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CROSS REFERENCE

*Ch. L. Conrad*  
MARION COUNTY AUDITOR

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DECLARATION OF COVENANTS AND RESTRICTIONS FOR CHESAPEAKE

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR CHESAPEAKE ("Declaration") was made this 15<sup>th</sup> day of April, 1987 by THE JONATHAN GROUP INC. for Indiana corporation (hereinafter referred to as "Declarant"),

WITNESSETH THAT:

WHEREAS, Declarant is the owner in fee simple of certain Real Estate located in Marion County, Indiana, more particularly described in the attached Exhibit "A" ("Real Estate");

WHEREAS, Declarant is developing the Real Estate and may develop certain surrounding lands within the tract described in the attached Exhibit "B", upon which Declarant may, but is not obligated to, construct residential housing and which may be platted by Declarant in sections from time to time;

WHEREAS, a portion of the Real Estate, more particularly described in Exhibit "B", has been platted by Declarant as "Chesapeake Section I" on April 22, 1987 as Instrument No. 87-43408 in the Office of the Recorder of Marion County, Indiana ("Section I"); and

WHEREAS, Declarant desires to subject Section I, the Real Estate and any additional lands as Declarant may from time to time subject to this Declaration (Section I, the Real Estate and any such additional lands are hereinafter collectively referred to as "Chesapeake") to the covenants and restrictions ("Covenants") herein in order to further ensure that the Development and use of lots within Chesapeake are harmonious and do not adversely affect the value of surrounding lots; and

WHEREAS, Declarant desires to provide for maintenance of the streets, common areas, and other improvements located or to be located in Chesapeake, which are of common benefit to the owners of the various lots within said subdivision, and to that end desires to establish certain obligations on said owners and a system of assessments and charges upon said owners for certain maintenance and other costs in connection with the operation of Chesapeake;

NOW, THEREFORE, Declarant hereby declares that all of the lots and lands located or to be located within Chesapeake as may be platted from time to time shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Covenants. All of the Covenants shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title, or interest, legal or equitable, in and to any real property subject to this Declaration.

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and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to the Real Estate or any addition thereto, part or parts thereof.

#### ARTICLE I.

##### General Purpose Of This Declaration

The Real Estate is hereby subjected to the Covenants herein declared to preserve the value of the Real Estate, to ensure proper use and appropriate improvement of the Real Estate, to encourage the construction of attractive buildings and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may be inharmonious with other improvements on the Real Estate or within Chesapeake, to preserve and maintain proper setbacks from streets and adequate free space between structures, to provide for adequate and proper maintenance of the Real Estate so as to ensure a high quality appearance and condition of the Real Estate, all for the purpose of preserving the values of all lots within Chesapeake and to ensure desired high standards of maintenance of the Real Estate, to the benefit of all owners within Chesapeake.

#### ARTICLE II.

##### Definitions For All Purposes Of This Declaration

The following terms, whenever used in this Declaration, shall have the meanings assigned to them by this Article II:

Section 1. Assessment. "Assessment" means the share of the Common Expenses imposed upon each lot, as determined and levied pursuant to the provisions of Article VII.

Section 2. Association. "Association" means Chesapeake Homeowners' Association, Inc., an Indiana not-for-profit corporation, formed or to be formed for the purpose of determining and collecting the Assessments and overseeing and enforcing the terms of this Declaration.

Section 3. Chesapeake. The term "Chesapeake" means and includes all portions of the Real Estate and other real property as may be platted and recorded from time to time by Declarant in accordance with the provisions of this Declaration.

Section 4. Committee. "Committee" shall mean the Chesapeake Development Control Committee, composed of three (3) associate members appointed by Declarant, who shall be subject to removal by Declarant at any time with or without cause. Any vacancies from

time to time existing shall be filled by appointment of Declarant until such time as the subdivision is completely developed, or at such earlier time as Declarant may turn over its responsibilities at which time the Chesapeake Homeowner's Association shall appoint from its membership to this Committee; provided, however, such turn over shall occur not later than January 1, 1992.

**Section 5. Common Areas.** "Common Areas" means certain areas which may be designated by Declarant as Common Areas on the plat or plats of Chesapeake, as the same may be recorded from time to time, and which is intended for the common benefit of all lots.

**Section 6. Common Expense.** "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property; provided, however, that there shall not be included in Common Expenses any costs or expenses incurred in connection with the initial installation or completion of the Streets, utility lines and mains, or other improvements constructed by Declarant.

**Section 7. Common Property.** "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, and which is located in, upon, or under the Common Areas, Easements, or Streets within Chesapeake. To the extent Common Property is not publicly dedicated, Common Property includes, but is not limited to, all Streets, curbs, water mains, fire hydrants, the Drainage System, the Sewage System, street lights and signs upon the Streets, public sidewalks, landscaping, lakes, parks, and open spaces.

**Section 8. Declarant.** "Declarant" means The Jonathan Group, Inc., an Indiana corporation, or any other person, firm, corporation or partnership which succeeds to the interest of The Jonathan Group, Inc. as developer of Chesapeake.

**Section 9. Drainage System.** "Drainage System" means the storm sewers, subsurface drainage tiles, pipes and structures, and other structures, fixtures, properties, equipment and facilities located in, upon, or under the Common Areas, Easements, or Streets and designed for the purpose of expediting the drainage of surface and subsurface waters from, over, and across Chesapeake.

**Section 10. Easements.** "Easements" refer to those areas reserved as easements on the plat or plats of Chesapeake, as the same may be recorded from time to time.

**Section 11. Lot.** "Lot" means any of the separate parcels numbered and identified on the plat or plats of Chesapeake, as the same may be recorded from time to time.

Section 12. Mortgagee. The term "Mortgagee" means any holder, insurer, or guarantor of any first mortgage on any Lot.

Section 13. Owner. "Owner" means any person or persons who acquire, after the date of this Declaration, legal and/or equitable title to any Lot; provided, however, that "Owner" shall not include any holder of any mortgage of all or any part of any Lot, so long as such holder does not hold both legal and equitable title thereto.

Section 14. Sewage System. "Sewage System" means any sanitary sewer lines, lift stations, equipment, or facilities located in, upon, or under the Common Areas, Easements, or Streets and designed to provide for the discharge of sanitary sewage from any or all Lots, as the same are or may be constructed at any time, and any replacement thereof or substitute therefor.

Section 15. Streets. "Streets" means all of the public and private roadways to the respective right-of-way lines thereof, as shown on the plat or plats of Chesapeake, as the same may be recorded from time to time, which have been or hereafter are constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots.

### ARTICLE III.

#### Use Restrictions

Section 1. General. Unless otherwise provided in these restrictions or on the recorded plat, no dwellings or above-grade structure shall be constructed or placed on any Lot except as provided herein.

Section 2. Type of Structure. Every Lot in Chesapeake, unless otherwise designated by Declarant shall be used exclusively for single family residential purposes.

Section 3. Lot and Dwelling. All Lots shall be not less than five thousand (5,000) square feet in size. All dwellings will have two (2), three (3) or four (4) bedrooms, a two-car garage and a minimum living area of one thousand two hundred (1,200) square feet.

Section 4. Accessory or Temporary Buildings. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot.

Section 5. Setback Lines. Front yards, sideyards and rear yards setback lines shall be located as set forth upon the plats of Chesapeake.

Section 6. Manner of Use. Each Owner shall use and occupy his respective Lot and all Easements and rights-of-way appertaining thereto, in a careful, safe, and proper manner and keep his Lot in a clean and safe condition in accordance with this Declaration, applicable zoning ordinances, all health, fire, and police requirements and regulations, state statutes, local ordinances, and the lawful directions of proper public officials. No owner shall conduct, or permit any person to permit, any unlawful activity in Chesapeake.

Section 7. Outside Grounds. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within Chesapeake, any fence, light fixture, basketball goal, or similar structure must be approved by the Committee as to size, location, height and composition before it may be installed. A standard mailbox and post will be adopted for Chesapeake and installed by the Declarant.

Section 8. Exterior Construction. Each driveway in Chesapeake will be of concrete or asphalt material and will not exceed in width the side boundaries of the garage associated therewith. No additional parking will be permitted on a Lot other than in the existing driveway. Each dwelling will have a continuous concrete sidewalk from the driveway to the front porch. All metal windows in Chesapeake will be factory painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break. All gutters and downspouts in Chesapeake will be painted on a colored material other than gray galvanized. All garage doors within the development will be of a masonite or wood material. All roofing in Chesapeake will be of a shingle-type material with weight no less than two hundred twenty (220) pounds and rating of Class A. All roof pitches will be four to twelve (4:12) or greater. Plumbing vent stacks shall be placed in inconspicuous locations. No two dwellings with the same facade will be placed side by side. No metal (except for copper or metal roofs over box or bay windows), fiberglass or similar type material, awnings or patio covers will be permitted in Chesapeake. No above-ground swimming pools will be permitted on any Lot in Chesapeake.

Section 9. Heating Plants. Every dwelling in Chesapeake must contain a heating plant installed in compliance with required codes.

Section 10. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

Section 11. Used Materials. All structures constructed or placed on any numbered Lot in Chesapeake shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 12. Maintenance of Lots and Improvements. The Owner of any Lot in Chesapeake shall at all times maintain the Lot and any Improvements situated thereon in such a manner as to prevent the Lot or Improvements from becoming unsightly. Owners shall be responsible for the following:

(a) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and noxious weeds.

(b) Remove all debris or rubbish.

(c) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(d) Cut down and remove lead trees.

(e) Keep the exterior of all Improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

Section 13. Building on Contiguous Lots Having One Owner. Whenever two or more contiguous Lots in Chesapeake shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots.

#### ARTICLE IV.

##### General Restrictions

Section 1. Nuisances. No nuisance shall be permitted to exist or operate upon the Real Estate.

Section 2. Animals. No farm animals, fowls or domestic animals, other than household pets, shall be permitted in Chesapeake. All such pets must be kept under control by their owners and must not become a nuisance to other residents.

Section 3. Boats, Trucks, etc. No boats, campers, trailers of any kind, recreational vehicles or commercial vehicles of any kind shall be permitted to park on the Real Estate for more than forty-eight (48) hours unless fully enclosed inside a building.

Section 4. Clothes Drying Area. No outdoor clothes drying area or apparatus shall be allowed.

**Section 5. Site Visibility.** No fences, wall, hedge, or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner Lot.

**Section 6. Fences.** All fences shall be kept in good repair and erected so as to enclose the property and decorate the same without hindrance, encroachment, or obstruction to any Easement, Street right-of-way line, or adjoining Lot. Prior to erection, the plans for all fences must be approved by the Committee.

