

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR EDEN VILLAGE

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THIS DECLARATION (hereinafter called "the Declaration" or "this Declaration") made this 5th day of June, 1984, by EDEN VILLAGE COMPANY, an Indiana limited partnership (hereinafter called "Declarant"),

W I T N E S S E T H :

WHERKAS, Declarant is the owner of the real estate in Hamilton County, Indiana, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Original Real Estate"); and

WHERKAS, Declarant has heretofore conveyed to various other parties the real estate in Hamilton County, Indiana, more particularly described in Exhibit "B" attached hereto and incorporated herein by reference (hereinafter referred to as the "Conveyed Lots"); and

WHERKAS, Declarant is also the owner of the Real Estate in Hamilton County, State of Indiana, more particularly described in Exhibit "C" attached hereto and incorporated herein by reference (hereinafter referred to as the "Additional Real Estate"); and

WHERKAS, Declarant is in the process of creating on the Original Real Estate [and may in the future desire to create on such portions (or all) of the Additional Real Estate as may be made subject to the terms of this Declaration, as hereinafter provided] a residential community with public streets, and private open spaces and landscaped areas, for the benefit of such residential community, to be known as EDEN VILLAGE ADDITION; and

WHERKAS, Declarant desires to reserve and grant to the owners of each of the Conveyed Lots the right for a limited period of time to subject the conveyed lots owned by each such owner to the terms of this Declaration and thereby include such Conveyed Lots as part of such residential community, as hereinafter provided; and

WHERKAS, Declarant desires to provide for the preservation and the common enhancement of the values and amenities in such community and the common

This Instrument Recorded  
Mary L. Clark, Recorder,  
Hamilton County, Ind.  
1984

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facilities therein contained, and to this end, Declarant desires to subject the Original Real Estate [together with such portions (or all) of the Additional Real Estate as may hereafter be made subject to the terms of this Declaration, as hereinafter provided], and to permit the owners of each of the Conveyed Lots a limited right to subject the Conveyed Lots, to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Original Real Estate [and any portions (or all) of the Additional Real Estate and the Conveyed Lots as may be hereafter made subject to the terms of this Declaration, as hereinafter provided] and each owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering any common facilities located on the Property (hereinafter defined), administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, performing certain maintenance, repairs and replacements of buildings as hereinafter provided, and promoting the health, safety and welfare of the owners of the Property, and all parts thereof; and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "Village Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Property, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and of each of the lots situated therein, and which shall run

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with the Property and be binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns.

ARTICLE I.  
DEFINITIONS

Section 1. The following words when used in this Declaration, or any supplemental declaration (unless the context shall prohibit) shall have the following meanings:

A. "Additional Real Estate" shall mean the parcel or parcels of real estate in Hamilton County, Indiana, described in Exhibit "C" attached to and incorporated in this Declaration.

B. "Applicable Date" shall mean the "Applicable Date" as defined and determined in accordance with Section 3.B. of Article III hereof.

C. "Association" shall mean Village Homeowners Association, Inc., an Indiana not-for-profit corporation which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns.

D. "Board" or "Board of Directors" shall mean the board of directors of the Association.

E. "Common Area" shall mean (1) those portions, if any, of the Property shown upon any recorded subdivision plat of the Property, or any part thereof (other than the Initial Plat), which are not lots, other than portions thereof (such as streets) which are dedicated to the public, whether such plat is heretofore or hereafter recorded, including all improvements and structures constructed or to be constructed thereon, and (11) that certain parcel of real estate containing approximately 2.777 acres which is shown on the Initial Plat and identified thereon as "Green/Open Area".

F. "Conveyed Lots" shall mean the parcels of real estate in Hamilton County, Indiana, described in Exhibit "B" attached to and incorporated in this Declaration.

G. "Declarant" shall mean Eden Village Company, an Indiana Limited Partnership, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant

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K. "Lot" shall mean and refer to any and each plot of land included in the Property (with the exception of Common Area) designed and intended as an apartment to such Living Unit.

to include any enclosed garage, enclosed or covered porch, or patio separate and individual unit. In addition, Living Unit shall be deemed constructed on a lot by Declarant or others shall be considered as a of determining membership in the Association, each Living Unit as initially as Living quarters for one family or housekeeping unit. For the purpose of a group of rooms and hallways which are designed or intended for use j. "Living Unit" shall mean a residential housing unit consisting

beneficial use and enjoyment of all of the lots. more but less than all of the lots and which are not necessary for the more but less than all of the lots, and which are apartment to one or clearly designed and intended for use by the Owner or Owners of one or Owners of one or more but less than all of the lots, and which are

terms hereof or by any subdivision plat of the Property to the Owner or which the use thereof is limited or restricted in accordance with the supplement hereto, shall mean such portions of the Common Areas as to i. "Limited Common Area", if such term is used herein or in any

10, pages 90 through 93, inclusive. Recorder of Hamilton County, Indiana on November 17, 1983 in Plat Book amended by that certain subdivision plat recorded in the office of the August 1, 1983, in Plat Book 10, pages 56 through 58, inclusive, as recorded in the office of the Recorder of Hamilton County, Indiana on Original Real Estate, the Additional Real Estate and the Conveyed Lots H. "Initial plat" shall mean that certain subdivision plat of the

hereunder. to have assumed any prior obligations or liabilities of the Declarant of a deed in lieu of foreclosure from) the Declarant shall not be deemed mortgagee so acquiring title by virtue of foreclosure against (or acceptance a mortgage executed by Declarant; provided, however, that any such or foreclosure of (or by acceptance of a deed in lieu of foreclosure of), to any portion of the Property pursuant to the exercise of rights under, hereunder, including, but not limited to, any mortgagee acquiring title

for use as a building site for, or developed and improved for use as, a Living Unit; provided, however, that for purposes of this Declaration a "Lot" will not necessarily be the same as any single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Property or any part thereof (including the Initial Plat), and for purposes hereof a "Lot" may be (1) any such single numbered parcel of land, (11) part of such a numbered parcel of land, (111) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (1v) parts or all of two (2) or more of such numbered parcels of land. The determination of what portion of the Property constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land which is a part of the Property and which is (or, in the case of conveyed lots hereafter subjected to this Declaration, has been) conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Living Unit; provided, however, that until the initial conveyance of each portion of the Property owned by Declarant to another Person, each such single numbered parcel of land shown upon, and identified as a lot on, the Initial Plat (and which has been included in the Property) shall constitute a "Lot" hereunder while owned by Declarant. However, notwithstanding the foregoing, where a Living Unit (1) is separated from an adjacent Living Unit by a Party Wall, or (11) shares a Party Wall and its vertical extensions shall constitute the common boundary line (lot line) between such adjacent lots, and the closure of the boundary lines of such adjacent lots shall be accomplished by extending perpendicular lines from the horizontal extremities of such Party Wall to the closest boundary line or lines for such lots as such boundary line or lines were described in the deed for such lot from Declarant to another Person; in addition, where any exterior wall of a Living Unit is not a Party Wall but extends outside the boundary lines (lot lines) of the lot upon which such Living Unit is primarily located (as such boundary line or lines were described in the deed for such lot from Declarant to another Person), the boundary lines of such lot shall be deemed extended to the extent necessary to include all of the ground area occupied by such Living

Unit. It is the intent hereof that, in any and all events, this Declaration and any recorded subdivision plat of the Property or any part thereof shall be interpreted and construed so that all ground area underlying and lying beneath a lying Unit shall be and constitute part of the lot upon which such lying Unit is primarily located to the end that all of such ground area shall be subject to fee simple ownership by the Owner of such lying Unit; to the extent necessary to accomplish and implement such intent, interpretation and construction, the boundary lines of the lots shall be determined in accordance with the foregoing definitional provisions and boundary lines as so determined shall supercede the boundary lines for lots shown on any recorded subdivision plat of the Property or any part thereof.

1. "Member" shall mean any person or entity holding membership in the Association as provided in Article III hereof.

2. "Mortgage" shall mean any mortgage or other security instrument by which a lot or any part thereof or any structure thereon is encumbered.

3. "Mortgagee" shall mean any person or entity named as the Mortgagee under any such mortgage or any successors or assigns to the interest of such person or entity under such mortgage prior to acquisition of the fee simple title to the property encumbered by such mortgage.

4. "Original Real Estate" shall mean the parcel or parcels of real estate in Hamilton County, Indiana, described in Exhibit "A" attached to and incorporated in this Declaration.

5. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

6. "Person", whether appearing in upper case or lower case form, shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

7. "Property" shall mean and refer to the Original Real Estate together with such portions of the Additional Real Estate and the Conveyed Lots as have, from time to time, been subjected to, and are, at any time, subject to this Declaration.

