section 8.

ARTICLE VII

INSURANCE

Section 1. Liability Insurance. The Association may purchase liability insurance in such amount or amounts and in

such form as the Board of Directors shall deem appropriate from time to time. Such liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, Developer (if it has any interest in the Properties), all Owners and all other persons as the Board of Directors may determine.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, Developer, the Association, its Board of Directors and any managing agent acting on behalf of the Association.

Section 2. Casualty and Restoration. Damage to or destruction of the Common Areas or any portion thereof shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.

ARTICLE VIII

EASEMENTS

Section 1. By Developer. Developer hereby reserves an easement unto itself and hereby reserves unto itself the right to sell, convey, transfer and grant an easement or easements and rights-of-way across and through the Common Areas for the purposes of installing ditches, tiles, pipes and other types of drains, sewers and sewer lines, utility lines, ducts, wires, pipes and the like. Developer further reserves unto itself the right to dedicate any portion of the Common Areas or any utility line, sewer, drain, roadway or the like to any governmental body, municipality, utility or the like, including the right to dedicate public streets and roads. The interest of each member of the Association in the Common Areas shall be and is subject to

the easements and rights hereby created and shall be and is subject at all times to the right of property authorities who service the utilities and easements hereby created or hereafter granted. Any such grant by Developer shall be by recorded instrument. This right of Developer shall expire at such time Developer no longer retains any ownership interest in the Development.

Section 2. By the Association. Subject to the easements and rights specified in Section 1 hereof, the Association shall have the right to sell, convey, transfer and grant easements and rights-of-way across and through the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. Such sale, conveyance, transfer, grant or dedication shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for such purpose; provided, however, no grantee shall be required to ascertain the compliance with the terms and provisions hereof regarding such member approval and may rely upon the representations of the Board of Directors and the officers of the Association. Any instrument duly executed by the officers of the Association granting any easement or dedication as herein provided shall be binding upon the Association as to any grantee taking in good faith.

ARTICLE X

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Developer, the Association, the persons in ownership from time to time of the Lots or other real estate within the Development 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 2. Amendment. This Declaration may be amended at any time by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, executed by the Association and approved by at least a majority of Class A and B members; provided, however, none of the rights or obligations of Developer reserved hereunder may be amended or changed without Developer's written and recorded approval. This Declaration may be amended by Developer, if it then has any ownership interest in the Development, at any time within two (2) years after the recordation hereof by written instrument recorded in the Office of the Recorder of Hamilton County, Indiana. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty-five (25) years from the date of recordation in the Office of the Recorder of Hamilton County, Indiana, and shall be automatically extended for successive periods of ten (10) years each unless prior to the expiration of any such ten (10)-year period it is amended in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3. Annexation. Additional property may be annexed to the Development by Developer within two (2) years from the date of recordation hereof by the recording of a declaration applicable to such annexed real estate which incorporates the terms of this Declaration. Thereafter, additional property may be annexed to the Developer with the consent of a majority of the members of the Association by the recording of a declaration

applicable to such annexed real estate which incorporates the terms of this Declaration.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed as of the date first above written.

THE C. P. MORGAN CO., INC.

By: William Blake
William Blake, Sr. Vice President

ATTEST:

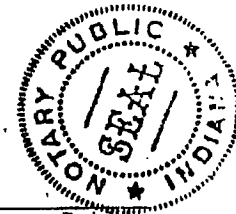
Stephen C. Mackey
Stephen C. Mackey, Vice President Sales/Marketing

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared William Blake and Stephen C. Mackey, Sr. Vice President and Vice President Sales/Marketing, respectively, of The C. P. Morgan Co., Inc., an Indiana corporation, each of whom after having been duly sworn, acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions for and on behalf of said corporation.

Dated this 19th day of May, 1988.