**Section 7. Signs.** No billboards or advertising signs of any character shall be exhibited in any way on or above the Real Estate or any part thereof or on any improvement thereon without the written approval of the Committee; provided, however, any Owner may place one sign of not more than six (6) square feet advertising the Lot and Improvements thereon, for sale or rent.

**Section 8. Oil and Gas Tanks; Air Conditioners.** All oil tanks and bottled gas tanks must be underground. No above or below storage of gasoline will be allowed. Any stationary air conditioning units must be similarly walled-in, screened or appropriately landscaped. Appropriate screening shall be determined by the Committee.

**Section 9. Easements for Utilities and Public and Quasi-Public Vehicles.** All public and quasi-public vehicles, including, but not limited to police, fire, ambulance and other emergency vehicles, trash and garbage collection, post office vehicles, and privately owned delivery vehicles shall have the right to enter upon the Real Estate and any Lot therein in performance of their duties.

**Section 10. Utility Easements.** Declarant hereby reserves unto itself, its successors and assigns for purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of Chesapeake, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable TV), and such other further public service facilities as Declarant may deem necessary. Provided, however, the disturbed area shall be restored as nearly as is possible to the condition in which it was found. No permanent structures shall be constructed within an easement area.

**Section 11. Landscape Easements.** The Landscape Easements, if any, are for the construction, maintenance and improvement of landscaping and earth mounding on certain Lots. Such easements shall be in favor of the Chesapeake Homeowners' Association for improvements and maintenance.

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Section 12. Utility Lines. All electrical service, telephone and other utility lines shall be placed underground, except where required to be placed above ground by the individual utility supplier or when approved by the Committee. No utility services shall be installed under finished streets except by jacking, drilling, or boring unless specifically approved by the Committee.

Section 13. Lot Access. All Lots shall be accessed from the interior streets of this subdivision. No access is permitted from 79th Street or Sunnyside Road.

Section 14. Obstruction of Common Property. No Owner shall unreasonably interfere with, damage, or obstruct the use or maintenance of any Common Property.

Section 15. Outdoor Lighting. All outdoor lighting on any Lot shall be subject to the approval of the Committee or the Association and all applications for such approval shall be in writing.

Section 16. Construction Easements. An easement, not to exceed five (5) feet from the perimeter of any Lot upon which a building is being constructed, is hereby reserved by Declarant and granted to each builder who is constructing a home upon such Lot, for the sole purpose of entering upon such adjacent Lot if and to the extent necessary to perform such construction.

Section 17. Garbage, Trash and Other Refuse. No Owner of a Lot in Chesapeake shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in subparagraph 19 below. All dwellings built in the Development shall be equipped with a garbage disposal unit.

Section 18. Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street within Chesapeake at any time, except at the times when refuse collections are being made.

Section 19. Model Homes. No Owner of any Lot in Chesapeake other than Declarant shall build, or permit the building upon said Lot any dwelling that is to be used as a model home or exhibit house.

Section 20. Ditches and Swales. It shall be the duty of every Owner of every Lot in Chesapeake on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair.

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Section 21. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in Chesapeake without the approval of the Committee. No septic tanks shall be installed on any of the Lots.

Section 22. Antennas, Poles, Heat Panels, Etc. No outside antennas, satellite dishes, poles (except for flag poles approved by the Committee), masts, towers, heat panels or other similar structures shall be allowed on any Lot.

#### ARTICLE V.

##### Development Control Committee

##### Section 1. Powers of Committee.

(a) In General. No dwelling or improvement of any type or kind shall be repainted, constructed or placed on any lot in Chesapeake, and no existing trees shall be removed, without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one inch (1") equals ten feet (10'), or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

(b) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:

(1) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

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(2) the design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures;

(3) the proposed improvement, or any part thereof, or proposed tree removal, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of other Owners.

Section 2. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) days after all required information shall have been submitted to it. One copy of submitted materials shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval.

Section 3. Liability of Committee. Neither the Committee nor any agent thereof, nor Declarant, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

Section 4. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

## ARTICLE VI.

### Property Rights

Section 1. Rights to Common Property. Title to all Common Property shall be held by the Association and each Owner shall have, as non-exclusive, reciprocal easements appurtenant to his Lot; a right of access to his Lot over all streets; the right of access to and use of the drainage system, the sewage system, and all utility lines and mains abutting or adjacent to his Lot; the right to use of all Common Areas for their intended purposes; provided, however, that no Owner's use of any Common Property shall materially interfere with any other Owner's use thereof.

Section 2. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any Assessment against his Lot remains unpaid;

(b) the right of the Association to dedicate or transfer all or any part of 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.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Areas and facilities of the Association to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Limited Common Area. There is hereby reserved by the Declarant for the benefit of the Owner of any Lot, a limited common area for the purpose of entering and encroaching upon an adjoining Lot as designated on the plat hereof. Said limited common area is reserved for the limited purpose of performing maintenance and repair work on the dwelling benefited by such easement, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the adjacent dwelling. The owner of any house built within three (3) feet of a side-yard property line, shall have an express right of access and use for the limited purposes described above, in the limited common area as measured from the side-yard property line. Said easement area shall be five (5) feet in width as measured from said side-yard property line and as designated on the plat hereof. Any persons entering upon an adjacent Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of such area.

#### ARTICLE VII.

##### Covenants For Maintenance Assessments

Section 1. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Chesapeake and promoting the health, safety, and welfare of the Owners, users, and occupants of Chesapeake and, in particular, for the improvement, repairing, operating, and maintenance of the Common Property, including, but not limited to, the payment of taxes and insurance thereon and for the cost of labor, equipment, material, and management furnished with respect to the Common Property; provided that the Association shall not be responsible for the replacement, repair or maintenance of any Common Property which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay to the Association:

(a) A Pro-rata Share (as hereinafter defined) of the annual Assessments fixed, established, and determined from time to time, as hereinafter provided.

(b) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

Section 2. Liability for Assessments. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien from and after the due date thereof in favor of the Association upon each Lot. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

Section 3. Pro-rata Share. The Pro-rata Share of each Owner for purposes of this Article VII shall be the percentage obtained by dividing one by the total number of Lots shown on the plat or plats of Chesapeake ("Pro-rata Share").

Section 4. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth estimates of all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be delivered to each Owner prior to the beginning of each fiscal year of the Association.

Section 5. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessment levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board of Directors of the Association may, at any time, and from time to time, levy such special Assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board of Directors of the Association shall have the right to levy at any time, and from time to time, one or more special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the Annual Assessments.

Section 6. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The annual Assessments of each Lot in each section of Chesapeake shall commence on the first day of the second month following the month in which Declarant first conveys ownership of any Lot in such section to an Owner. The first annual Assessment within each section of Chesapeake shall be made for the balance of the Association's fiscal year in which such Assessment is made and shall become due and payable commencing on any date fixed by the Association. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Association may from time to time by resolution authorize the payment of such Assessments in installments.

Section 7. Duties of the Association.

(a) The Board of Directors of the Association shall keep proper books and records of the levy and collection of each annual and special Assessment, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(b) The Association shall promptly furnish to any Owner or Mortgagee upon request a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to such requesting Owner's or Mortgagee's Lot. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(c) The Association shall notify any Mortgagee from which it has received a request for notice of any default in the performance by any owner of any obligation under the By-laws or this Declaration which is not cured within sixty (60) days.

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Section 8. Non-payment of Assessments; Remedies of Association.

(a) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(b) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at an annual rate which is two times the rate in effect for ninety-day U.S. Treasury Bills at the time such Assessment is due, but in no event greater than the maximum rate allowable under any applicable usury laws, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

Section 9. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-rata Share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s).

ARTICLE VIII.

Organization and Duties of Association

Section 1. Organization of Association. The Association shall be organized as a not-for-profit corporation under the laws of the State of Indiana, to be operated in accordance with the Articles of Incorporation which have been filed or will be filed by Declarant.

The membership of the Association shall consist of one class of voting members, with each member having equal voting rights. The members of the Association shall consist of the Owners of Lots in Chesapeake, as the same may be platted from time to time, provided that, in the event that any one Lot shall be owned by more than one person, partnership, trust, corporation, or other entity, they shall be treated collectively as one member for voting purposes, so that as to any matter being considered by the Association, only one vote appertains to each Lot.

Section 2. General Duties of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement, of the Common Property, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by this Declaration. The Association shall also have the right, but not the obligation to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in Article III and Article IV of this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct.

Section 3. Amendment of Declaration. The Association shall have the right to amend this Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least two-thirds of the Lots and the Mortgagees of at least two-thirds of the Mortgagees requesting notice of such action; provided, however, that any such amendment of this Declaration shall require prior written approval of Declarant so long as Declarant owns at least six (6) Lots within Chesapeake. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Declarant when its approval is required, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit or addendum thereto a certified copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendment shall not be effective until recorded in the Office of the Recorder of Marion County.

Section 4. Insurance. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury. The Association shall also maintain in force adequate officers and directors insurance covering the officers and directors of the Association. If appropriate, the Association shall also maintain in force adequate fire and extended coverage insurance, insuring all

Common Property against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full insurable value of such Common Property. The Association shall notify all Mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Board members, the Declarant, any property manager, their respective employees and agents, the Lot Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more parties against other insured parties.

The Association shall maintain a fidelity bond indemnifying the Association, the Board of Directors and the Lot Owners for loss of funds resulting from fraudulent or dishonest acts of any director, officer, employee or anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The fidelity bond should cover the maximum amount of funds which will be in the custody of the Association or its management agent at any time, but in no event shall such fidelity bond coverage be less than the sum of three (3) months' assessments on all Lots in Chesapeake, plus the Association's reserve funds.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association, and all Mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be cancelled or substantially modified for any reason.

Section 5. Condemnation, Destruction. In the event that any of the Common Property shall be condemned or taken by any competent public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any Common Property condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, and the balance of such sums shall either be held as a reserve for future maintenance of the Common Property or turned over to the Owners in proportion to their Pro-rata Shares, whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Property. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage, or destruction of any Common Property.

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Section 6. Transfer of Control of the Association. Declarant shall transfer control of the Association to the Lot Owners no later than the earlier of (a) four (4) months after three-fourths (3/4) of the Lots in Chesapeake have been conveyed to Lot purchasers or (b) five (5) years after the first Lot is conveyed in Chesapeake.

Section 7. Mortgagees' Rights. The Mortgagees shall have the right, at their option, jointly or severally, to pay taxes or other charges which are in default or which may or have become a charge against the Common Property and to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Property, and Mortgagees making such payment shall be owed immediate reimbursement therefor from the Association. In addition, neither the Owners nor the Association shall materially impair the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate.