Section 1. Declaration. Declarant hereby expressly declares that the property shall be held, transferred, sold, conveyed and occupied subject to all the terms, covenants, conditions, restrictions and provisions of this Declaration. As of the date of execution of this Declaration, the property consists solely of the Original Real Estate. The Owner of any lot at any time subject to this Declaration, by (1) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such lot, or (11) by the act of occupancy of any lot, shall accept such deed, execute such contract and undertake such occupancy subject to all of the terms, covenants, conditions, restrictions and provisions of this Declaration. By acceptance of such deed, execution of such contract or undertaking such occupancy, each Owner acknowledges the rights and powers of Declarant and of the Association with respect to or under this Declaration, and, for himself, his heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Association, and the Owners and subsequent Owners of each of the lots affected by this Declaration, to keep, observe, perform and comply with this Declaration. Section 2. Declarant's Right of Expansion. Declarant shall have, and hereby reserves, the right, at any time, and from time to time, on or before the applicable date to add to the property and subject to this Declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the property, and therefore and thereby becomes a part of the property and subject to all respects to this Declaration, when Declarant places of record in Hamilton County, Indiana an instrument so declaring the same to be a part of the property, which declaration may be made as part of a subdivision plat of any portion of the Additional Real Estate, or by an amendment or supplement

PROPERTY SUBJECT TO THIS DECLARATION;  
DECLARANT'S RIGHT TO SUBJECT ADDITIONAL  
REAL ESTATE TO THIS DECLARATION;  
SUBJECTING CONVEYED LOTS TO THIS DECLARATION

ARTICLE II.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

to this Declaration, or otherwise. Upon the recording of any such instrument on or before the Applicable Date, the real estate described therein shall, for all purposes, thereafter be deemed a part of the property and the Owners of any lots within such real estate shall be deemed for all purposes to have and be subject to all the rights, duties, privileges and obligations of Owners of lots within the Property. No single exercise of Declarant's right and option to add to and expand the Property, as described in this Section 2, as to any part or parts of the Additional Real Estate shall preclude Declarant from thereafter from time to time further expanding and adding to the Property to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the Applicable Date. Such expansion of the Property is entirely at the discretion of Declarant and nothing contained in this Declaration or otherwise shall require Declarant to expand the Property beyond the Original Real Estate, or any other portions of the Additional Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration.

Section 3. Subjecting of Conveyed Lots. Declarant hereby grants to the Owners of each of the Conveyed Lots the right to add the Conveyed Lot owned by such owners to the Property and to thereby subject such owners' Conveyed Lot to this Declaration, but only in the manner, and subject to the terms and provisions, hereinafter set forth in this Section 3. Such right may be exercised by the owners of a Conveyed Lot only by complying with the following terms, provisions and conditions:

- A. Such owners of a Conveyed Lot shall execute and deliver to Declarant for recording in the office of the Recorder of Hamilton County, Indiana, not later than ninety (90) days after the date of this Declaration, a supplemental declaration, joinder agreement or other instrument in writing, in form and substance approved on its face by Declarant, by which such owners subject and submit their Conveyed Lot to this Declaration, and by which said owners declare that said Conveyed Lot shall thereafter be deemed a lot and part of the Property for all purposes of this Declaration. In addition, if



Section 1. Membership. Every Owner of a lot subject to assessment, except as herein provided to the contrary, shall be entitled and required to be a member of the Association. If title to a lot is held by more than

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

ARTICLE III.

Conveyed lots be so added to the Property and subjected to this Declaration. Subjected to this Declaration without any necessity that all of the less than all of the Conveyed Lots may be added to the Property and to each of the Conveyed Lots separately so that one (1) or more but of and subjecting the Conveyed Lots to this Declaration shall be applicable of lots within the Property. The foregoing procedures for submission subject to all the rights, duties, privileges and obligations of Owners of such Conveyed Lot shall be deemed for all purposes to have and be property, and subject in all respects to this Declaration, and the owner thereupon and thereby automatically be deemed a lot and a part of the Upon such recording, the Conveyed Lot described in such instrument shall to be recorded in the office of the Recorder of Hamilton County, Indiana. the holder of any lien, mortgage or other encumbrance, if applicable) the instruments referred to in subsection A (including the consent of of the foregoing subsections A and B, Declarant shall forthwith cause Upon compliance by the owners of a Conveyed Lot with the requirements Lot.

conveyed to the owners thereof by Declarant as an initial sale of a fund and start-up fund, as if such Conveyed Lot was then being to the Association as a contribution to its initial working capital required by the terms of Section 14 of Article V hereof to be paid referred to in the immediately preceding subsection A, the amount concurrently with the delivery to Declarant of the instrument B. Such owners of a Conveyed Lot shall pay to the Association, recording with such instrument; and such instrument, which consent shall be delivered to Declarant for or other encumbrance, the holder thereof must consent in writing to the Conveyed Lot described therein is subject to any lien, mortgage

meeting at which a vote is to be taken, each co-owner or other person one lot. There can be no split vote. Prior to or at the time of any but in no event shall more than one vote be cast with respect to any for such lot shall be exercised as they among themselves determine, holds title to any lot, all such persons shall be members. The vote Class A members are entitled to vote. When more than one person respect to each matter submitted to a vote of members upon which the ship, and shall be entitled to one (1) vote for each lot owned with the exception of the Declarant prior to termination of Class B member-

A. Class A. Class A members shall be all owners of lots, with voting membership, as follows:

Section 3. Voting. The Association shall have two (2) classes of transferor shall be null and void as though the same had been surrendered, transferor, and thereupon the old membership outstanding in the name of the transfer upon the books of the Association and issue a new membership to the of title of such lot, the Association shall have the right to record the or refuse to transfer the membership registered in his name to the transferee records of the Association. In the event the Owner of any lot should fail prohibited transfer is void and will not be reflected upon the books and former Owner as a member, in its sole discretion. Any attempt to make a and until so notified, the Association may continue to carry the name of the upon becoming entitled to membership, to so notify the Association in writing, record or other legal process. It shall be the responsibility of each Owner, intestate succession, testamentary disposition, foreclosure of mortgage of record title of a lot and then only to such transferee, by assignment, transferred, pledged or alienated in any way, except upon the transfer of the

Section 2. Transfer. A membership in the Association shall not be be transferred except in connection with the transfer of title to a lot. be a member of the Association, and a membership in the Association may not expressly provided, no person or entity other than an Owner or Declarant may involuntary conveyance of the title of that lot. Except as herein otherwise upon which it is based and shall transfer automatically by voluntary or for each such lot. Each such membership shall be appurtenant to the lot one lot shall be entitled to, and there shall be required, one membership one person, each of such persons shall be a member. An Owner of more than

entitled to a vote at such meeting shall file with the Secretary of the Association the name of the voting co-Owner or other person entitled to a vote at such meeting, unless such co-Owner or other persons have filed a general voting authority with the Secretary applicable to all votes until rescinded.

B. Class B. Class B members shall be the Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled, on all matters requiring a vote of the membership of the Association, to five (5) votes for each lot owned by it and five (5) votes for each single numbered parcel of land shown upon, and identified as a lot on, the initial plat, any part of which lot has not been conveyed by Declarant to another person. The Class B membership shall cease and terminate upon the first to occur of (a) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association; (b) one hundred twenty (120) days after seventy-five percent (75%) of the lots in the Property have been conveyed to Owners other than Declarant; provided, however, that for the purpose of making any determination under this subsection (b) it shall be assumed that there are 50 lots in the Property whether or not there are in fact such number of lots in the Property at any time; (c) three (3) years after the date of recording of the first conveyance of a lot to an owner other than Declarant; provided, however, that in the event any portion of the Additional Real Estate is added to the Property by Declarant pursuant to its right and option to expand the Property as hereinabove reserved, then the time period provided in this subsection (c) shall be five (5) years after the date of recording of such first conveyance, rather than three (3) years; or (d) seven (7) years from the date of this Declaration (the applicable date being herein referred to as the "Applicable Date").

Declarant shall be entitled to Class A memberships for (1) each lot of which it is the Owner on or after the termination of Class B membership,

right and easement of enjoyment in and to the Common Area (except for such Section 2. Right of Enjoyment. Every Owner shall have a non-exclusive

also require additional approval as specified in Article XI hereof. not less than seventy-five percent (75%) of the Owners. Certain amendments ninety percent (90%) of the Owners and thereafter by an instrument signed by the initial term provided above by an instrument signed by not less than Except as hereinafter provided, this Declaration may be amended during (10) years.

restrictions shall be automatically renewed for successive periods of ten recorded and ending January 1, 2005, after which time the covenants and and assigns, for an initial term commencing on the date this Declaration is Declaration, their respective personal representatives, heirs, successors by the Declarant, the Association or the Owner of any lot subject to this run with and bind the land and shall inure to the benefit of and be enforceable B. The covenants and restrictions contained in this Declaration shall

or assigns. Common Area, and their respective heirs, successors, personal representatives of any lots and the owner and mortgagee, if any, from time to time benefit of and be binding on the Owner and the Mortgagee from time to time appointee, running with the land. They shall at all times inure to the A. All easements described in this Declaration are permanent easements

Section 1. General Provisions.