Leigh B. Miller
(Leigh B. Miller) Notary Public



My Commission Expires:

March 21, 1992

My County of Residence is:

Marion

This Instrument was prepared by Lewis E. Willis, Jr., Attorney.

EXHIBIT "A"

Legal Description:

Part of the Northwest Quarter of Section 1, Township 17 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at a point on the North line of the Northwest Quarter of Section 1, Township 17 North, Range 4 East 678.71 feet South 89 degrees 53 minutes 27 seconds West (assumed bearing) from the Northeast corner thereof, said point being the Northwest corner of Maple-Del Addition, First Section, as per plat thereof, recorded in Plat Book 2, pages 116-117 in the Office of the Recorder of Hamilton County, Indiana; thence South 89 degrees 53 minutes 27 seconds West on and along said North line 852.78 feet to a point 1165.00 feet East of the Northwest corner of said Northwest Quarter of said Northwest Quarter which point is contiguous to Sun-Blast Farms, Unit 3-A, the plat of which is recorded in Plat Book 5, pages 128-129 in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 02 minutes 40 seconds West parallel with the West line of said Northwest Quarter 1500.32 feet to the South line of the North Half of said Northwest Quarter; thence North 88 degrees 41 minutes 54 seconds East on and along said South line 1526.48 feet to the East line of said Northwest Quarter; thence North 00 degrees 15 minutes 23 seconds East on and along said East line 679.86 feet to a point 115.00 feet South of the Southeast corner of the aforesaid Maple-Del Addition; thence South 89 degrees 53 minutes 27 seconds West parallel with the North line of said Northwest Quarter 200.00 feet; thence North 00 degrees 15 minutes 23 seconds East parallel with said East line 115.00 feet to the South line of said Maple-Del Addition; thence South 89 degrees 53 minutes 27 seconds West on and along said South line 248.71 feet to the Southwest corner of Lot #8 in said Addition; thence North 00 degrees 15 minutes 23 seconds East on and along the West line of said Lot #8, a distance of 55.00 feet to the South line of Lot #10 in said Addition; thence South 89 degrees 53 minutes 27 seconds West on and along said South line and the South line of Lot #11 in said Addition, 230.00 feet to the West line of said Maple-Del Addition; thence North 00 degrees 15 minutes 23 seconds East on and along said West line 618.71 feet to the place of beginning.

This Instrument Recorded 5-20 1988
Sharon K. Cherry, Recorder, Hamilton County, IN

INSTRUMENT # 88 21105

8821105

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

RECEIVED FOR RECORD
Oct 3 1 20 PM '88
SHARON K. CHERRY
RECORDER
HAMILTON COUNTY, IN

This Amendment, executed this 28th day of September, 1988, by The C. P. Morgan Co., Inc., an Indiana corporation ("Declarant"), WITNESSES THE FOLLOWING:

WHEREAS, on May 19, 1986, Declarant executed a certain Declaration of Covenants, Conditions and Restrictions ("Declaration") and caused the Declaration to be recorded as Instrument No. 88-09406 in the Office of the Recorder of Hamilton County, Indiana; and

WHEREAS, as a result of recording the Declaration, Declarant subjected certain real estate and improvements to be constructed thereon ("Development") to the terms and conditions of the Declaration; and

WHEREAS, Declarant inadvertently failed to include a provision defining the phrase "Limited Common Area".

NOW, THEREFORE, in accordance with its rights under the Declaration, Declarant now amends the Declaration as follows:

1. Section 7, as set forth below, is hereby added to and made a part of Article I, the "Definitions" section of the Declaration.