#### ARTICLE IX.

##### Expansion of Subdivision

Method and Scope of Expansion. Declarant, at its option, and from time to time, may expand Chesapeake to include all or any parts of the tract described in the attached Exhibit "C", by the addition of further sections consisting of one or more Lots and any Common Property which in the discretion of Declarant is appropriate for addition with such section. Such further sections, if added, shall be added by the recordation of a plat of such section, consistent in detail and layout with plats of sections previously recorded, and by the recordation of an amendment to this Declaration imposing upon such section covenants substantially similar in form and substance to this Declaration.

#### ARTICLE X.

##### Term

This Declaration shall be effective until January 1, 2000, and shall automatically renew for terms of ten (10) years each, in perpetuity, unless as of the end of any term the Owners of two-thirds (2/3) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken.

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ARTICLE XI.

General Provisions

Section 1. Covenants Run With the Land. The Covenants created by this Declaration shall attach to and run with the Real Estate and shall be binding upon every person who may hereafter come into ownership, occupancy, or possession of any portion of the Real Estate.

Section 2. Scope of Covenants. Declarant and each Owner of any Lot by acceptance of a deed therefor whether or not it shall be so expressed in such deed, are deemed to have agreed to each and every one of the various terms, Covenants and conditions, contained in this Declaration, and the same shall be of mutual and reciprocal benefit to Declarant and each Owner of each Lot. Declarant and each Owner shall be entitled to enforce this Declaration against any Owner to the full extent permitted herein under applicable law; provided, that Declarant shall not be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of the rights or remedies set forth herein. Each Owner shall be liable for any failure to fully comply with all of the terms, Covenants, and conditions, contained in this Declaration only so long as each such Owner shall have any interest in any Lot; provided, however, that the relinquishing of all of such interest shall not operate to release any Owner from liability for a failure to comply with this Declaration which occurred while said Owner had such interest.

Section 3. Failure to Enforce Not a Waiver of Rights. The failure of Declarant, the Association, or any Owner to enforce any term, Covenant, or condition, herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other such term, Covenant, or condition.

Section 4. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

Section 5. Section Headings. Section headings used herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular sections to which they refer.

Section 6. Notices. All notices in connection with this Declaration shall be made in writing and shall be deemed delivered (a) upon personal delivery to the individual person, or (b) seventy-two hours after the deposit thereof in any United States main or branch post office, first class postage prepaid, properly addressed to the individual person.

8700-13-109

Section 7. Enforcement. Any Owner or Declarant shall have the right to enforce, by a proceeding at law or inequity, all restrictions, condition, or Covenants, imposed by this Declaration, but Declarant shall not be liable for damages of any kind to any person for failure either to abide by, enforce or carry out any of the Restrictions.

Section 8. Reservations of Declarant. Declarant hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant, so long as Declarant owns at least six (6) Lots within Chesapeake; provided that Declarant shall not be entitled to make any amendment which has a material adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Declaration to any Owner, or substantially increases the obligations imposed by Declaration on any Owner.

IN WITNESS WHEREOF, The Jonathan Group, Inc. has executed this Declaration of Covenants and Restrictions for Chesapeake this 15th day of April, 1987.

THE JONATHAN GROUP, INC.

By: Thomas D. Rush

Thomas D. Rush, President

ATTEST:

Bruce E. Smith  
Bruce E. Smith, Assistant Secretary

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Thomas D. Rush and Bruce E. Smith, the President and Assistant Secretary, respectively, of The Jonathan Group, Inc., whereupon each acknowledged that he/she executed the foregoing Declaration of Covenants and Restrictions for Chesapeake on behalf of said corporation, and being duly sworn, each stated that he/she was duly authorized, by proper resolution of the Board of Directors of said corporation, to execute this instrument on

870043409

behalf of said corporation, and that all corporate action necessary for the execution of this instrument has been taken and done.

Witness my hand and Notarial Seal this 15th day of April, 1987.

Carol S. Osborne  
(Carol S. Osborne) Notary Public

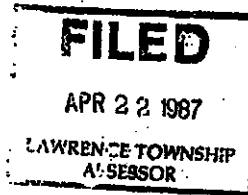
My Commission Expires:

July 28, 1990

My County of Residence is:

Marion

APPROVED THIS 22  
DAY OF April 1987.  
LAWRENCE TOWNSHIP ASSESSOR  
V.L. DRAFTSMAN



This Instrument was prepared by Brian J. Tuohy, Attorney at Law.

870043109

"EXHIBIT A"

CHESAPEAKE LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 387.17 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 27 SECONDS WEST 50.00 FEET; THENCE SOUTH 35 DEGREES 08 MINUTES 04 SECONDS WEST 12.21 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 33 SECONDS WEST 108.00 FEET; THENCE SOUTH 19 DEGREES 08 MINUTES 51 SECONDS EAST 21.19 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 27 SECONDS EAST 50.00 FEET TO SAID EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG SAID EAST LINE OF SAID NORTHEAST QUARTER 627.63 FEET TO A POINT BEING 220.00 FEET (AS MEASURED ALONG SAID EAST LINE) NORTH OF THE SOUTHEAST CORNER OF A PARCEL OF LAND DESCRIBED IN INSTRUMENT NUMBER 49628-42 AS RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION A DISTANCE OF 680.00 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST PARALLEL WITH SAID EAST LINE 220.00 FEET TO THE SOUTH LINE OF SAID PARCEL DESCRIBED IN INSTRUMENT NUMBER 49628-42; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST ALONG SAID SOUTH LINE 640.00 FEET, (653.76 FEET MEASURED) TO THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES 08 SECONDS EAST ALONG SAID WEST LINE 1380.00 FEET, (1372.80 FEET MEASURED) TO THE NORTHWEST CORNER OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 51 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 1320.00 FEET, (1334.33 FEET MEASURED) TO THE POINT OF BEGINNING, CONTAINING 38.43 ACRES, MORE OR LESS, SUBJECT TO ALL LEGAL HIGHWAYS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

870013109

"EXHIBIT B"

CHESAPEAKE SECTION ONE  
LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 NORTH,  
RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN HARRISON COUNTY,  
INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER;  
THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG THE EAST  
LINE OF SAID NORTHEAST QUARTER 387.17 FEET; THENCE NORTH 89  
DEGREES 51 MINUTES 27 SECONDS WEST 50.00 FEET; THENCE SOUTH 35  
DEGREES 08 MINUTES 04 SECONDS WEST 12.21 FEET; THENCE SOUTH 00  
DEGREES 08 MINUTES 33 SECONDS WEST 108.00 FEET; THENCE SOUTH 19  
DEGREES 08 MINUTES 51 SECONDS EAST 21.19 FEET; THENCE SOUTH 89  
DEGREES 51 MINUTES 27 SECONDS EAST 50.00 FEET; THENCE SOUTH  
00 DEGREES 08 MINUTES 33 SECONDS WEST 88.00 FEET; THENCE  
NORTH 89 DEGREES 51 MINUTES 27 SECONDS WEST 150.00 FEET; THENCE  
NORTH 82 DEGREES 44 MINUTES 12 SECONDS WEST 50.39 FEET; THENCE  
NORTH 89 DEGREES 51 MINUTES 27 SECONDS WEST 93.00 FEET; THENCE  
SOUTH 85 DEGREES 04 MINUTES 09 SECONDS WEST 259.57 FEET; THENCE  
NORTH 82 DEGREES 39 MINUTES 33 SECONDS WEST 50.96 FEET; THENCE  
NORTH 83 DEGREES 54 MINUTES 08 SECONDS WEST 87.47 FEET; THENCE  
NORTH 74 DEGREES 16 MINUTES 00 SECONDS WEST 66.00 FEET;  
THENCE NORTH 68 DEGREES 09 MINUTES 52 SECONDS WEST 66.00  
FEET; THENCE NORTH 62 DEGREES 03 MINUTES 44 SECONDS WEST 66.00  
FEET; THENCE NORTH 30 DEGREES 59 MINUTES 19 SECONDS EAST 145.00  
FEET TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 475.00  
FEET, SAID RADIUS POINT BEING NORTH 30 DEGREES 59 MINUTES 19  
SECONDS EAST 475.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF  
SAID CURVE 23.60 FEET TO THE PT OF SAID CURVE, SAID PT BEING  
SOUTH 28 DEGREES 08 MINUTES 31 SECONDS WEST 475.00 FEET FROM THE  
RADIUS POINT OF SAID CURVE, SAID POINT ALSO BEING THE PC OF A  
CURVE TO THE LEFT WITH A RADIUS OF 25.00 FEET, SAID RADIUS POINT  
BEING NORTH 28 DEGREES 08 MINUTES 31 SECONDS EAST 25.00 FEET;  
THENCE EASTERLY ALONG THE ARC OF SAID CURVE 40.16 FEET TO THE PT  
OF SAID CURVE, SAID POINT BEING SOUTH 63 DEGREES 54 MINUTES 03  
SECONDS EAST 25.00 FEET FROM THE RADIUS POINT OF SAID CURVE, SAID  
POINT ALSO BEING THE PC OF A CURVE TO THE LEFT WITH A RADIUS OF  
275.00 FEET, SAID RADIUS POINT BEING NORTH 63 DEGREES 54 MINUTES  
03 SECONDS WEST 275.00 FEET; THENCE NORTHERLY ALONG THE ARC OF  
SAID CURVE 204.88 FEET TO THE PT OF SAID CURVE, SAID PT BEING  
NORTH 73 DEGREES 24 MINUTES 47 SECONDS EAST 275.00 FEET FROM THE  
RADIUS POINT, SAID POINT ALSO BEING THE PC OF A CURVE TO THE  
RIGHT WITH A RADIUS OF 580.50 FEET, SAID RADIUS POINT BEING NORTH  
73 DEGREES 24 MINUTES 47 SECONDS EAST 580.50 FEET; THENCE  
NORTHERLY ALONG THE ARC OF SAID CURVE 133.56 FEET TO THE PT OF  
SAID CURVE, SAID PT BEING SOUTH 86 DEGREES 35 MINUTES 46 SECONDS  
WEST OF THE RADIUS POINT OF SAID CURVE 580.50 FEET, THENCE NORTH  
46 DEGREES 46 MINUTES 27 SECONDS WEST 48.07 FEET; THENCE NORTH 00  
DEGREES 08 MINUTES 39 SECONDS WEST 50.00 FEET TO THE NORTH LINE  
OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 51 MINUTES 21  
SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER A  
DISTANCE OF 786.00 FEET, TO THE POINT OF BEGINNING, CONTAINING  
10.60 ACRES MORE OR LESS, AND SUBJECT TO ALL LEGAL HIGHWAYS,  
RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