PROPERTY RIGHTS

ARTICLE IV.

current and all defaults remedied. shall be suspended and shall remain suspended until all payments are brought thirty (30) days, such Owner's right to vote as a member of the Association in the performance of any of the terms of this Declaration for a period of this Declaration for a period of thirty (30) days, or shall be in default in arrears in the payment of any amount due under any of the provisions of Section 4. Suspension of Voting Rights. In the event any Owner shall be

on or after the termination of Class B membership. as a lot on, the initial plat, any part of which lot is owned by Declarant and (11) each single numbered parcel of land shown upon, and identified

written approval specified in Article XI hereinafter.

and provided, further, that the mortgage shall have received the prior Area shall be subordinate to the rights of the Owners under this Declaration, hereinafter, provided that the rights of such mortgagee in the Common to be used for any of the purposes specified in subsection 4.A. next portion of the Common Area for the purpose of securing a loan of money

B. The Association shall have the right to mortgage all or any not limited to, lands comprising thereof).

improve and operate the Common Area (including by way of example, but A. The Association shall have the right to manage, repair, maintain,

Section 4. Association's Rights.

his tenants, or contract purchasers.

the Common Areas to residence of his lot, including the members of his family, accordance with the By-Laws of the Association, his right of enjoyment to

Section 3. Delegation of Enjoyment. Any Owner may delegate, in Sections 4 and 5 of this Article IV or elsewhere in this Declaration.

D. The rights of the Association and Declarant reserved under

in this Declaration; and

C. The right of the Association to levy assessments as provided published rules and regulations;

for a period not to exceed sixty (60) days for an infraction of its period during which any assessment against his lot remains unpaid, and Common Area (but not rights of access to lots) by an Owner for any right to the use of recreational facilities, if any, situated upon the

B. The right of the Association to suspend the voting rights and of persons using the same;

respect to the Common Area, for the health, comfort, safety and welfare

A. The right of the Association to pass reasonable rules, with

title to every lot, subject to the following provisions:

Such right and easement shall be appurtenant to and shall pass with the parts of the Common Area (other than limited Common Areas, if any).

but not be limited to, use and enjoyment of open spaces and all other Area is designed and intended, which right and easement shall include, to and for the uses and purposes for which any portion of the Common portions thereof, if any, as are limited Common Area), limited, however,

Declaration or in any subdivision plat of any part of the Property shall be  
Section 6. Non-Dedication to Public Uses. Nothing contained in this

invite and escort the public thereon for such purpose.  
Owner other than Declarant) for the purpose of marketing units; and to  
and any other portions of the Property (other than lots owned by an  
but not limited to, model living Units) and signs upon the Common Area  
Real Estate) and the right to maintain and use facilities (including,  
lots, or upon other portions of the Original Real Estate or the Additional  
repairs to improvements (whether on the Common Area, or upon unsold  
over the Common Area for the completion of improvements and making  
event shall first occur), Declarant shall have the right and easement  
to an Owner other than Declarant, or until the Applicable Date, whichever  
land shown upon, and identified as a lot on, the Initial plat is conveyed  
specified herein. In addition, until the last single numbered parcel of  
any other Owner as to lots owned by it from time to time, except as otherwise  
Section 5. Declarant's Rights. Declarant shall have the same rights as

have received the prior written approval specified in Article XI hereinbelow.  
common property or any part thereof shall be effective unless it shall  
subdivision, encumbrance, sale or transfer of the Common Area or other  
as otherwise expressly herein provided for, no abandonment, partition,  
K. Anything herein apparently to the contrary notwithstanding, except

any other utility services serving any lots or the Common Area.  
conduct and lines, gas pipes, sewers or water pipes, coaxial cable, or  
bodies for the installation and maintenance of electrical and telephone  
preceding paragraph) to any public or private utilities or governmental  
Declarant or the Association (subject to the approval referred to in the  
any easements in the Common Area which may at any time be granted by

the various portions thereof become subject to this Declaration, and to  
D. The Property shall be subject to easements of record on the date  
to any prior written approval required by Article XI hereinbelow.

useful for the proper maintenance or operation of the project, subject  
over the Common Area for utilities and other purposes necessary or

public agency or utility, and to grant permits, licenses, and easements  
all or any part of the Common Area to any governmental subdivision or  
C. The Association shall have the right to dedicate or transfer

constituted or be deemed to constitute a dedication, express or implied, of any part of the Common Area to the public or to or for any public use or purpose whatsoever, all of such Common Areas being reserved to the Owners and the Association as provided in this Declaration, but subject, however, to the rights of the Association and the Declarant to thereafter dedicate portions of such Common Area to the public or to or for public uses or purposes but only to the extent, and upon all of the conditions, set forth in this Declaration.

Section 7. Easement for Unintentional Encroachment. Notwithstanding any other provisions contained herein, in the event that any Living Unit or any structure containing one or more Living Units or any improvements to any Living Unit encroaches upon any part of the Common Area, as a result of construction, reconstruction, repair, shifting, settling, settlement or movement of any part of the Property, then a perpetual easement appurtenant to such encroaching Living Unit shall exist for the continuance of any such encroachment on the Common Area.

Section 8. Parking Rights. Each lot contains or will contain parking areas (including garages) for the use of its Owner.

Section 9. Title to Common Area. Declarant hereby covenants that it shall convey and transfer the Common Area included in and constituting a part of the Original Real Estate to the first conveyance of a lot within the Original Real Estate to an Owner other than Declarant. If, as and when portions of the Additional Real Estate are subjected to this Declaration and added to the Property, Declarant covenants that it shall convey and transfer to the Association the Common Area (if any) included in and constituting a part of each such portion so added to the Property prior to the first conveyance by Declarant to an Owner other than Declarant of any lot located within such portions so added to the Property. Each such portion of the Common Area so conveyed by Declarant to the Association shall, at the time of such conveyance, be subject to any dedicated or public street or road rights-of-way affecting the same and all easements, covenants, conditions, limitations and restrictions then of record, but shall be free and clear of all liens and financial encumbrances other than the lien of the then current non-delinquent installment of real estate taxes and assessments and subsequent installments thereof, which shall thereafter be paid when due by the Association.

Section 1. Personal Obligations. Declarant, for each lot owned by it within the Property, hereby covenants and agrees, and each owner of a lot by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed therein, shall be and is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, which shall be payable in regular installments, for the payment or provision of all expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other expenses incurred or to be incurred by the Association for or in connection with the performance by the Association of its duties, obligations and responsibilities under this Declaration, which expenses may include, but shall not be limited to, the expenses and costs of hazard and liability insurance for Common Areas and any other common property; hazard insurance for living Units; exterior maintenance of living Units and lots; snow removal, trash removal, sewer charges and water charges (if payable by the Association); street lighting (if provided by the Association); and an adequate reserve fund for the periodic maintenance, repair and replacement of those improvements and elements of the Common Area and any other property that must be maintained, repaired or replaced on a periodic basis and which the Association may be obligated to maintain, and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any assessments authorized herein, together with interest, and reasonable attorneys' fees, shall be a continuing lien from the first day of January (for annual assessments) and from the date the first installment is payable (for special assessments) against the lot assessed. Such annual assessments shall be due and payable in advance in twelve equal monthly installments on the first day of each and every month or, if so determined by the Association, in such other periodic installments as may be specified by the Association. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such lot on the

ASSESSMENTS

ARTICLE V.



made as to whether such lot constitutes a Class I lot or a Class II lot. been constructed thereon, at which time a final determination shall be thereon shall be deemed a Class I lot until a proper living Unit has Declarant to another person without a living Unit having been constructed living area has been constructed ("Class II lot"). Any lot conveyed by upon which a living Unit containing more than 1,600 square feet of ("Class I lot"), and (II) Seventy Dollars (\$70.00) per lot for each lot not more than 1,600 square feet of living area has been constructed Dollars (\$65.00) per lot for each lot upon which a living Unit containing maximum annual assessment shall be at the monthly rate of (I) Sixty-five Section 3. Annual Assessments. Until December 31, 1984, the

fund shall be maintained out of the regular annual assessments. to maintain and which must be replaced on a periodic basis. Such reserve the exterior of living Units and lots which the Association is required property that must be replaced on a periodic basis and those portions of of those improvements and elements or the Common Areas and any other working capital and for the periodic maintenance, repair and replacement facilities hereunder. An adequate reserve fund shall be maintained for connection with the performance of its duties, obligations and responsibility of any other costs and expenses incurred by the Association in Areas, for the exterior maintenance of living Units and lots, and for construct, manage, improve, maintain, repair and administer the Common safety and welfare of the Owners and residents of the property, to Association shall be used exclusively to promote the recreation, health, Section 2. Purpose of Assessments. The assessments levied by the

abandonment of his lot or living Unit. Owner by reason of non-use of the Common Area or non-use, transfer or escape liability for the assessments which fell due while he was the office of the Recorder of Hamilton County, Indiana. No Owner shall notice of the lien for such assessments shall have been recorded in the expressly assumed by them or unless, prior to such transfer, a written of an Owner shall not pass to his successors in title or interest unless date said assessment became due and payable. Said personal obligation

Section 5. Notice and Quorum. Written notice of any meeting of Members called for the purpose of taking any action authorized under Article V, Sections 3 or 4, shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the opening of each meeting, the presence in person or by proxy of Members entitled to cast sixty percent (60%) of the total votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, (A) the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and (B) the cost of any unanticipated or extraordinary exterior maintenance of Living Units and Lots, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the total votes of the Members (without regard to whether such Members own Class I Lots or Class II Lots) who are voting in person or by proxy at a meeting duly called for this purpose.