Section 7. "Limited Common Area" shall mean those areas appearing on the plats of the subdivision and designated by block letter showing the quantity of acreage contained therein and further identified as a "cul-de-loop" which is created for the exclusive use and enjoyment of those particular lots having public street access therefrom. Each such owner shall have an easement for ingress and egress in common with the other adjacent owners to the public street across such area. Such cul-de-loop shall further have a mounded landscape island therein adjacent to the public right-of-way and such Limited Common Area shall be owned and maintained by equal undivided interests as tenants in common of the lots abutting thereon and using the cul-de-loop as a means of ingress and egress to the public right-of-way. Such maintenance and repair shall be undertaken by a determination in writing of a majority of the lot owners having an undivided interest in the Limited Common Area, and upon the failure of any such lot owner to pay his equal contributive share for such maintenance or repair, the remaining lot owners or any one of them may

This instrument recorded 10-3
Sharon K. Cherry, Recorder, Hamilton County

advance the defaulting lot owner's contributive share upon thirty (30) days' written notice and such advancement shall constitute a lien upon the lot of the defaulting lot owner enforceable in the same manner and under the same terms as made and provided under the provisions of the Mechanics Lien Law of the State of Indiana, Chapter 116 of the Acts of the 1907 Indiana General Assembly as amended to date, I.C. 32-8-3-1, et seq. Any such lien shall be subordinate to the lien of any first mortgage and any first mortgage taking title to a lot by foreclosure or deed in lieu thereof shall take title free and clear of any such assessments for work performed prior to such mortgage's taking title.

IN WITNESS WHEREOF, Declarant, The C. P. Morgan Co., Inc., has caused this Amendment to be executed as of the date and year first above written.

THE C. P. MORGAN CO., INC.

By:

Jay J. Collins
Jay J. Collins
Treasurer

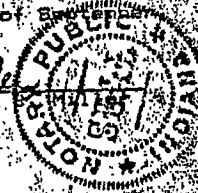
STATE OF INDIANA)
COUNTY OF HAMILTON)

SS: This Instrument Recorded 10-3 1988
Sharon K. Cherry, Recorder, Hamilton County, IN

Before me, a Notary Public in and for said County and State, personally appeared Jay J. Collins, who, having been duly sworn upon his oath, acknowledged the execution of the foregoing Amendment to Declaration of Covenants, Conditions and Restrictions.

WITNESS my hand and notary seal this 22nd day of September 1988.

Leigh B. Miller
Notary Public, Leigh



My Commission Expires:

3/2/92

My County of Residence is:

Merion

RETURN TO:
Hamilton Title Security, Inc.
File No. 8821105

This instrument was prepared by Brian J. Tuohy, attorney.

8821105

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DECLARATION OF COVENANTS,
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in Hamilton County, Indiana, which is more particularly described
in Exhibit "A" attached hereto and by reference made a part
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maintenance for the benefit of the lots and lands in the
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WHEREAS, Developer has caused or will cause the incorporation
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lots and lands located within the Development shall be held,
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furtherance of a plan for the improvement and maintenance of said
lots and land in the Development, and are established and agreed
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RECORDER
HAMILTON COUNTY
INDIANA

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- (c) All other rights, obligations and duties as set forth in this Declaration, as the same may be supplemented or amended.

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Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the members of the Association and for the maintenance of the Common Areas and other purposes as specifically provided herein.

Section 3. Maximum Annual Assessments.

(a) Until January 1, 1991, the maximum annual assessment on any Lot conveyed by Developer shall be One Hundred and no/100 Dollars (\$100.00) per Lot.

(b) Thereafter, the maximum annual assessment may be increased by not more than twenty per cent (20%) in any year by the Board of Directors.

(c) The maximum annual assessment may be increased by more than twenty per cent (20%) in any year by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any property which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section . Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4

shall be sent to all members at least ten (10) days in advance of the meeting. The presence in person or of proxies of members entitled to vote constituting the representation of a majority of the total votes shall constitute a quorum.

Section 6. Uniform Rate of Assessment. Both annual and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all members and may be collected on an annual or monthly basis as determined by the Board of Directors.

Section 7. Due Dates and Notices. The Board of Directors shall fix any increase in the amount of the annual assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every member subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments as to a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If any assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen per cent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action in favor of the prevailing party.