8700-13-109

"EXHIBIT C"

LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 NORTH,  
RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN MARION COUNTY,  
INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER;  
THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG THE EAST  
LINE OF SAID NORTHEAST QUARTER 1152.80 FEET TO THE POINT OF  
BEGINNING; THENCE CONTINUE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS  
WEST 220.00 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS  
WEST 680.00 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 33 SECONDS  
EAST 220.00 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 21 SECONDS  
EAST 680.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION,  
CONTAINING 3.43 ACRES MORE OR LESS, AND SUBJECT TO ALL LEGAL  
HIGHWAYS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

870043-109

880021518

CROSS REFERENCE

95/4

RECEIVED FOR RECORD  
28 MAR 11 AM 9:33

FIRST AMENDMENT TO  
DECLARATION OF COVENANTS AND  
RESTRICTIONS FOR CHESAPEAKE

BETH O'LAUGHLIN  
MARION COUNTY RECORDER

This First Amendment to Declaration of Covenants and  
Restrictions for Chesapeake made this 10th day of March, 1988  
by THE JONATHAN GROUP INC., an Indiana corporation (hereinafter  
referred to as "Declarant");

WITNESSETH THAT:

WHEREAS, Declarant is the owner in fee simple of certain real  
estate located in Marion County, Indiana, more particularly  
described in the attached "Exhibit A" ("Real Estate"); and

WHEREAS, Declarant executed a certain Declaration of Covenants  
and Restrictions for Chesapeake, dated April 15, 1987 and recorded  
April 22, 1987 in the Office of the Recorder of Marion County,  
Indiana, as Instrument No. 87-43409 (the "Original Declaration");  
and

WHEREAS, the Original Declaration subjected a portion of the  
Real Estate known as "Chesapeake Section I" to certain covenants  
and restrictions provided therein; and

WHEREAS, a portion of the Real Estate, more particularly  
described in "Exhibit B", has been platted by Declarant as  
"Chesapeake Section II" on November 20, 1987, as Instrument  
No. 87-134219 in the Office of the Recorder of Marion County,  
Indiana ("Section II"); and

WHEREAS, Declarant desires to amend the Original Declaration to  
subject Section II to the covenants and restrictions provided for  
therein;

NOW, THEREFORE, in order to provide for the addition of  
Section II under the Original Declaration, the Declarant hereby  
declares:

1. That Section II is subjected to the Covenants (as that  
term is defined in the Original Declaration) in accordance with the  
terms and provisions of the Original Declaration.

2. That, except as modified by this First Amendment, all  
other terms and Provisions of the Original Declaration shall  
continue in full force and effect.

MARION COUNTY RECORDER  
MAR 11 1988 06:27  
DULY ENTERED  
FOR TAXATION

APPROVED BY  
DAY OF MARCH 11th  
Marty Kemper

APPROVED BY  
MAYOR  
MAY 11 1988  
LAWRENCE TOWNSHIP  
ASSESSOR



IN WITNESS WHEREOF, Declarant has executed this First Amendment on the day and year first above written.

THE JONATHAN GROUP, INC.,  
an Indiana corporation

By: Thomas E. Rush  
Thomas E. Rush, President

ATTEST:

Bruce E. Smith  
Bruce E. Smith, Assistant Secretary

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for such County and State, personally appeared Thomas D. Rush and Bruce E. Smith, President and Assistant Secretary, respectively, of The Jonathan Group, Inc., who, having been duly sworn, acknowledged the execution of the foregoing First Amendment for and on behalf of such corporation and stated that the representations contained therein are true.

Witness my hand and Notarial Seal this 9th day of MARCH, 1988.

Carol S. Osborne  
(CAROL S. OSBORNE) Notary Public

My Commission Expires:

7/28/90

My County of Residence is:

MARION

880021518

This Instrument was prepared by Bruce E. Smith, Attorney.

"EXHIBIT A"

CHESAPEAKE LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 387.17 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 27 SECONDS WEST 50.00 FEET; THENCE SOUTH 35 DEGREES 08 MINUTES 04 SECONDS WEST 12.21 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST 108.00 FEET; THENCE SOUTH 19 DEGREES 08 MINUTES 51 SECONDS EAST 21.19 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 27 SECONDS EAST 50.00 FEET TO SAID EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG SAID EAST LINE OF SAID NORTHEAST QUARTER 627.63 FEET TO A POINT BEING 220.00 FEET (AS MEASURED ALONG SAID EAST LINE) NORTH OF THE SOUTHEAST CORNER OF A PARCEL OF LAND DESCRIBED IN INSTRUMENT NUMBER 49628-42 AS RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION A DISTANCE OF 680.00 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST PARALLEL WITH SAID EAST LINE 220.00 FEET TO THE SOUTH LINE OF SAID PARCEL DESCRIBED IN INSTRUMENT NUMBER 49628-42; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST ALONG SAID SOUTH LINE 640.00 FEET, (653.76 FEET MEASURED) TO THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES 08 SECONDS EAST ALONG SAID WEST LINE 1380.00 FEET, (1372.80 FEET MEASURED) TO THE NORTHWEST CORNER OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 51 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 1320.00 FEET, (1334.33 FEET MEASURED) TO THE POINT OF BEGINNING, CONTAINING 38.43 ACRES, MORE OR LESS, SUBJECT TO ALL LEGAL HIGHWAYS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

AND

A PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 17 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 1152.80 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST 220.00 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST 680.00 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 33 SECONDS EAST 220.00 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 21 SECONDS EAST 660.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 3.43 ACRES MORE OR LESS, AND SUBJECT TO ALL LEGAL HIGHWAYS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

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"Exhibit B"

CHESAPEAKE SECTION TWO  
LEGAL DESCRIPTION

A part of the northeast quarter of section 29, Township 17 North, Range 5 east of the second principal meridian in Marion County, Indiana, more particularly described as follows:

Commencing at the northeast corner of said northeast quarter; thence south 00 degrees 08 minutes 33 seconds west along the east line of said northeast quarter 613.17 feet to the southeast corner of Chesapeake Section One, as recorded in the Office of the Recorder of Marion County, Indiana as Instrument Number 87-43408, said point also being the point of beginning of this description; thence north 89 degrees 51 minutes 27 seconds west along the south line of said Chesapeake Section One 150.00 feet; thence north 82 degrees 44 minutes 12 seconds west 50.39 feet; thence north 89 degrees 51 minutes 27 seconds west 93.00 feet; thence south 85 degrees 04 minutes 09 seconds west 259.57 feet; thence north 82 degrees 39 minutes 33 seconds west 50.96 feet; thence north 83 degrees 54 minutes 08 seconds west 87.47 feet; thence south 07 degrees 46 minutes 05 seconds west 88.57 feet; thence south 24 degrees 43 minutes 53 seconds east 121.97 feet; thence south 03 degrees 01 minutes 00 seconds east 105.11 feet; thence south 05 degrees 44 minutes 44 seconds east 66.30 feet; thence south 14 degrees 07 minutes 59 seconds west 53.50 feet; thence south 00 degrees 08 minutes 33 seconds west 97.38 feet; thence south 89 degrees 51 minutes 21 seconds west 15.07 feet; thence south 00 degrees 08 minutes 39 seconds east 97.00 feet; thence south 15 degrees 32 minutes 09 seconds east 51.86 feet; thence south 00 degrees 08 minutes 39 seconds east 96.00 feet; thence north 89 degrees 51 minutes 21 seconds east 650.00 feet to the east line of said northeast quarter; thence north 00 degrees 08 minutes 33 seconds east along said east line 759.62 feet to the point of beginning, containing 11.49 acres more or less, and subject to all legal highways, rights-of-way, and easements of record.

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RECEIVED FOR RECORD  
89 MAR 28 AM 9:24

SECOND AMENDMENT TO  
DECLARATION OF COVENANTS AND  
RESTRICTIONS FOR CHESAPEAKE

By J. J. J. J.  
MARION COUNTY RECORDER

This Second Amendment to Declaration of Covenants and Restrictions for Chesapeake made this 24<sup>th</sup> day of MARCH, 1989 by THE JONATHAN GROUP, INC., an Indiana corporation (hereinafter referred to as "Declarant");

WITNESSETH THAT:

WHEREAS, Declarant executed a certain Declaration of Covenants and Restrictions for Chesapeake, dated April 15, 1987 and recorded April 22, 1987 in the Office of the Recorder of Marion County, Indiana, as Instrument No. 87-43409 as amended by a certain First Amendment to Declaration of Covenants and Restrictions for Chesapeake, dated March 10, 1988, and recorded March 11, 1988, as Instrument No. 88-21518, in the Office of the Recorder of Marion County, Indiana (the "Declaration"); and

WHEREAS, the Declaration subjected real estate known as "Chesapeake Sections I and II" to certain covenants and restrictions provided therein; and

WHEREAS, the real estate more particularly described in "Exhibit "A" has been platted by Declarant as "Chesapeake Sections Three and Four" on December 2, 1988, as Instrument Nos. 88-130356 and 88-130357, in the Office of the Recorder of Marion County, Indiana ("Sections Three and Four"); and

WHEREAS, Declarant desires to amend the Declaration to subject Sections Three and Four to the covenants and restrictions provided for therein;

NOW, THEREFORE, in order to provide for the addition of Sections Three and Four under the Declaration, the Declarant hereby declares:

1. That Sections Three and Four are subjected to the Covenants (as that term is defined in the Declaration) in accordance with the terms and provisions of the Declaration.
2. That, except as modified by this Second Amendment, all other terms and provisions of the Declaration shall continue in full force and effect.

**FILED**  
MAR 27 1989  
LAWRENCE TOWNSHIP  
ASSESSOR

**FILED**  
MAR 23 1989  
DEPT. METRO DEVELOPMENT  
BY \_\_\_\_\_

SHIRTS L. GONROD  
MARION COUNTY RECORDER  
7883 07616  
JUST ENTERED FOR  
TAXATION  
SUBJECT TO FINAL  
ACCEPTANCE FOR TRANSFER

IN WITNESS WHEREOF, Declarant has executed this Second Amendment on the day and year first above written.

THE JONATHAN GROUP, INC.,  
an Indiana corporation

By: Thomas D. Rush  
Thomas D. Rush, President

ATTEST:

Bruce E. Smith  
Bruce E. Smith, Assistant Secretary

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for such County and State, personally appeared Thomas D. Rush and Bruce E. Smith, President and Assistant Secretary, respectively, of The Jonathan Group, Inc., who, having been duly sworn, acknowledged the execution of the foregoing Second Amendment for and on behalf of such corporation and stated that the representations contained therein are true.