- A. From and after December 31, 1984, the maximum annual assessments may be increased each year not more than 10% above the maximum assessments permitted for the previous year, on a cumulative basis, without a vote of the membership.
- B. From and after December 31, 1984, the maximum annual assessments may be increased more than 10% above the maximum assessments permitted for the previous year by a vote of two-thirds (2/3) of each class of Members (without regard to whether such Members own Class I Lots or Class II Lots) who are voting in person or by proxy, at a meeting called for this purpose.
- C. The Board of Directors may fix the annual assessments at any amount not in excess of the maximum permitted hereby.

Section 10. Nonpayment of Assessments. Any assessments which are not paid when due shall be deemed delinquent. If an assessment is not paid within thirty (30) days after the delinquency date, it shall bear interest from the delinquency date at the rate of eight percent (8%) per annum and shall become a continuing lien in favor of the Association on the lot against which assessed and the

of any annual or special assessments not stated therein as unpaid. or Mortgagee's lot. Such certificate shall be conclusive evidence of payment are any then unpaid annual or special assessments levied against such Owner's certificate signed by an officer of the Association setting forth whether there at any time and for a reasonable charge, the Association shall furnish a written

Section 9. Proof of Payment. Upon written demand of an Owner or Mortgagee, of such budget in reasonable detail to be furnished to each Owner.

it shall adopt a budget for the following calendar year and cause a copy by the Board. At the time the Board fixes the amount of annual assessments Owner. The due date for payment of annual assessments shall be as set following calendar year and shall send written notice thereof to each the Board shall fix the amount of annual assessments against each lot for the

Section 8. Commencement of Annual Assessments. By November 1 of each year in the calendar year for which such assessment is imposed.

assessment shall be adjusted according to the number of months remaining instrument by which such lots became a part of the Property. The first annual Declaration on the first day of the month following the month of recording of the

Section 7. Commencement of Initial Annual Assessments. The annual assessments provided for herein shall commence as to all lots subjected to this

Article V as to all lots owned by Declarant. of this Section 6 are subject to the provisions of Section 13 of this assessments shall be collected as the Board determines. The provisions (or other periodic basis, if and as determined by the Board) and special Class I lots. Annual assessments shall be collected on a monthly basis one hundred-fifteen percent (115%) of the corresponding assessments for special) for Class II lots shall be in an amount which does not exceed annual assessments for Class II lots. Assessments (both annual and lots, but annual assessments for Class I lots may be different than must be fixed at a uniform rate for all lots within the same Class of

Section 6. Rate of Assessment. Both annual and special assessments

for herein shall be subordinate to the lien of any first mortgage ("First

Section 12. Subordination of Lien. The lien of the assessments provided

under which it claims and its notice address.

first shall have furnished to the Association written notice of the mortgage after the same shall have become due, provided, however, that such mortgage of a lot any assessments remaining unpaid for longer than thirty (30) days

The Association shall, upon written request, report to any mortgagee

interest in the lot as the Owner thereof.

convey, lease, rent, encumber, use and otherwise deal with the foreclosed power to bid at the foreclosure sale or other legal sale and to acquire, hold, during the period of foreclosure. The Association shall have the right and

to the Association any assessments against the lot which shall become due

The person personally obligated to pay the lien shall also be required to pay

fees. All such costs and expenses shall be secured by the lien being foreclosed.

be required to pay all costs of foreclosure including reasonable attorneys'

In any such foreclosure, the person personally obligated to pay the lien shall

the same manner in which mortgages on real property may be foreclosed in Indiana.

to pay the lien for the delinquency. Such lien shall be enforced by action in

to enforce the lien or, in its discretion, to sue the person personally liable

a delinquency for thirty (30) days, the Association shall proceed promptly

is a delinquency in payment of the assessment for thirty (30) days. Upon such

of Hamilton County, Indiana. No notice of lien shall be recorded until there

of lien or adverse claim thereof may be recorded in the office of the Recorder

a notice shall be signed by an officer of the Association and it or a notice

person personally obligated to pay the same and a description of the lot. Such

amount remaining unpaid, the name of the Owner of the lot, the name of the

notice of lien setting forth the amount of the assessment, the date due, the

sums assessed pursuant to this article, the Association may prepare a written

Section 11. Recording and Enforcement of Liens. To evidence a lien for

enforce and foreclose any lien it has or which may exist for its benefit.

in any judgment rendered in such action, and the Association may also

action, which shall be added to the amount of such assessment and included

including interest, costs and reasonable attorneys' fees for any such

in equity against the person personally obligated to pay the same,

improvements thereon and the Association may bring an action at law or

any lots become a part of the property and thereby subject to this sixty (60) days after the date of recording of the instrument by which as an advance payment of any regular annual assessments. On or before or desirable by the Board. However, such payment shall not be considered tures, or to acquire additional equipment or services deemed necessary to enable the Association to have cash available to meet unforeseen expend- fund for the initial months of operation of the property and the Association, held and used by the Association as a working capital fund and start-up assessment applicable to the lot so purchased, which amount shall be two (2) times the amount of the then current monthly rate for the annual to any other amounts then owed to the Association, an amount equal to Unit, the purchaser of such lot shall pay to the Association, in addition than Declarant, whether or not the lot is then improved with a living closing of the initial sale of each lot by Declarant to an Owner other

Section 14. Initial Working Capital and Start-Up Fund. At the

amounts determined under this Section 13. such lots owned by Declarant shall be subject to a lien hereunder only for (25%) of the assessments (whether regular annual assessments or special assess- ments) payable hereunder by Owners (other than Declarant) of lots, and all as to any and all lots owned by it from time to time, only twenty-five percent anything to the contrary contained herein, Declarant shall be obligated to pay, Section 13. Limitations on Assessments Owed by Declarant. Notwithstanding common expense.

of this provision may be reallocated and assessed to all lots as a Any delinquent assessments the lien for which is extinguished by reason for assessments payable prior to such sale or transfer or acquisition. the person personally obligated to pay the same from personal liability thereafter becoming payable or from the lien thereof or shall relieve such sale or transfer shall relieve a lot from liability for any assessments as to charges which were payable prior to such sale or transfer. No any proceeding in lieu thereof, shall extinguish the lien of such assessments pursuant to mortgage foreclosure or recedes provided in a First Mortgage, or not affect the assessment lien. However, the sale or transfer of any lot taking and assessing unit of Government. Sale or transfer of any lot shall Mortgage") and to tax liens and liens for special assessments in favor of any

Declaration, Declarant shall pay to the Association the required contribution to the Association's working capital fund and start-up fund for all of such lots then owned by it which remain unsold, which amount Declarant shall then be entitled to recover directly from subsequent purchasers of such unsold lots, who shall pay the same to Declarant for Declarant's own account in lieu of making payment thereof to the Association.

Section 1. Architectural Control Committee Authority. No exterior additions, removals or alterations (including changes in color or appearance) to any building on the Property, additional fences, or changes in existing fences, hedges, walls, walkways and other structures shall be commenced, erected or maintained except such as are installed or approved by the Declarant in connection with the initial construction of the Living Units and other buildings and improvements on the Property, until the written plans and specifications showing in reasonable detail the nature, kind, shape, height, materials (including color), location and approximate cost of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings in the Property by an Architectural Committee composed of the Board of Directors of the Association or three (3) or more representatives appointed by the Board of Directors. In the event said Board, or its designated Committee, fails to approve or disapprove such design and location within thirty (30) days after said written plans and specifications have been submitted to it, or if no suit to enjoin the making of such additions, alterations or changes or to force the cessation thereof has been commenced within sixty (60) days of such submission, such approval will be deemed to have been given. If no such submission has been made to the Architectural Committee, suit to enjoin or force the removal of such additions, alterations or changes may be instituted at any time by the Association or any Owner. During the time which the Association has a Class B member, the decisions of the Architectural Committee must have the written approval of the Declarant. The approval of the Architectural Committee required hereunder shall be in addition to, and not in lieu of, any approvals as to such matters required

ARCHITECTURAL CONTROLS

ARTICLE VI.

structures as originally built on a lot (but not of additions thereto windows and doors, and necessary painting, staining and repair of gutters, downspouts and overhangs, the maintenance and repair of exterior replacement of trim and caulking, the maintenance and repair of roofs, without limitation, the painting of the same as often as necessary, the repair of exterior surfaces of all buildings on the Property, including, include but not be limited to, the following: the maintenance and located on lots, and the lots themselves, which responsibility shall the exterior of all living units and any other buildings and improvements Association shall also be responsible for the maintenance and repair of In order to preserve the uniform and high standard of the Property, the or material located within or used in connection with the Common Area and repair of the Common Area improvements, if any, and all other improvements shall include, but not be limited to, the following: the maintenance or stated to be the obligation or responsibility of Owners of lots) responsibility (to the extent the same is not otherwise herein declared good, clean, attractive and sanitary condition, order and repair. Such furnishings and equipment related thereto), and shall keep the same in control of the Common Area and all improvements (if any) thereon (including shall be responsible for, and be vested with, the exclusive management and the rights and obligations of the Owners as set forth in this Declaration, Section 1. The Common Area and Exterior. The Association, subject to

OTHER RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

ARTICLE VII.

of First Mortgages.  
 fifty-one percent (51%) of the votes of lots subject to eligible holders eligible holders holding First Mortgages on lots which have at least and specifications for the same, unless other action is approved by substantially in accordance with this Declaration and the original plans condemnation or damage due to fire or other casualty, shall be performed or repair of the Common Area or exterior of living units, after a partial  
 Section 2. Restoration in Accordance with Original Plans. Any restoration to be obtained from any other persons or governmental agencies pursuant to the terms of the Initial Plat, or any other plat or otherwise.