No Owner may waive or otherwise escape liability for assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V
DEVELOPER'S RIGHTS

So long as Developer owns any Lot in the Development, Developer shall, at its option, have the right to perform the functions of the Association and the Board of Directors and to manage the Common Areas. Developer's right to manage shall include the right to set annual assessments subject to the limitations herein contained and provided that such assessments shall be reasonably related to the actual cost of maintaining and operating the Common Areas and to adopt rules and regulations governing the use of the Development. Such rights shall be subject to the following:

(a) Developer may manage or cause to be managed the Development and it shall have the right to assess and collect the

maximum annual assessment as set forth in Article IV, Section 3 above. After January 1, 1991, Developer may increase the amount of annual assessment so long as such increase shall not exceed the maximum percentage increase permitted by such Article IV, Section 3, without vote of the members, unless a greater increase is approved by the membership as therein provided.

(b) Developer shall have the right to transfer the management of the Development, or any part thereof, to the Association at any time it believes that the Association is able to manage the Development without undue difficulty. Developer's right to manage the Properties shall expire when Developer no longer retains any ownership interest in any portion of the Lots. So long as the management of the Association is being borne by Developer, the rights of the Association to manage the Lots and set assessments shall be suspended.

ARTICLE VI

MAINTENANCE

Maintenance Obligations of Association. The Association shall provide all maintenance and repairs upon the Common Areas as deemed necessary or appropriate by the Board of Directors. The Board shall further make reasonable arrangements for snow removal from the public streets within the Development.

In the event that the need for maintenance or repair is caused through the willful or negligent act of any member, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment for which such member is liable, shall be deemed to be a mandatory assessment as to any Owner and shall be the personal obligation of such member enforceable as provided in Article IV, Section 8.

ARTICLE VII

INSURANCE

Section 1. Liability Insurance. The Association may purchase liability insurance in such amount or amounts and in

such form as the Board of Directors shall deem appropriate from time to time. Such liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, Developer (if it has any interest in the Properties), all Owners and all other persons as the Board of Directors may determine.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, Developer, the Association, its Board of Directors and any managing agent acting on behalf of the Association.

Section 2. Casualty and Restoration. Damage to or destruction of the Common Areas or any portion thereof shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.

ARTICLE VIII

EASEMENTS

Section 1. By Developer. Developer hereby reserves an easement unto itself and hereby reserves unto itself the right to sell, convey, transfer and grant an easement or easements and rights-of-way across and through the Common Areas for the purposes of installing ditches, tiles, pipes and other types of drains, sewers and sewer lines, utility lines, ducts, wires, pipes and the like. Developer further reserves unto itself the right to dedicate any portion of the Common Areas or any utility line, sewer, drain, roadway or the like to any governmental body, municipality, utility or the like, including the right to dedicate public streets and roads. The interest of each member of the Association in the Common Areas shall be and is subject to

the easements and rights hereby created and shall be and is subject at all times to the right of property authorities who service the utilities and easements hereby created or hereafter granted. Any such grant by Developer shall be by recorded instrument. This right of Developer shall expire at such time Developer no longer retains any ownership interest in the Development.

Section 2. By the Association. Subject to the easements and rights specified in Section 1 hereof, the Association shall have the right to sell, convey, transfer and grant easements and rights-of-way across and through the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. Such sale, conveyance, transfer, grant or dedication shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for such purpose; provided, however, no grantee shall be required to ascertain the compliance with the terms and provisions hereof regarding such member approval and may rely upon the representations of the Board of Directors and the officers of the Association. Any instrument duly executed by the officers of the Association granting any easement or dedication as herein provided shall be binding upon the Association as to any grantee taking in good faith.