Witness my hand and Notarial Seal this 24<sup>th</sup> day of March, 1989.

Jane E. Beloit  
(JANE) E. BELOIT ) Notary Public

My Commission Expires:

Feb. 26, 1993

890026972

My County of Residence is:

Marion

890026972

FILED  
MAR 23 1989  
DEPT. METRO DEVELOPMENT  
BY \_\_\_\_\_

This Instrument was prepared by Bruce E. Smith, Attorney.

Exhibit "A"

CHESAPEAKE SECTION THREE  
LEGAL DESCRIPTION

A PART OF THE  
NORTHEAST QUARTER OF SECTION 29, TOWNSHIP-17 NORTH, RANGE 5 EAST OF THE SECOND  
PRINCIPAL MERIDIAN IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS  
FOLLOWS:

N.E. 1/4 OF

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH  
00 DEGREES 07 MINUTES 08 SECONDS WEST ALONG THE WEST LINE OF SAID NORTHEAST  
QUARTER 828.97 FEET, SAID POINT BEING THE POINT OF BEGINNING OF THIS  
DESCRIPTION; THENCE SOUTH 89 DEGREES 52 MINUTES 52 SECONDS EAST 98.95 FEET;  
THENCE NORTH 78 DEGREES 38 MINUTES 54 SECONDS EAST 50.22 FEET; THENCE SOUTH 89  
DEGREES 52 MINUTES 52 SECONDS EAST 85.00 FEET; THENCE SOUTH 44 DEGREES 50  
MINUTES 01 SECONDS EAST 20.00 FEET; THENCE NORTH 78 DEGREES 38 MINUTES 53  
SECONDS EAST 72.70 FEET; THENCE NORTH 42 DEGREES 32 MINUTES 37 SECONDS EAST  
112.17 FEET; THENCE NORTH 00 DEGREES 07 MINUTES 08 SECONDS EAST 112.17 FEET;  
THENCE NORTH 38 DEGREES 22 MINUTES 16 SECONDS EAST 100.47 FEET TO THE SOUTHWEST  
CORNER OF CHESAPEAKE SECTION ONE AS RECORDED IN THE OFFICE OF THE RECORDER OF  
MARION COUNTY, INDIANA, AS INSTRUMENT NUMBER 87-43408; THENCE SOUTH 82 DEGREES  
03 MINUTES 44 SECONDS EAST ALONG THE SOUTH LINE OF SAID CHESAPEAKE SECTION ONE  
88.00 FEET; THENCE SOUTH 88 DEGREES 09 MINUTES 52 SECONDS EAST 88.00 FEET;  
THENCE SOUTH 74 DEGREES 16 MINUTES 00 SECONDS EAST 88.00 FEET; THENCE SOUTH 07  
DEGREES 46 MINUTES 05 SECONDS WEST 88.57 FEET; THENCE SOUTH 24 DEGREES 43  
MINUTES 53 SECONDS EAST 121.97 FEET; THENCE SOUTH 03 DEGREES 01 MINUTES 00  
SECONDS EAST 105.11 FEET; THENCE SOUTH 05 DEGREES 44 MINUTES 44 SECONDS EAST;  
88.30 FEET; THENCE SOUTH 14 DEGREES 07 MINUTES 58 SECONDS WEST 53.50 FEET;  
THENCE SOUTH 00 DEGREES 08 MINUTES 33 SECONDS WEST 87.38 FEET; THENCE SOUTH  
89 DEGREES 51 MINUTES 21 SECONDS WEST 15.07 FEET; THENCE SOUTH 00 DEGREES 08  
MINUTES 39 SECONDS EAST 97.00 FEET; THENCE SOUTH 15 DEGREES 32 MINUTES 08  
SECONDS EAST 51.86 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 39 SECONDS EAST  
96.00 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST 883.76 FEET  
TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES  
08 SECONDS EAST ALONG SAID WEST LINE 543.83 FEET TO THE POINT OF BEGINNING  
CONTAINING 10.12 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL HIGHWAYS, RIGHT-OF-  
WAYS, AND EASEMENTS OF RECORD.

CHESAPEAKE SECTION FOUR  
LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF  
SECTION 29, TOWNSHIP 17 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN MARION  
COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

N.E. 1/4 OF

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES  
51 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER 548.33 FEET TO  
THE NORTHWEST CORNER OF CHESAPEAKE SECTION ONE, RECORDED AS INSTRUMENT NUMBER 87-43408;  
THENCE SOUTH 00 DEGREES 08 MINUTES 39 SECONDS EAST ALONG THE WEST LINE OF SAID CHESAPEAKE  
SECTION ONE 50.00 FEET; THENCE SOUTH 46 DEGREES 46 MINUTES 27 SECONDS EAST 48.07 FEET TO A  
POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 580.50 FEET, SAID RADIUS POINT BEING NORTH  
86 DEGREES 35 MINUTES 46 SECONDS EAST 580.50 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF  
SAID CURVE 133.56 FEET TO A POINT BEING SOUTH 73 DEGREES 24 MINUTES 47 SECONDS WEST  
580.50 FEET FROM SAID RADIUS POINT, SAID POINT ALSO BEING ON A CURVE TO THE RIGHT HAVING A  
RADIUS OF 275.00 FEET, SAID RADIUS POINT BEING SOUTH 73 DEGREES 24 MINUTES 47 SECONDS WEST  
275.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 204.88 FEET TO A POINT BEING  
SOUTH 63 DEGREES 54 MINUTES 03 SECONDS EAST 275.00 FEET FROM SAID RADIUS POINT, SAID POINT  
ALSO BEING ON A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, SAID RADIUS POINT BEING  
NORTH 63 DEGREES 54 MINUTES 03 SECONDS WEST 25.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC  
OF SAID CURVE 40.16 FEET TO A POINT BEING SOUTH 28 DEGREES 08 MINUTES 31 SECONDS WEST  
25.00 FEET FROM SAID RADIUS POINT, SAID POINT ALSO BEING ON A CURVE TO THE RIGHT HAVING A  
RADIUS OF 475.00 FEET, SAID RADIUS POINT BEING NORTH 28 DEGREES 08 MINUTES 31 SECONDS EAST  
475.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 23.80 FEET TO A POINT BEING  
SOUTH 30 DEGREES 59 MINUTES 19 SECONDS WEST 145.00 FEET TO THE SOUTHWEST CORNER OF SAID  
CHESAPEAKE SECTION ONE; THENCE SOUTH 38 DEGREES 22 MINUTES 16 SECONDS WEST 100.47 FEET;  
THENCE SOUTH 00 DEGREES 07 MINUTES 08 SECONDS WEST 112.17 FEET; THENCE SOUTH 42 DEGREES 32  
MINUTES 37 SECONDS WEST 112.17 FEET; THENCE SOUTH 70 DEGREES 36 MINUTES 54 SECONDS WEST  
72.70 FEET; THENCE NORTH 44 DEGREES 50 MINUTES 00 SECONDS WEST 20.00 FEET; THENCE NORTH 89  
DEGREES 52 MINUTES 52 SECONDS WEST 85.00 FEET; THENCE SOUTH 78 DEGREES 39 MINUTES 54  
SECONDS WEST 50.22 FEET; THENCE NORTH 89 DEGREES 52 MINUTES 52 SECONDS WEST 98.95 FEET TO  
THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES 08 SECONDS  
EAST ALONG SAID WEST LINE 828.97 FEET TO THE POINT OF BEGINNING CONTAINING 9.68 ACRES MORE  
OR LESS, AND SUBJECT TO ALL LEGAL HIGHWAYS, RIGHT-OF-WAYS, AND EASEMENTS OF RECORD.

890026972

P U L E D

MAR 23 1983

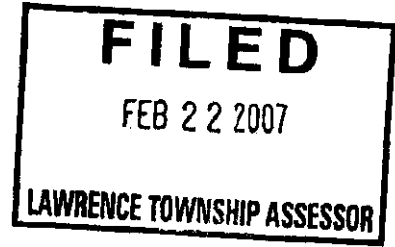
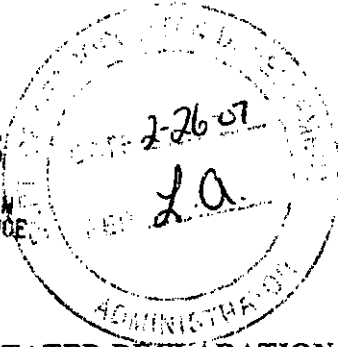
DEPT. METRO DEVELOPMENT

BY \_\_\_\_\_

BILLIE J. BREAUX  
MARION COUNTY AUDITOR

671405 FEB 26 5

DULY ENTERED FOR REGISTRATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER



Cross Reference: 1987-43409

**AMENDED AND RESTATED DECLARATION OF COVENANTS AND  
RESTRICTIONS FOR CHESAPEAKE**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR CHESAPEAKE ("Declaration") was executed as of the date set forth hereafter.

WITNESS THAT the following facts are true:

The Chesapeake subdivision located in Marion County, Indiana was established by a certain "Declaration of Covenants and Restrictions for Chesapeake" which was recorded on or about April 22, 1987, as **Instrument No. 1987-43409** in the Office of the Recorder of Marion County, Indiana, said Declaration together with all amendments and/or supplements thereto being hereafter referred to as the "Original Declaration"; and

Plats filed with the Office of the Recorder of Marion County, Indiana established a total of one hundred eighty-four (184) residential and Lots, and Common Area, comprising the Chesapeake subdivision in accordance with the Declaration; and

Article VIII, Section 3 of the Original Declaration states that its covenants, conditions and restrictions may be amended upon approval by the Owners of at least two-thirds (2/3) of the Lots; and

No Mortgagees requested notice of such action; and

A Special Meeting of the Owners and the Chesapeake Homeowners' Association, Inc. ("Association") was held on December 6, 2006, and reconvened on January 10, 2007; and

The purpose of said Special Meeting as stated in the notice for the meeting was for the Association's members to discuss and approve the following Amended and Restated Declaration; and

At said Special Meeting, the Owners of one hundred thirty (130) Lots, in person or by proxy, voted to approve this Amended and Restated Declaration pursuant to the terms below; and

The Owners of said Lots desire to amend certain provisions of the Original Declaration and to restate the same for the convenience of the Owners such that this Amended and Restated Declaration of Covenants and Restrictions for Chesapeake in no way nullifies or changes the Original Declaration or the effective date of the Original Declaration. However, upon the date of recording of this Amended and Restated Declaration with the Marion County Recorder's Office, the Original Declaration shall no longer be in effect and shall be replaced by the following.