Association may obtain and pay for legal and accounting services necessary Association or by any person or entity with whom or which it contracts. The property whether such personnel are furnished or employed directly by the shall determine to be necessary or desirable for the proper operation of the extent it deems advisable, as well as such other personnel as the Association of any persons or entities, to manage its affairs, or any part thereof, to the

Section 3. Services. The Association may obtain and pay for the services

each such living Unit or lot over the course of a season. means so as to approximately equalize the amount of water taken from to the area required to be watered by a schedule or other reasonable rotates such drawing among living Units or lots in reasonable proximity from exterior billcocks on each living Unit or lot, provided that it landscaping on the lots, the Association may draw water for such purposes separate water lines for the purpose of watering the Common Area and any to overwatering, underwatering or improper watering. In lieu of maintaining it will not be responsible for any damage to such gardens and plantings due undertakes to water gardens and plantings established by individual Owners,

Section 2. Lawn and Planting Maintenance. To the extent the Association

which such lot is subject. or repairs shall be added to and become a part of the assessment to of an Owner, his family, guests or invitees, the cost of such maintenance for maintenance or repair is caused through the willful or negligent act and repair is provided by the Association. In the event that the need individual Owner thereof, except to the extent the exterior maintenance obligation of and shall be performed at the sole cost and expense of the the individual living Units and any other buildings shall be the sole Common Area at his sole cost and expense. All maintenance and repair of for the maintenance and care of such landscaping on his own limited has been installed by the Owner thereof, and such Owner shall be responsible excluding, however, any landscaping located on limited Common Area which estate included in the initial Plat, as required by the initial Plat), located in the planting strip along the southern boundary of the real landscaping located on lots (including, but not limited to, any landscaping care for and maintain all grass, trees, shrubbery, plants and other made by an Owner). The Association shall mow, trim, water and otherwise



Association shall procure fire and extended coverage insurance on insurable Common Areas and other common property on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement only); and shall use the proceeds of such hazard insurance solely

Section 6. Hazard and Liability Insurance for Common Property. The

Section 7 of this Article VII.

used upon the Common Area, subject to the Association's right to draw water from exterior sillcocks on living units or lots as provided in expense all charges for electricity, water, sewer and other utilities

Section 5. Utilities. The Association shall pay as a common

such personal property associated with the foreclosed lot.

foreclosure shall entitle the purchaser to the beneficial interest in the lawful rights of other Owners. The transfer of title to a lot under purpose for which it is intended, without hindering or encroaching upon the transferor's beneficial interest in such property in accordance with the of title to a lot shall transfer to the transferee ownership of the of such personal property (if any) to residents of his lot. A transfer title to a lot, provided that an Owner may delegate his right of enjoyment beneficial interest shall not be transferable except with the transfer of personal property and may dispose of the same by sale or otherwise. Such and hold for the use and benefit of all of the Owners tangible and intangible

Section 4. Personal Property for Common Use. The Association may acquire

terms.

but may be renewable by agreement of the parties for successive one-year written notice and shall have a maximum contract term of one (1) year, notice and by either party for cause upon thirty (30) days or less without payment of a termination fee on ninety (90) days or less written Declarant, must provide for termination by either party without cause and by Declarant or an entity owned or controlled by the same persons as management of the Property, or any other contract providing for services other common services to each lot. Any agreement for professional The Association may arrange with others to furnish trash collection and determines it is necessary or advisable to have professional advice. of this Declaration or any proceedings or controversy in which the Board or desirable in connection with the operation of the Property, the enforcement

common expense.

beyond the Owner's reasonable control the cost of such repair shall be a

If the failure to maintain such minimum temperature is due to causes

be assessed against the lot of the refusing or failing Owner. However,

to causes beyond the Owner's reasonable control) the cost thereof shall

such minimum temperature may be repaired by the Association and (unless due

damage resulting from the refusal or failure of an Owner to so maintain

such temperature due to causes beyond the Owner's reasonable control. Any

at 55 degrees Fahrenheit, subject, however, to the inability to maintain

shall maintain the temperature in their living Units, at all times, at least

that which might result in damage to that or other living Units, all Owners,

to and breakage of water, sewer and other utility lines and pipes in a living

Section 2. Heating of Living Units. For the purpose of preventing damage

or their Owners.

condition to exist which will adversely affect the other living Units,

or impair any easement or hereditament, nor do any act nor allow any

soundness or integrity of any structure, or an adjoining living Unit,

Owner shall do no act nor any work that will impair the structural

thereto to the extent not otherwise maintained by the Association. An

areas, features or parts of his lot and limited Common Areas apartment

the upkeep and maintenance of his living Unit, patio and all other

Section 1. Upkeep and Maintenance. Each Owner shall be responsible for

OWNERS' MAINTENANCE

ARTICLE VIII.

living Units establishing entitlement to such reimbursement.

authorized to enter into an agreement in favor of all First Mortgagees of

immediate reimbursement therefor from the Association. The Association is

common property, and First Mortgagees making such payments shall be owed

insurance coverage on the lapse of a policy, for the Common Areas and other

overdue premiums on hazard insurance policies, or may secure new hazard

Mortgages ("First Mortgagees") on living Units, jointly or singly, may pay

insurance shall be assessed as provided in Article V above. Holders of First

and other common property, including insured improvements. The cost of such

for the repair, replacement or reconstruction of such insurable Common Areas

Section 6. Arbitration. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, each party shall choose

such lot.

to such Owner's lot and shall pass to such Owner's successors in title to contribution from any other Owner under this Article shall be apportioned Section 5. Right to Contribution Bonds with Land. The right of any Owner

protection against such elements.

the elements shall bear the whole cost of furnishing the necessary by his negligent or willful act causes the Party Wall to be exposed to covered and paid for by the insurance provided for herein, an Owner who this Article, to the extent that any damage to a Party Wall is not

Section 4. Weatherproofing. Notwithstanding any other provisions of

willful acts or omissions.

under any rule of law regarding liability for negligent, intentional or right of any such Owners to call for a larger contribution from the others of restoration thereof in equal proportions without prejudice, however, to the Owners thereafter make use of the Party Wall, they shall contribute to the cost of same, any Owner who has used the Party Wall may restore it, and if the other use of such Party Wall or by the Association, and repaired out of the proceeds damage is not covered by insurance maintained by any of the Owners who make

destroyed or damaged by fire or other casualty, then, to the extent that such Section 3. Destruction by Fire or Other Casualty. If any Party Wall is

use of such Party Wall, proportionately.

repair and maintenance of a Party Wall shall be shared by the Owners who make Section 2. Sharing of Repair and Maintenance. The cost of reasonable

or willful acts or omissions shall apply thereto.

walls and liability for property damage due to negligent or intentional the provisions of this Article, the general rules of law regarding party referred to as a "Party Wall") and, to the extent not inconsistent with

or more living Units shall constitute a party wall (any such wall being herein which connects two (2) or more living Units or forms part of walls in two (2) a part of the original construction of any living Unit upon the Property and

Section 1. General Rules of Law to Apply. Each wall which is built as

PARTY WALLS

ARTICLE IX.

on any part of the Common Area, nor shall any "for sale" or "for rent" signs or any window display advertising be maintained or permitted on any part thereof, except that Declarant reserves the right for itself or its agents to maintain model living units, business and sales offices, storage areas and construction offices on the Common Area during the construction and sales period until the last lot existing as part of the Property on the applicable Date is conveyed to an owner other than Declarant, and to place "for sale", "for rent" or any other signs on any part of the Common Area and

Section 2. Common Area Restrictions. No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted purposes to the extent permitted by applicable zoning ordinances.

- D. The use of a living unit by an owner for incidental office purposes to the extent permitted by applicable zoning ordinances.
- C. Lease, rental or use of a living unit for purposes consistent with this Section.
- B. The use of a living unit for purposes of management of the Property.
- A. The maintenance of model living units and business and sales offices by Declarant during the construction and sale periods.

Section 1. Living Unit and Lot Restrictions. No more than one living unit shall be erected or maintained on each lot. No living unit shall be used for purposes other than as a single family residence, nor shall any trade or business of any kind be carried on within a living unit or upon a lot, nor shall any lot or any part thereof be leased, sublet, assigned or suffered to be used for hotel or transient occupancy, provided that none of the following activities shall be considered a violation of this covenant:

- A. The maintenance of model living units and business and sales offices by Declarant during the construction and sale periods.
- B. The maintenance of offices by the Association or its designated manager for purposes of management of the Property.
- C. Lease, rental or use of a living unit for purposes consistent with this Section.
- D. The use of a living unit by an owner for incidental office purposes to the extent permitted by applicable zoning ordinances.