ARTICLE X

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Developer, the Association, the persons in ownership from time to time of the Lots or other real estate within the Development 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 2. Amendment. This Declaration may be amended at any time by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, executed by the Association and approved by at least a majority of Class A and B members; provided, however, none of the rights or obligations of Developer reserved hereunder may be amended or changed without Developer's written and recorded approval. This Declaration may be amended by Developer, if it then has any ownership interest in the Development, at any time within two (2) years after the recordation hereof by written instrument recorded in the Office of the Recorder of Hamilton County, Indiana. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty-five (25) years from the date of recordation in the Office of the Recorder of Hamilton County, Indiana, and shall be automatically extended for successive periods of ten (10) years each unless prior to the expiration of any such ten (10)-year period it is amended in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3. Annexation. Additional property may be annexed to the Development by Developer within two (2) years from the date of recordation hereof by the recording of a declaration applicable to such annexed real estate which incorporates the terms of this Declaration. Thereafter, additional property may be annexed to the Developer with the consent of a majority of the members of the Association by the recording of a declaration

applicable to such annexed real estate which incorporates the terms of this Declaration.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed as of the date first above written.

THE C. P. MORGAN CO., INC.

By: William Blake
William Blake, Sr. Vice President

ATTEST:

Stephen C. Mackey
Stephen C. Mackey, Vice President Sales/Marketing

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared William Blake and Stephen C. Mackey, Sr. Vice President and Vice President Sales/Marketing, respectively, of The C. P. Morgan Co., Inc., an Indiana corporation, each of whom after having been duly sworn, acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions for and on behalf of said corporation.

Dated this 19th day of May, 1988.



Leigh B. Miller
(Leigh B. Miller) Notary Public

My Commission Expires:

March 21, 1992

My County of Residence is:

Marion

This Instrument was prepared by Lewis E. Willis, Jr., Attorney.

EXHIBIT "A"

Legal Description:

Part of the Northwest Quarter of Section 1, Township 17 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at a point on the North line of the Northwest Quarter of Section 1, Township 17 North, Range 4 East 678.71 feet South 89 degrees 53 minutes 27 seconds West (assumed bearing) from the Northeast corner thereof, said point being the Northwest corner of Maple-Del Addition, First Section, as per plat thereof, recorded in Plat Book 2, pages 116-117 in the Office of the Recorder of Hamilton County, Indiana; thence South 89 degrees 53 minutes 27 seconds West on and along said North line 852.78 feet to a point 1165.00 feet East of the Northwest corner of said Northwest Quarter of said Northwest Quarter which point is contiguous to Sun-Blest Farms, Unit 3-A, the plat of which is recorded in Plat Book 5, pages 128-129 in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 02 minutes 40 seconds West parallel with the West line of said Northwest Quarter 1500.32 feet to the South line of the North Half of said Northwest Quarter; thence North 88 degrees 41 minutes 54 seconds East on and along said South line 1526.48 feet to the East line of said Northwest Quarter; thence North 00 degrees 15 minutes 23 seconds East on and along said East line 579.86 feet to a point 115.00 feet South of the Southeast corner of the aforesaid Maple-Del Addition; thence South 89 degrees 53 minutes 27 seconds West parallel with the North line of said Northwest Quarter 200.00 feet; thence North 00 degrees 15 minutes 23 seconds East parallel with said East line 115.00 feet to the South line of said Maple-Del Addition; thence South 89 degrees 53 minutes 27 seconds West on and along said South line 248.71 feet to the Southwest corner of Lot #8 in said Addition; thence North 00 degrees 15 minutes 23 seconds East on and along the West line of said Lot #8, a distance of 55.00 feet to the South line of Lot #10 in said Addition; thence South 89 degrees 53 minutes 27 seconds West on and along said South line and the South line of Lot #11 in said Addition, 230.00 feet to the West line of said Maple-Del Addition; thence North 00 degrees 15 minutes 23 seconds East on and along said West line 618.71 feet to the place of beginning.

This Instrument Recorded 5-20 1988
Sharon K. Cherry, Recorder, Hamilton County, IN

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