The Original Declaration contained exhibits. For historical purposes, these various exhibits may be referred to from time to time, and therefore, for cross-reference purposes, one should refer to them as they were filed with the Marion County Recorder. Those exhibits, however, are not exhibits to this Amended and Restated Declaration. Except as to any exhibits to the Original Declaration that may remain relevant, all other provisions of the Original Declaration are hereby modified in their entirety, and superceded by this Amended and Restated Declaration.

NOW, THEREFORE, the Owners of more than two-thirds (2/3) of the total number of Lots in Chesapeake hereby amend and restate the Original Declaration such that all of the platted dwellings, Lots and lands located within Chesapeake as they have been platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are declared and agreed to be in furtherance of a plan for the improvement and sale of said dwellings, Lots and lands in Chesapeake. Such restrictions below were 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 dwellings and Lots situated therein. All of the restrictions shall run with the land and shall be binding upon the Owners and upon the parties having or acquiring any right, title or 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 all successors in title to any real estate in the development. Now, therefore, the Original Declaration which is applicable to all Owners and residents within Chesapeake is hereby amended and restated as follows:

#### ARTICLE I

##### General Purpose Of This Declaration

The Real Estate is hereby subjected to the Covenants herein declared to preserve the value of the Real Estate, to ensure proper use and appropriate improvement of the Real Estate, to encourage the construction of attractive buildings and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may be inharmonious with other improvements on the Real Estate or within Chesapeake, to preserve and maintain proper setbacks from streets and adequate free space between structures, to provide for adequate and proper maintenance of the Real Estate so as to ensure a high quality appearance and condition of the Real Estate, all for the purpose of preserving the values of all lots within Chesapeake and to ensure desired high standards of maintenance of the Real Estate, to the benefit of all owners within Chesapeake.



ARTICLE II  
Definitions For All Purposes Of This Declaration

The following terms, whenever used in this Declaration, shall have the meanings assigned to them by this Article II:

Section 2.1. Assessment. "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of Article VII.

Section 2.2. Association. "Association" means Chesapeake Homeowners' Association, Inc., an Indiana not-for-profit corporation, formed for the purpose of determining and collecting the Assessments and overseeing and enforcing the terms of this Declaration.

Section 2.3. Chesapeake. The term "Chesapeake" means and includes all portions of the Real Estate and other real property as were platted and recorded in accordance with the provisions of this Declaration.

Section 2.4. Committee. "Committee" shall mean the Chesapeake Development Control Committee, composed of three (3) or more members appointed by the Association's Board of Directors, who shall be subject to removal by the Board at any time with or without cause. Any vacancies shall be filled by appointment of the Board. In lieu of a separate Committee, the Board may serve as the same.

Section 2.5. Common Areas. "Common Areas" means certain areas designated as Common Areas on the plat or plats of Chesapeake, and which are intended for the common benefit of all Lots.

Section 2.6. Common Expense. "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property.

Section 2.7. Common Property. "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, and which is located in, upon, or under the Common Areas, Easements, or Streets within Chesapeake. To the extent Common Property is not publicly dedicated, Common Property includes, but is not limited to, all Streets, curbs, water mains, fire hydrants, the Drainage System, the Sewage System, street lights and signs upon the Streets, public sidewalks, landscaping, lakes, parks, and open spaces.

Section 2.8. Drainage System. "Drainage System" means the storm sewers, subsurface drainage tiles, pipes and structures, and other structures, fixtures, properties, equipment and facilities located in, upon, or under the Common Areas, Easements, or Streets and designed for the purpose of expediting the drainage of surface and subsurface waters from, over, and across Chesapeake.

Section 2.9. Easements. "Easements" refer to those areas reserved as easements on the plat or plats of Chesapeake.

Section 2.10. Lot. "Lot" means any of the separate parcels numbered and identified on the plat or plats of Chesapeake.

Section 2.11. Mortgagee. The term "Mortgagee" means any holder, insurer, or guarantor of any first mortgage on any Lot.

Section 2.12. Owner. "Owner" means any person or persons who acquire legal and/or equitable title to any Lot; provided, however, that "Owner" shall not include any holder of any mortgage of all or any part of any Lot, so long as such holder does not hold both legal and equitable title thereto.

Section 2.13. Sewage System. "Sewage System" means any sanitary sewer lines, lift stations, equipment, or facilities located in, upon, or under the Common Areas, Easements, or Streets and designed to provide for the discharge of sanitary sewage from any or all Lots, as the same are or may be constructed at any time, and any replacement thereof or substitute therefor.

Section 2.14. Streets. "Streets" means all of the public and private roadways to the respective right-of-way lines thereof, as shown on the plat or plats of Chesapeake, which have been constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots.

### ARTICLE III Use Restrictions

Section 3.1. General. Unless otherwise provided in these restrictions or on the recorded plat, no dwellings or above-grade structure shall be constructed or placed on any Lot except as provided herein.

Section 3.2. Type of Structure. Every Lot in Chesapeake shall be used exclusively for single family residential purposes.

Section 3.3. Lot and Dwelling. All Lots shall be not less than five thousand (5,000) square feet in size. All dwellings will have two (2), three (3) or four (4) bedrooms, a two-car garage and a minimum living area of one thousand two hundred (1,200) square feet.

Section 3.4. Accessory or Temporary Buildings. No temporary house, trailer, tent, or temporary garage shall be placed or erected on any Lot. No accessory building or outbuilding, including mini-barns, shall be placed or erected on any Lot.

Section 3.5. Setback Lines. Front yards, side yards and rear yards setback lines shall be located as set forth upon the plats of Chesapeake.

**Section 3.6. Manner of Use.** Each Owner shall use and occupy his respective Lot and all Easements and rights-of-way appertaining thereto, in a careful, safe, and proper manner and keep his Lot in a clean and safe condition in accordance with this Declaration, applicable zoning ordinances, all health, fire, and police requirements and regulations, state statutes, local ordinances, and the lawful directions of proper public officials. No Owner shall conduct, or permit any person to permit, any unlawful activity in Chesapeake.

**Section 3.7. Outside Grounds.** No basketball goals (permanent or portable) are permitted. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within Chesapeake, any fence, light fixture, or similar structure must be approved by the Committee as to size, color, location, height and composition before it may be installed. A standard mailbox and post will be adopted for Chesapeake by the Board of Directors or Committee and adequately repaired and replaced by each Owner as necessary.

**Section 3.8. Exterior Construction.** Each driveway in Chesapeake will be of concrete material and will not exceed in width the side boundaries of the garage associated therewith. No additional parking will be permitted on a Lot other than in the existing driveway. Each dwelling will have a continuance concrete sidewalk from the driveway to the front porch. All metal windows in Chesapeake will be factory painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break. All gutters and downspouts in Chesapeake will be painted on a colored material other than gray galvanized. All garage doors within the development will be of a masonite, wood, or such other material as approved by the Committee. All roofing in Chesapeake will be of a shingle-type material with weight no less than two hundred twenty (220) pounds and rating of Class A. The 3-Tab (Weatherwood) or Dimensional shingles are approved shingles when replacing roofs in the Chesapeake Addition. All roofs that are being replaced are to be approved by the Board as to the color. The color should be compatible with the color "Weatherwood" to maintain uniformity in the Chesapeake Addition. All roof pitches will be four to twelve (4:12) or greater. Plumbing vent stacks shall be placed in inconspicuous locations. No two dwellings with the same facade will be placed side by side. No awnings or patio covers that are made of metal (except for copper or metal roofs over box or bay windows), fiberglass or similar type material, will be permitted in Chesapeake. No above-ground or in-ground swimming pools will be permitted on any Lot in Chesapeake. The finished exterior of every building constructed on any Lot shall be of cedar or resemble cedar and must look like materials other than aluminum siding or any other similar artificial material.

**Section 3.9. Heating Plants.** Every dwelling in Chesapeake must contain a heating plant installed in compliance with required codes.

**Section 3.10. Damaged Structures.** No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

**Section 3.11. Used Materials.** All structures constructed or placed on any numbered Lot in Chesapeake shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 3.12. Maintenance of Lots and Improvements. The Owner of any Lot in Chesapeake shall at all times maintain the Lot and any Improvements situated thereon in such a manner as to prevent the Lot or Improvements from becoming unsightly. Owners shall be responsible for the following:

- (a) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and noxious weeds.
- (b) Remove all debris or rubbish.
- (c) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.
- (d) Cut down and remove dead trees.
- (e) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.
- (f) Where applicable, prevent debris, grass clippings, and foreign material from entering drainage areas and ponds.
- (g) Each Lot owner on the pond shall be responsible for preventing erosion and protecting the natural environment of the ponds. Methods and materials to be so employed must be approved by the Board prior to commencement of work.

Section 3.13. Failure of Owner to Abide By Section 3.12. If the Owner of any Lot fails to abide by Section 3.12 in a manner reasonably satisfactory to the Board of Directors, after due notification, the Association shall have the right (but not the obligation), through its agents, employees and contractors, to enter upon said Lot and clean, repair, maintain or restore the Lot, as the case may be, and the exterior of the improvements erected thereon. The cost of any such work shall be and constitute a Special Assessment against such Lot and the Owner thereof, and may be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable to the offending Owner for any damage which may result from any maintenance work performed hereunder. The Association's rights herein are in addition to its other remedies as set forth elsewhere in this Declaration.

#### ARTICLE IV General Restrictions

Section 4.1. Nuisances. No noxious, unlawful or otherwise offensive activity (including objectionable odors) shall be carried out on any Lot or anywhere else in Chesapeake, nor shall anything be done thereon which may be or may become a serious annoyance or nuisance to the neighborhood, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines, or by loud persons.

Section 4.2. Animals. No farm animals, fowls or domestic animals, other than a reasonable number of household pets, shall be permitted in Chesapeake. All such pets must be kept under control by their owners and must not become a nuisance to other residents.

Section 4.3. Boats, Trucks, etc. No camper, motor home, truck (over 1 ton load capacity), trailer, bus, boat, paddle boat, personal watercraft, snowmobile or other recreational vehicle of any kind may be stored on any Lot in open public view or on any street or road within Chesapeake. However, recreational vehicles and boats may be parked in the Owner's driveway for a period not to exceed forty-eight (48) hours for the purpose of cleaning, loading or unloading. No vehicles of any kind may be put up on blocks or jacks on a Lot to accommodate repair unless such repairs are done in the garage. No disabled, junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be allowed to remain in open public view anywhere within Chesapeake. All watercraft should be out of the water between the months of November through March.

Section 4.4. Clothes Drying Area. No outdoor clothes drying apparatus shall be allowed.