GENERAL RESTRICTIONS, OBLIGATIONS AND RIGHTS  
APPLICABLE TO PROPERTY

ARTICLE X.

one arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten days after written request, or refer from another party, the Board of Directors of the Association shall select an arbitrator for the refusing party.)

of any kind or other articles shall be hung out on any portion of the Common

Section 6. No Unsanitary Uses. No clothes, sheets, blankets, laundry

except as provided in Article VI hereinafter.

lower or otherwise move or change any fence, wall or patio upon the Property

Section 5. Fences, Walls and Patios. No Owner shall relocate, heighten,

of this Section 4.

deemed to be noxious, destructive, offensive nor a nuisance for purposes

Declaration is authorized or permitted to do hereunder shall ever be

provided, however, that no act, conduct, activity or operation which

or to any other person at any time lawfully residing on the Property;

be done thereon which may be or may become a nuisance to any other Owner

on any lots or in the Common Area or any part thereof; nor shall anything

destructive or offensive activity shall be allowed in any Living Units,

his invitees or tenants, to the Association and other Owners. No noxious,

against all loss resulting from any such damage or waste caused by him or

Owner shall indemnify and hold the Association and the other Owners harmless

be committed by any Owner or any invitee or tenant of any Owner and each

part thereof or of the exterior of the Property and buildings thereon shall

any governmental body. No damage to, or waste of, the Common Area or any

rule, ordinance, regulation, permit or other validly imposed requirement of

Common Area or any part thereof, which would be in violation of any statute,

shall be done or kept on any lot or in any Living Unit or on or in any

would pay, without the prior written consent of the Association. Nothing

Property or any part thereof over what the Association, but for such activity,

or any part thereof which would increase the rate of insurance on the

be done or kept on any lot or in any Living Unit or on or in any Common Area

Section 4. Prohibition of Damage and Certain Activities. Nothing shall

the Common Area except upon the prior written consent of the Association.

provided herein. Nothing shall be altered on, constructed in, or removed from

materials and equipment during the construction period or except as specifically

without the prior written consent of the Association except construction

Area, nor shall anything be kept or stored on any part of the Common Area

Section 3. Obstructions. There shall be no obstruction of the Common

such period.

to use any part of the Common Area for sale or display purposes during

containers which are so screened. Notwithstanding the foregoing, no shall be regularly collected and may be kept outside only if in sanitary serenity of residents is prohibited. Usual household trash and garbage the source of any noise or activity which disturbs the peace, comfort or noxious or illegal weed or other natural substance, and the harboring of any material that emits foul or obnoxious odors, the growing of any areoet. The storage or collection of rubbish of any character whatsoever, the Association in accordance with the architectural control provisions are located. The design of such screened enclosure must be approved by to be effectively screened from view outside the lot upon which the same containers, shall not be allowed unless screened from view by enclosures so as cooking equipment, yard and garden tools and equipment and trash and garbage limiting the generality of the foregoing, sporting equipment, toys, outdoor Section 9. Storage. Outside storage of any items, including but without

sleeping quarters, either temporarily or permanently. permanent residence be used on any lot at any time as a residence or maintained on any lot, nor shall any garage or other building except a trailer, boat, camper-bus, basketball hoops, tent, or shack shall be Section 8. Prohibited Structures. No structure of a temporary character, shall have the authority to, and shall order the removal of, any pet.

request of 25% of the voting power of the Association, the Board of Directors days' written notice from the Board, and provided further, that upon written permanently removed from the Property subject to these restrictions upon three pet causing or creating a nuisance or unreasonable disturbance shall be or maintained for any commercial purposes; provided, further, that any such regulations adopted by the Board, provided that they are not kept, bred, more than 18 inches in height may be kept on lots, subject to rules and Area or any part thereof, except that household pets of mature size of not of any kind shall be raised, bred or kept in or on any lot or on the Common Section 7. Animals. No animals, rabbits, livestock, fowl or poultry

clear of all rubbish, debris and other unsightly materials. lot or limited Common Area. The Common Area shall be kept free and Area, or on a lot or limited Common Area so as to be visible from outside the

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MISCELLANEOUS

over any other conflicting provisions of this Declaration.  
Section 1. Precedence. The provisions of this Article take precedence

RIGHTS FOR THE PROTECTION OF FIRST MORTGAGERS

ARTICLE XI.

Area, as the Board in its sole discretion deems appropriate or necessary.

governing the use and enjoyment of the Property, including the Common  
modify, rescind and cancel, such other rules and regulations from time to time  
Section 13. Rules and Regulations. The Board may adopt, and may amend,

the right of any Owner to lease his living Unit.  
30 days. Other than the foregoing, there shall be no restrictions on  
writing. No living Unit or lot may be leased for a period of less than  
of such documents shall be a default under the lease. All leases shall be in  
of the Association, and that any failure by the lessee to comply with the terms  
provisions of this Declaration and the Articles of Incorporation and By-Laws  
vide that the terms of the lease shall be subject in all respects to the

Section 12. Rentals. Any lease between an Owner and a lessee shall pro-  
the Property itself.

the improvements or structures to be located upon the Property, or on  
of any sort shall be placed, allowed or maintained upon any portion of  
the authorization of the Board, no exterior television or radio antennae

Section 11. Antennae. Except with the prior written approval and  
to advertise the development during the construction and sale periods.  
erect and maintain upon the Property such signs as it deems appropriate  
the Board may require, and except that Declarant shall be permitted to  
sale or lease provided that it is in such form, style and location as  
or "for lease" sign may be displayed on a lot which is being offered for  
to the public view on any lot or common area, except that a "for sale"  
approve, or street addresses and names of occupants) shall be displayed  
in such styles and materials as the Association shall by rule or regulation

Section 10. Signs. No signs of any kind (other than designations,  
temporarily.

the Property, or on any part of the Common Area, either permanently or  
stored or parked on any lot outside of a garage, or on any street within  
description other than normal passenger automobiles shall at any time be  
mopeds, unlicensed or inoperable vehicles, or any other vehicles of any

subject to eligible holder mortgages.

Living Units which have at least 51% of the votes of Lots or Living Units allocated and the approval of eligible holders holding mortgages on Lots or of Owners of Lots to which at least 67% of the votes in the Association are to establish self-management by the Association shall require the prior consent of eligible insurer or guarantor at that time or later, any declaration holder or eligible insurer or guarantor, whether such entity became an eligible mortgage management has been previously required by any eligible mortgage holder or

Section 3. Discontinuance of Professional Management. When professional the Declaration or By-Laws which is not cured within sixty (60) days.

- (E) Any default in the performance by the Owner of any obligation under percentage of mortgage holders as specified in this Article II; and
- (D) Any proposed action which would require the consent of a specified or fidelity bond maintained by the Association;
- (C) Any lapse, cancellation or material modification of any insurance policy

incurred for a period of 60 days;

- (B) Any delinquency in the payment of assessments or charges owed, or mortgage holder or eligible insurer or guarantor, as applicable; a First Mortgage held, insured, or guaranteed by such eligible portion of the project or any Lot or Living Unit on which there is Declaration, By-Laws or Articles of Incorporation by an Owner of a Lot or Living Unit subject to a First Mortgage held, insured, or guaranteed by such holder or insurer or guarantor, which remains
- (A) Any condemnation loss or any casualty loss which affects a material

written notice of:

holder or eligible insurer or guarantor will be entitled to timely as an "eligible insurer or guarantor", any such eligible mortgage Living Unit who has so requested such notice shall be referred to herein and an insurer or governmental guarantor of a First Mortgage on a Lot or such notice shall be referred to herein as an "eligible mortgage holder" holder of a First Mortgage on a Lot or Living Unit who has so requested First Mortgage on a Lot or Living Unit and the address of such party (a identifying the name and address of the holder, insurer or guarantor of a

Section 2. Notice of Action. Upon written request to the Association,



(A) terminate the legal status of the project (except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation);

nor the Owners shall be entitled to:  
 Lot owned) have given their prior written approval, neither the Association or bidder including the Declarant) of the Lots (based upon one vote for each Law or this Declaration) of the Owners (other than any sponsor, developer, least seventy-five percent (75%) (or such higher percentage as is required by or their assigns (based upon one vote for each First Mortgage owned), and at herein, unless at least seventy-five percent (75%) (or such higher percentage as is required by Law or this Declaration) of the First Mortgagees of the Lots Section 7.A. Certain Amendments. In addition to other requirements set forth title to or possession of such Lot by the First Mortgagee.

assessments of the Lot which were payable prior to the acquisition of sale in connection with any such First Mortgage shall not be liable for the unpaid deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure provided in its First Mortgage or by foreclosure of the First Mortgage or by obtains title to or comes into possession of a Lot pursuant to the remedies Section 6. Liability for Unpaid Assessments. Any First Mortgagee who or other Owners.

any right of first refusal or any similar restriction in favor of the Association transfer, or otherwise convey his Lot or Living Unit will not be subject to Section 5. No Right of First Refusal. The right of an Owner to sell,

remaining Lots subject to eligible holder mortgages.  
 existing in whole or in part, and which have at least 51% of the votes of such approval of eligible holders holding mortgages on all remaining Lots whether partial destruction of the project may be effected without the prior written in the Common Area or the Association resulting from a partial condemnation or votes of Lots subject to eligible holder mortgages. No reallocation of interests of eligible holders holding mortgages on Lots which have at least 51% of the taking in condemnation of the project property must have the written approval legal status of the project after substantial destruction or a substantial Section 4. Termination; Reallocation. Any election to terminate the

- (B) by act or omission, seek to abandon, petition, subdivide, encumber, sell or transfer the Common Area; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed such a transfer;
- (C) use hazard insurance proceeds for losses to any Common Area or other common property for other than the repair, replacement or reconstruction of such common property;
- (D) add or amend any material provisions of this Declaration which establish, provide for, govern or regulate any of the following:
- (1) Voting;
  - (2) Assessments, assessment liens or subordination of such liens;
  - (3) Reserves for maintenance, repair and replacement of the Common Area (or exterior maintenance of Living Units if applicable);
  - (4) Insurance or Fidelity Bonds;
  - (5) Rights to use of the Common Area;
  - (6) Responsibility for maintenance and repair of the several portions of the project;
  - (7) Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;
  - (8) Boundaries of any lot;
  - (9) The interests in the general Common Area;
  - (10) Convertibility of lots into Common Area or of Common Area into lots;
  - (11) Leasing of lots or Living Units;
  - (12) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey him or her lot or Living Unit;
  - (13) Any provisions which are for the express benefit of first mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on lots;
- except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation or with respect to a reallocation of interests in the Common Areas which might occur pursuant to any plan of expansion or phased development contained in this Declaration;
- (E) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or

companies, public or private, for the installation, maintenance, and shall not be required for the granting of easements to utility part of the Common Area; provided, however, that such approval is not dedication to the public or to or for any public use or purpose of any

(B) the conveyed lots; of all or any portion of the Additional Real Estate or any of not and shall not be required for annexation to the Property provided, however, that in any and all events such approval is portion of the Additional Real Estate or any of the Conveyed Lots; (A) the annexation to the Property of any property other than all or any

Administration or the Veterans Administration; following actions will require the prior approval of the Federal Housing Section 7.B. FHA/VA Approval. As long as there is a Class B Membership, the a negative response within 30 days shall be deemed to have approved such request.

additions or amendments who does not deliver or mail to the requesting party An eligible mortgage holder who receives a written request to approve

mortgagees or any other person.

or holder of the Owners, the Association, any First Mortgage, any other material may be made by Declarant acting alone and without the consent, approval

such addition or amendment to such documents which is so considered not to be bring such documents into compliance with any statutory requirements, and any insure or guarantee First Mortgages covering Lots and Living Units, or (A) to

mentioned or referred to in subsection (III) hereinafter to make, purchase, sell, performed by such entities, (IV) to induce any of the agencies or entities

performs (or may in the future perform) functions similar to those currently governmental agency or any other public, quasi-public or private entity which

Corporation, the Department of Housing and Urban Development, or any other the Government National Mortgage Association, the Federal Home Loan Mortgage

(III) to comply with requirements of the Federal National Mortgage Association, clerical, typographical or technical errors, (II) for classification only,

shall not be considered material if it is made (I) for the purpose of correcting For purposes of this section, an addition or amendment to such documents

of laws and plantings.

common property, party walls or common fences, or the upkeep

of Living Units, the maintenance of the Common Area or other

the exterior appearance of Living Units, the exterior maintenance

of Lots pursuant to their First Mortgages in the case of a distribution to the Owner or to any other party priority over any rights of First Mortgages No provision of this Declaration or the By-Laws shall be construed as giving

Section 12. Distribution of Insurance Proceeds and Condemnation Awards.

the holder of such First Mortgage by the Owner of the Lot involved.

voting privileges unless such voting privileges have been granted to

attend meetings of members, but no such representative shall have any

Mortgage on a Lot or Living Unit may designate a representative to

Section 11. Designation of Representative. Any holder of a First

payments shall be owed immediate reimbursement therefor from the Association.

Common Area or other common property, and First Mortgages making such

or secure new hazard insurance coverage on the lapse of a policy for the

common property and may pay overdue premiums on hazard insurance policies

which may or have become a charge against any Common Area or other

jointly or singly, pay taxes or other charges which are in default and

Section 10. Payment of Taxes and Insurance. First Mortgages may,

fully in the By-Laws.

examine the books and records of the Association, as set forth more

holders, insurers and guarantors of First Mortgages shall have the right to

Section 9. Examination of Books and Records. First Mortgages and

by recording a written waiver executed and acknowledged by Declarant.

Property on the Applicable Date. This right may be waived at any time

an owner other than Declarant of the last lot existing as part of the

either this Declaration or the By-Laws until the conveyance by Declarant to

joinder and consent of the Declarant shall be required for any amendment of

for amendment of this Declaration and the By-Laws contained herein, the written

Section 8. Declarant's Joinder. In addition to the other requirements

accordance with the procedures, contained in this Declaration.

forth herein to expand the Property within the limits, and in

lots for the purpose of exercising its or their rights as set

this Declaration made by Declarant or the owners of the conveyed

is not and shall not be required for any amendment or supplement to

(c) amendment of this Declaration; provided however, that such approval

to provide all utility services to the Property; and

repair, replacement and servicing of equipment and facilities necessary

ment cost, as determined annually by the Board of Directors. If mortgages, as their interests may appear, for full insurable replacement cost, as determined annually by the Board of Directors. If Association, the Board of Directors and all Owners and their normally excluded from coverage) and covering the interests of the and also not including land, foundations, excavation and other items or other personal property supplied or installed by Owners or tenants carpeting, drapes, wallcoverings, fixtures, furniture, furnishings, property, supplies, and building service equipment, but not including XI of this Declaration, and including also common personal

or referred to in Subparagraph (III) of Section 7.A. of Article sold, insured or guaranteed by an agency or entity mentioned, are to be financed by a First Mortgage to be made, purchased, fixtures, equipment or other property within a Living Unit which installed by the party constructing such Living Unit, and any electrical and plumbing conductors, pipes and fixtures initially walls, interior doors, built-in cabinets and counters and without limiting the generality of the foregoing, interior therein as of the date thereof, and specifically including, lot, and the Common Area (including all of the fixtures installed and water damage) insuring the Living Units located on each debris removal, cost of demolition, malicious mischief, windstorm endorsement (including vandalism, sprinkler leakage (if appropriate), (A) Master or blanket type policy of fire insurance with extended coverage

of Section 7.A. of Article XI of this Declaration, to-wit: of, the agencies and entities mentioned or referred to in Subparagraph (III) minimum requirements of, and shall otherwise comply with the requirements all of which shall be issued by insurance carriers meeting at least the shall maintain, to the extent reasonably available, the following insurance, of the first conveyance of a lot to an Owner other than Declarant, the Association Section 1. Maintenance of Insurance. Commencing not later than the time

INSURANCE  
ARTICLE XII.

Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area or other common property.

(5) All such policies must provide for the following: recognition of any insurance Trust Agreement; a waiver of the right of subrogation against Owners individually; that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and that the policy is primary in the event the Owner has other insurance covering the same loss.

(4) Steam Boiler Coverage (if applicable) for loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000 per accident per location; and

(3) Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement) if the project is subject to a construction code provision which would become operative and require changes to undamaged portions of the improvements, thereby imposing significant costs in the event of partial destruction of the project by an insured peril;

(2) Inflation Guard Endorsement;

(1) Agreed Amount Endorsement (or like endorsement);

If reasonably available, such policies shall include:

The policies may also be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's First Mortgage. Each Owner and each such Owner's First Mortgage, if any, shall be beneficiaries of the policy with respect to the Common Area Unit, in proportion to the insurable value of such Living Unit, in proportion to the aggregate insurable value of all Unit compared to the aggregate insurable value of all Living Units. Evidence of insurance shall be issued to each Owner and First Mortgage upon request. Policies must provide for the recognition of any Insurance Trust Agreement.

"Village Homeowners Association, Inc. for the use and benefit of the individual Owners".

(2) all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available. The name of the insured under such policies must be set forth therein substantially as follows:

(1) Loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

as a minimum, protection against the following:

specific lot to which it applies. Said policy shall afford, improvements and betterments being chargeable against the master policy, that part of the premium allocable to such the Owner of the subject lot, be issued under a rider to the constructed may, at the direction and sole cost and expense of and betterments not part of the living unit as originally permitted by the insurance company writing the policy, improvements

going powers, and not in limitation thereof, the Board of Directors shall have  
Section 3. Additional Coverages. In addition and supplement to the fore-  
carried by any Owner.

shall not be affected or diminished by reason of any such additional insurance  
that the liability of the carriers issuing insurance obtained by the Association  
policies must, if obtained, contain waivers of subrogation and further provided  
or installed by him or a previous Owner or tenant, provided that all such  
furnishings, and other personal property, and fixtures and other property supplied  
personal liability, and his carpeting, wallcovering, fixtures, furniture,  
shall be responsible for carrying, insurance for his own benefit insuring his  
Section 2. Owners' Individual Policies. Each Owner should carry, and

the insurance policy.