Section 4.5. Site Visibility. No fences, wall, hedge, or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner lot.

Section 4.6. Fences. All fences shall be kept in good repair and erected so as to enclose the property and decorate the same without hindrance, encroachment, or obstruction to any Easement, Street right-of-way line, or adjoining Lot. No fence shall measure more than six (6) feet tall. No chain linked fences shall be allowed. Prior to erection, the plans for all fences must be approved by the Committee.

Section 4.7. Signs. No billboards or advertising signs of any character shall be exhibited in any way on or above the Real Estate or any part thereof or on any improvement thereon without the written approval of the Committee; provided, however, any Owner may place one sign of not more than six (6) square feet advertising the Lot and Improvements thereon, for sale or rent. Political signs will be permitted in private yards two weeks prior to election and removed forthwith. Political signs are not to be posted on the common ground.

Section 4.8. Oil and Gas Tanks; Air Conditioners. All oil tanks and bottled gas tanks must be placed or stored per applicable law. No above or below storage of gasoline will be allowed. Any stationary air conditioning units must be similarly walled-in, screened or appropriately landscaped. Appropriate screening shall be determined by the Committee.

Section 4.9. Easements for Utilities and Public and Quasi-Public Vehicles. All public and quasi-public vehicles, including, but not limited to police, fire, ambulance and other emergency vehicles, trash and garbage collection, post office vehicles, and privately owned delivery vehicles shall have the right to enter upon the Real Estate and any Lot therein in performance of their duties.

**Section 4.10. Utility Easements.** The Association, for itself and on behalf of applicable utility companies, reserves unto itself, its successors and assigns for purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of Chesapeake, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable TV), and such other further public service facilities as may be necessary or advisable. Provided, however, the disturbed area shall be restored as nearly as is possible to the condition in which it was found. No permanent structures shall be constructed within an easement area.

**Section 4.11. Landscape Easements.** The Landscape Easements, if any, are for the construction, maintenance and improvement of landscaping and earth mounding on certain Lots. Such easements shall be in favor of the Association for improvements and maintenance.

**Section 4.12. Utility Lines.** All electrical service, telephone and other utility lines shall be placed underground, except where required to be placed above ground by the individual utility supplier or when approved by the Committee. No utility services shall be installed under finished streets except by jacking, drilling, or boring unless specifically approved by the Committee.

**Section 4.13. Lot Access.** All Lots shall be accessed from the interior streets of this subdivision. No access is permitted from 79th Street or Sunnyside Road.

**Section 4.14. Obstruction of Common Property.** No Owner shall unreasonably interfere with, damage, or obstruct the use or maintenance of any Common Property.

**Section 4.15. Outdoor Lighting.** All outdoor lighting on any Lot shall be subject to the approval of the Committee or the Association and all applications for such approval shall be in writing. All outdoor lighting shall be maintained in working order at all times. The outdoor lighting is for aesthetic appearance as well as security purposes.

**Section 4.16. Garbage, Trash and Other Refuse.** No Owner of a Lot in Chesapeake shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in Section 4.17 below. All dwellings built in Chesapeake shall be equipped with a garbage disposal unit.

**Section 4.17. Trash Receptacles.** Every outdoor receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street within Chesapeake at any time, except at the times when refuse collections are being made. Trash shall not be placed along the curb for collection until after 6:00 p.m. or later on the day before collection.

**Section 4.18. Ditches and Swales.** It shall be the duty of every Owner of every Lot in Chesapeake on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair.

Section 4.19. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in Chesapeake without the approval of the Committee. No septic tanks shall be installed on any of the Lots.

Section 4.20. Antennas, Satellite Dishes, and Poles. Subject to any lawful restrictions or conditions imposed by law or ordinance and in compliance with the Federal Communications Commission July 1995 Ruling on Over the Air Reception Devices:

Outdoor satellite dishes 39.37 inches in diameter or smaller with companion digital antennas necessary to receive local digital broadcasts shall be permitted. The Homeowner's Association asks that these be as unobtrusive and considerate of the ambiance of Chesapeake as possible.

No poles are allowed, except for flag poles approved by the Committee.

## ARTICLE V Development Control Committee

### Section 5.1. Powers of Committee.

(a) In General. No dwelling or improvement of any type or kind shall be repainted (unless the color has been pre-approved by the Board of Directors or Committee), altered, constructed or placed on any Lot in Chesapeake, and no existing living trees shall be removed, without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one inch (1") equals ten feet (10'), or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

(b) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:

(1) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

(2) the design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures;

(3) the proposed improvement, or any part thereof, or proposed tree removal, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of other Owners.

Section 5.2. Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One copy of submitted materials shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval.

Section 5.3. Liability of Committee. Neither the Committee nor any agent thereof shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

Section 5.4. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

Section 5.5. Non-Compliance with Covenants and Restrictions; Remedies of Association:

If the homeowners, or their heirs or assigns shall violate or attempt to violate any of these covenants, restrictions, provisions or conditions herein, it shall be lawful for the Board, or any other person owning any real property situated in this subdivision, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, restriction, provision or condition, either to prevent him from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. The prevailing parties shall have the right to recover legal expenses, including reasonable attorney's fees. Notwithstanding the foregoing, in enforcing the covenants, restrictions, provisions or conditions herein, prior to resorting to litigation or the courts, the Board, or any other person owning any real property situated in this subdivision, shall first contact the owner of the lot within the subdivision wherein the violation of said covenants, restrictions, provisions or conditions is alleged in order to provide said offending lot owner the ability to cure said violation. In the event of a failure to so notify the offending lot owner, the Board, or any other person owning any real property situated in this subdivision, will not be entitled to recovery of legal expenses or attorney's fees although otherwise entitled to recover same as a prevailing party.



ARTICLE VI  
Property Rights

Section 6.1. Rights to Common Property. Title to all Common Property shall be held by the Association and each Owner shall have, as non-exclusive, reciprocal easements appurtenant to his Lot; a right of access to his Lot over all streets; the right of access to and use of the drainage system, the sewage system, and all utility lines and mains abutting or adjacent to his Lot; the right to use of all Common Areas for their intended purposes; provided, however, that no Owner's use of any Common Property shall materially interfere with any other Owner's use thereof.

Section 6.2. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any Assessment against his Lot remains unpaid;

(b) the right of the Association to dedicate or transfer all or any part of 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.

Section 6.3. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas and facilities of the Association to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 6.4. Limited Common Area. There is hereby reserved for the benefit of the Owner of any Lot, a limited common area for the purpose of entering and encroaching upon an adjoining Lot as designated on the plat hereof. Said limited common area is reserved for the limited purpose of performing maintenance and repair work on the dwelling benefited by such easement, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the adjacent dwelling. The owner of any house built within three (3) feet of a side-yard property line, shall have an express right of access and use for the limited purposes described above, in the limited common area as measured from the side-yard property line. Said easement area shall be five (5) feet in width as measured from said side-yard property line and as designated on the plat hereof. Any persons entering upon an adjacent Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of such area.

ARTICLE VII  
Covenants For Maintenance Assessments

Section 7.1. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Chesapeake

and promoting the health, safety, and welfare of the Owners, users, and occupants of Chesapeake and, in particular, for the improvement, repairing, operating, and maintenance of the Common Property, including, but not limited to, the payment of taxes and insurance thereon and for the cost of labor, equipment, material, and management furnished with respect to the Common Property; provided that the Association shall not be responsible for the replacement, repair or maintenance of any Common Property which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay to the Association:

(a) A Pro-rata Share (as hereinafter defined) of the Annual Assessments fixed, established, and determined from time to time, as hereinafter provided.

(b) A Pro-rata Share (as hereinafter defined) of any Special Assessments fixed, established, and determined from time to time, as hereinafter provided.

Section 7.2. Liability for Assessment. Each Assessment, together with any late charges thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien from and after the due date thereof in favor of the Association upon each Lot. Each such Assessment, together with any late charges thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

Section 7.3. Pro-rata Share. The Pro-rata Share of each Owner for purposes of this Article VII shall be the percentage obtained by dividing one of the total number of Lots shown on the plat or plats of Chesapeake ("Pro-rata Share"). Thus, Annual and Special Assessments shall be uniform for all Lots.

Section 7.4. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth estimates of all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be delivered to each Owner prior to the beginning of each fiscal year of the Association.

Section 7.5. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessment levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board of Directors of the Association may, at any time, and from time to time levy such special Assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board of Directors of the Association shall have the right to levy at any time, and from time to time, one or more

special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the Annual Assessments.

Section 7.6. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The Annual Assessment shall be due and payable on the first day of each fiscal year of the Association, except that the Association may from time to time by resolution authorize the payment of such Assessment in installments.

Section 7.7. Duties of the Association.

(a) The Board of Directors of the Association shall keep proper books and records of the levy and collection of each annual and special Assessment, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(b) The Association shall promptly furnish to any Owner or Mortgagee upon request a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to such requesting Owner's or Mortgagee's Lot. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(c) The Association shall notify any Mortgagee from which it has received a request for notice of any default in the performance by any Owner of any obligation under the By-Laws or this Declaration which is not cured within sixty (60) days.

Section 7.8. Non-payment of Assessments; Remedies of Association.

(a) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any late charges thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(b) Upon the failure of an Owner to make payments of any Annual or Special Assessments within thirty (30) days of the due date, the Board, in its discretion, may impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the unpaid assessment. Thereafter, the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys fees (regardless of whether litigation is instituted), and in the event a judgment is obtained, such judgment shall include such late charges, costs, and attorneys' fees.

Section 7.9. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for Annual Assessments or by the making of one or more Special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-rata Share of such excess shall be a credit against the Assessment due from each Owner for the next fiscal year.

## ARTICLE VIII Organization and Duties of Association

Section 8.1. Organization of Association. The Association shall be organized as a not-for-profit corporation under the laws of the State of Indiana, to be operated in accordance with the Association's Articles of Incorporation as filed with the Indiana Secretary of State. The membership of the Association shall consist of one class of voting members, with each member having equal voting rights. The members of the Association shall consist of the Owners of Lots in Chesapeake. However, if a Lot is owned by more than one person, partnership, trust, corporation, or other entity, they shall be treated collectively as one member for voting purposes, so that as to any matter being considered by the Association, there is only one vote per Lot.

Section 8.2. General Duties of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement, of the Common Property, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by this Declaration. The Association shall also have the right, but not the obligation to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct.

**Section 8.3. Amendment of Declaration.** The Association shall have the right to amend this Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least two-thirds of the Lots and the Mortgagees of at least two-thirds of the Mortgagees requesting notice of such action. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit of addendum thereto a certified copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendment shall not be effective until recorded in the Office of the Recorder of Marion County.

**Section 8.4. Insurance.** The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury. The Association shall also maintain in force adequate officers and directors insurance covering the officers and directors of the Association. If appropriate, the Association shall also maintain in force adequate fire and extended coverage insurance, insuring all Common Property against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full insurable value of such Common Property. The Association shall notify all Mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Board members, any property manager, their respective employees and agents, the Lot Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more parties against other insured parties.

The Association shall maintain a fidelity bond indemnifying the Association, the Board of Directors and the Lot Owners for loss of funds resulting from fraudulent or dishonest acts of any director, officer, employee or anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The fidelity bond should cover the maximum amount of funds which will be in the custody of the Association or its management agent at any time, but in no event shall such fidelity bond coverage be less than the sum of three (3) months' assessments on all Lots in Chesapeake, plus the Association's reserve funds.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association and all Mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be cancelled or substantially modified for any reason.

**Section 8.5. Condemnation; Destruction.** In the event that any of the Common Property shall be condemned or taken by any competent public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered

by the Association shall be applied, first, to the restoration and repair of any Common Property condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, and the balance of such sums shall either be held as a reserve for future maintenance of the Common Property or turned over to the Owners in proportion to their Pro-rata Shares, whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Property. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage, or destruction of any Common Property.

Section 8.6. Mortgagees' Rights. The Mortgagees shall have the right, at their option, jointly or severally, to pay taxes or other charges which are in default or which may or have become a charge against the Common Property and to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Property, and Mortgagees making such payment shall be owed immediate reimbursement therefor from the Association. In addition, neither the Owners nor the Association shall materially impair the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate.

#### ARTICLE IX

##### Term

This Declaration shall be effective until January 1, 2017, and shall automatically renew for terms of ten (10) years each, in perpetuity, unless as of the end of any term the Owners of two-thirds (2/3) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during such vote was taken.

#### ARTICLE X

##### General Provisions

Section 10.1. Covenants Run With the Land. The Covenants created by this Declaration shall attach to and run with the Real Estate and shall be binding upon every person who may hereafter come into ownership, occupancy, or possession of any portion of the Real Estate.

Section 10.2. Scope of Covenants. Each Owner of any Lot by acceptance of a deed therefor whether or not it shall be so expressed in such deed, is deemed to have agreed to each and every one of the various terms, Covenants and conditions, contained in this Declaration, and the same shall be of mutual and reciprocal benefit to the Association and each Owner of a Lot. The Association and each Owner shall be entitled to enforce this Declaration against any Owner to the full extent permitted herein under applicable law; provided, that the Association shall not be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of the rights or remedies set forth herein. Each Owner shall be liable for any failure to fully comply with all of the terms, Covenants, and conditions, contained in this Declaration only so long as each such Owner shall have any interest in any Lot; provided, however, that the relinquishing of all of such interest shall not operate to release any Owner from liability for a failure to comply with this Declaration which occurred while said Owner had such interest.

Section 10.3. Failure to Enforce Not a Waiver of Rights. The failure of the Association or any Owner to enforce any term, Covenant, or condition, herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other such term, covenant, or condition.

Section 10.4. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

Section 10.5. Section Headings. Section headings used herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular sections to which they refer.

Section 10.6. Notices. All notices in connection with this Declaration shall be made in writing and shall be deemed delivered (a) upon personal delivery to the individual person, or (b) seventy-two hours after the deposit thereof in any United States main or branch post office, first class postage prepaid, properly addressed to the individual person.

Section 10.7. Enforcement. Any Owner or the Association shall have the right to enforce, by a proceeding at law or inequity, all restrictions, condition, or Covenants, imposed by this Declaration, but the Association shall not be liable for damages of any kind to any person for failure to either to abide by, enforce or carry out any of the Covenants or Restrictions.

Section 10.8. Controlling Document. If there is any conflict between the provisions of this Declaration and any Plat of a part of Chesapeake, the terms and provisions of this Declaration shall be controlling. If there is any conflict between the provisions of this Declaration and Articles of Incorporation or By-Laws of the Association, the terms and provisions of this Declaration shall be controlling. Conflict, as used herein, shall mean a situation where the application of the language in one document contradicts the language in another document. Conflict does not occur where language in one document is simply more restrictive than language in another document.

The undersigned persons hereby represent and certify that all requirements for and conditions precedent for the effectiveness of this Amended and Restated Declaration of Covenants and Restrictions have been fulfilled and satisfied. Attached hereto and incorporated herein are the certified minutes of the Special Meeting at which this Amended and Restated Declaration was approved.

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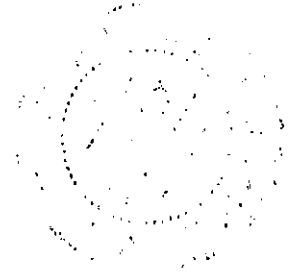
Executed this 22nd day of February, 2007.

Chesapeake Homeowners' Association, Inc., by:

Marianne Rhinesmith, President  
Marianne Rhinesmith, President

Attest:

L. Kay Cook  
L. Kay Cook, Secretary



STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION     )

Before me, a notary public, in and for said County and State, personally appeared Marianne Rhinesmith and L. Kay Cook, the President and Secretary, respectively, of Chesapeake Homeowners' Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing for and on behalf of said corporation and its members and who, being duly sworn, stated that the certifications and representations made therein are true. Witness my hand and notarial seal this 22nd day of February, 2007.

Dianne M. Colquett  
Notary Public - Signature

Dianne M. Colquett  
Printed  
Residence County: Marion

My Commission Expires:  
12-10-09

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th Street, Suite B, Indianapolis, IN 46216. Telephone (317) 536-2565.



**SPECIAL MEETING**  
**December 6, 2006**  
**Reconvened January 10, 2007**

Minutes of December 6, 2006 Chesapeake Homeowners Association Special Meeting

The Special Meeting of the Chesapeake Homeowners Association (CHOA) was called to order at 7:00 p.m. on December 6, 2006, at the Indian Lake Country Club. The Chesapeake Board of Directors – Marianne Rhinesmith, Kay Cook, Dave Snow, Paul Rogers and Julie Petty – were in attendance. Approximately 40 Chesapeake residents were in attendance in person. Other residents had previously responded by proxy.

Marianne Rhinesmith called the meeting to order and then turned the meeting over to Kay Cook. Kay Cook then explained that two-thirds (2/3) of the Chesapeake homeowners would have to approve the Amended and Restated Declaration of Covenants and Restrictions for Chesapeake. If a homeowner could not attend the meeting, then a Proxy had been provided to all homeowners. Kay Cook then explained that a Ballot would be available for homeowners who attended the meeting.

A question and answer period then began. Discussion began regarding the last sentence in Section 3.8 – Exterior Construction. It was decided by consensus that this last sentence should be amended to read, "The finished exterior of every building constructed on any Lot shall be of cedar or resemble cedar and must look like materials other than aluminum siding or any other similar artificial material."

Another homeowner noted that he does not live on the ponds and does not want to have to pay for the upkeep of property on the ponds. In Section 3.12 (g) – Maintenance of Lots and Improvements – Homeowner suggested that it read "Each Lot owner on the pond shall be responsible to prevent erosion and protect the natural environment of the ponds." Another homeowner that had submitted their proxy suggested that the following sentence also be added: "Methods and materials to be so employed must be approved by the Board prior to commencement of work." It was decided by consensus to modify the proposed amendments accordingly.

Many homeowners questioned the wording in Section 3.13 regarding the Board's responsibility to go onto any Chesapeake property to complete needed work. It was agreed that the amended covenants include the additional phrase, "After due notification..."

Another homeowner questioned the definition of the term "reasonable number" of household pets. It was decided that 2 dogs and 2 cats would be a reasonable number, but that no change would be made to the proposed amended covenants.

It was suggested that 3:00 p.m. and not 6:00 p.m. should be the earliest time that Trash could be put out. A Board member mentioned that the Chesapeake Board only responds to homeowner complaints. We must have Chesapeake homeowners complaining about

this or this would not be in the Amended Covenants. It was noted by another Board member that since the Chesapeake Trash collection takes place on Monday morning, we should not have our trash out while homeowners are having family members in for Sunday dinner, etc. However, there was no agreement to change the proposed amended covenants.

One homeowner thought that (30) days to approve or disapprove proposed improvements was too long. A Board member mentioned that since the Board meets only once a month and if a Board member were to be going on a two-week vacation, the Board would need extra time to evaluate the requests. It was noted that most normal paint requests and roofing requests are presently being taken care of in less than one week. Thus, there was no agreement to change the proposed amended covenants.

Various homeowners commented that they may not agree with every change, but it would be difficult to find all homeowners who would agree to every change suggested. All in all, several homeowners indicated that it was necessary to make the changes.

The ballots were passed out and then collected. Kay Cook noted that there were numerous proxies turned in at her home on the afternoon of December 6 and she had not yet had an opportunity to tally them. It was also noted that Chesapeake has numerous homeowners spending the winter in Florida and with the Chesapeake Homeowners' Assessments being due December 31, 2006, many homeowners indicated they were sending in their proxies with their assessments. At the end of the meeting, it was determined that a final account would take place after the Board had a chance to hear from as many homeowners as possible. The meeting was adjourned at 9:00 p.m.

#### Minutes of January 10, 2007 Reconvened Special Meeting

The Special Meeting of the Chesapeake Homeowners Association (CHOA) was reconvened at 7:00 p.m. on January 10, 2007, at the home of Kay Cook. The Chesapeake Board of Directors – Marianne Rhinesmith, Kay Cook, Dave Snow, Paul Rogers and Julie Petty – were in attendance. The Board prepared a final tabulation of all votes that had been cast in person and by proxy. Per that final tally, the owners of 130 lots voted in favor of the Amended and Restated Declaration of Covenants and Restrictions, while 18 owners voted against. The Board noted that the owners of 124 lots were needed to approve the Amended and Restated Declaration, so that document was officially approved. The Board will contact the Association's attorney so that it can be prepared for filing with the Lawrence Twp. Assessor, the Department of Metropolitan Development, the County Auditor and the County Recorder. The meeting was adjourned at 8:30 p.m.

  
Marianne Rhinesmith  
President, Chesapeake Homeowners' Association

### CERTIFICATION OF MINUTES

The undersigned, being the duly elected and appointed Secretary of Chesapeake Homeowners Association, Inc. ("Association"), hereby certifies that the attached is a true and correct copy of the minutes of the special meeting of the Association held on December 6, 2006 and reconvened on January 10, 2007.

Dated: Feb 22 . 2007.

  
L. Kay Cook, Secretary