Mortgage which is listed as a scheduled holder of a First Mortgage in

written notice to the Association and to each holder of a First

stantially modified by any party without at least 10 days' prior

(K) All such policies must provide that they may not be cancelled or sub-

(D) Such other insurance as the Board of Directors may determine.

(4) In amounts generally required by private institutional mortgage  
investors for projects similar in construction, location and use.  
(However, such coverage shall be for at least \$1,000,000 for  
bodily injury, including deaths of persons and property damage  
arising out of a single occurrence.)

(3) Insuring each officer and member of the Board of Directors, the  
managing agent and each Owner and with cross liability endorsement  
to cover liabilities of the Owners as a group to an Owner and  
with a "Severability of Interest Endorsement" which would preclude  
the insurer from denying the claim of an Owner for the negligent  
act of another Owner, occupant or the Association; and

(2) covering without limitation, legal liability of the insureds for  
property damage, bodily injuries and deaths of persons in  
connection with the operation, maintenance or use of the Common  
Area, and legal liability arising out of lawsuits related to  
employment contracts of the Association, and such other coverages  
as are customarily covered with respect to projects similar in  
construction, location, and use;

(1) covering events occurring anywhere on the Common Area (and public  
ways, if any) or arising out of or in connection with the use,  
ownership or maintenance of the Common Area;

but at least:

coverage as the Board of Directors shall from time to time determine,

(C) Comprehensive public liability insurance in such amounts and with such

the Association has eligible employees);

(B) Workmen's compensation, occupational disease and like insurance (if

the authority at all times without action by the Owners to obtain and maintain in force all coverages and endorsements required by any agency or entity mentioned or referred to in subparagraph (III) of Section 7.A. of Article XI of this Declaration, for the acceptance of mortgages on living units or lots, as such requirements are amended from time to time.

Section 4. Insurance Trustee. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Any Insurance Trustee must be a corporation or association organized or authorized to do business under the laws of the State of Indiana, and authorized and permitted by its charter documents and by state law to conduct a trust business.

Each Owner, by acceptance of a deed to his, her or its lot, hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association or any Insurance Trustee is hereby required to receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for Owners and their First Mortgage holders, as their interests may appear, and to apply and administer the same as follows:

(A) All insurance proceeds paid to the Association or Insurance Trustee (hereinafter sometimes referred to merely as "Trustee") shall be deposited in escrow with a title insurance company or other depository acceptable to the Trustee and a majority of First Mortgagees of record.

(B) The Owner of the living unit with respect to which the insured loss occurred shall, within thirty (30) days after insurance proceeds are deposited in accordance with paragraph (A) above, enter into a firm contract with a qualified builder providing



insurance premium paid by the Association. In the same manner as that which is provided herein for the collection of an said charge from the Owner of Units, as the case may be, and in the reasonable fee for the services rendered by said agent and to collect this Section 4. The Trustee shall be empowered to pay said agent a parties as its agents in exercising those functions given to it in said insurance proceeds. The Trustee may employ any bonded party or of any kind to the Owner, including, but not limited to, interest on of any obligation incurred pursuant to said contracts, without liability have the right to have said insurance proceeds applied in satisfaction of the Living Unit, and the Trustee or First Mortgagee shall which it deems necessary to complete said reconstruction or remodeling have the right, but not the obligation, to enter into those contracts the First Mortgagee of record, with the consent of the Trustee, shall be not commenced or completed as provided above, then the Trustee or subparagraph (B) above, or in the event that reconstruction or remodeling in the event the Owner fails to enter into a contract as provided in (C)

to the interests of First Mortgagees of record. shall be a lien upon the lot or lots, subordinated, however, permit construction as herein provided and any such advances funds in excess of insurance proceeds as may be required to right, but not the obligation, to deposit such additional affected and the lots underlying the same shall have the Association and First Mortgagees of record of the Living Units insurance proceeds are deposited in escrow as aforesaid. The shall said work be completed later than 180 days after said be commenced and completed with due diligence and in no event and First Mortgagee. Said reconstruction or remodeling shall to cover all construction costs as determined by the Trustee that, until additional funds are deposited by the Owner sufficient insurance proceeds then held by the Trustee for said Living be entered into by the Owner for an amount in excess of the to the insured loss; provided, however, that no contract shall substantially the same condition as existed immediately prior for the reconstruction or remodeling of the Living Unit, to

BOOK PAGE 324 179

(D) Disbursement of funds on deposit pursuant to subparagraph (A) above, for contracts for reconstruction or remodeling entered into under subparagraphs (B) and (C) above, shall be made by a title insurance company or other agent ("Agent") selected by Trustee and the affected First Mortgagees of record, subject to the following:

(1) Article VI of these covenants entitled "Architectural Controls" shall apply to all said reconstruction or remodeling.

(2) Receipt by Agent of such sworn construction statements, lists of subcontractors, lien waivers and receipts as it shall determine to be appropriate. Disbursements may be by periodic or progress payments, and Agent may make such inspections and withhold such payments as it deems necessary to insure completion in compliance with plans and specifications. Agent shall be entitled to a reasonable fee for the services rendered by it, and the Trustee may collect such fee from the Owner or Owners, as the case may be, and in the same manner as that which is provided herein for the collection of insurance premiums paid by the Association.

(3) In the event a contract is entered into pursuant to subparagraph (B) hereinaabove, the written consent of the Owner to said payment or payments.

(E) In the event that a remodeling or reconstruction contract is, for any reason, not entered into pursuant to the provisions of subparagraphs (B) and (C) hereinaabove, within 180 days after deposit of insurance proceeds in escrow for a damaged or destroyed living Unit, as herein provided, or in the event there are excess funds after reconstruction or remodeling, the proceeds or excess, as the case may be, shall be disbursed to each Owner and Mortgagee of record of the affected lot as their interests appear.

(F) In the event the Owner whose property is damaged fails to make satisfactory arrangements for the repair and reconstruction of the damaged property and, in the event the Trustee decides to repair and reconstruct the damaged property and it is determined by it that the insurance proceeds are not sufficient for all costs and expenses associated therewith, the Association or the First Mortgagee may deposit, arrange for and disburse funds over and above the insurance proceeds to complete the repair and reconstruction and to pay the costs associated and related therewith. Upon completion of the work, the Board of Directors may levy a Special-Charge Assessment against the Owner, which Special-Charge Assessment shall be a lien against the lot having the effect of a special assessment lien under Article V

11/11/11

Section 1. The Association shall represent the Owners in any condemnation proceedings and in any negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area, or part thereof, and by acceptance of a deed for his, her or its Lot, each Owner appoints the Association as such Owner's agent and attorney-in-fact for such purposes. In the event of a taking or acquisition of part or all of the Common Area by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or other trustee (such as a bank or title insurance company appointed as such by the Association), for the use and benefit of the Owners and their Mortgagees as their interests may appear.

EMINENT DOMAIN

ARTICLE XIII.

other insurance premiums as such premiums become due. and used solely for the payment of the blanket property insurance premiums and such assessments shall be held in a separate escrow account of the Association shall be common expenses to be paid by assessments levied by the Association, and insurance coverage, and the other insurance coverages purchased by the Association, Section 5. Insurance Premiums. Insurance premiums for any blanket property

as of the completion of original construction thereof. to substantially the same condition as the Living Unit was in Living Unit as above provided, the same need be restored only Mortgagee undertakes the reconstruction or remodeling of a if he desires the same insured. If the Trustee or First of the Owner to insure separately (or by rider as above provided) Unit on such lot by Declarant or others) shall be the responsibility Unit (subsequent to the date of initial completion of a Living (G) Betterments or improvements made by any Owner to his Lot or Living

the work. premises, including necessary costs, expenses and fees associated with proceeds received by the Trustee to repair and reconstruct the Owner's the amount expended by the Trustee over and above the insurance other assessment liens. The Special-Charge Assessment shall be in which Lien may be enforced in the same manner as provided herein for thereof, but superior to all other annual and special assessments, and

Declaration within the Property, except as hereinabove provided.

any revocation, change or addition to the covenants established by this properties as one scheme. No such merger or consolidation, however, shall effect corporation may administer the covenants and restrictions established upon any other surviving corporation pursuant to a merger. The surviving or consolidated law, be added to the properties, rights, and obligations of the Association as a properties, rights and obligations of another corporation may, by operation of surviving or consolidated association or corporation, or, alternatively, the rights and obligations may, by operation of law, be transferred to another with another corporation as provided in its Articles and By-Laws, its properties, Section 2. Mergers. Upon a merger or consolidation of the Association persons violating the terms contained herein.

damages as determined by the Court shall be assessable against and payable by any Attorneys' fees and costs of any such actions to restrain violation or to recover tained shall in no event be deemed a waiver of the right to do so thereafter.

Association or by any Owner to enforce any covenant or restriction herein con- land, to enforce any lien created by these covenants; and failure by the restrain violation, to compel compliance, or to recover damages, and against the violating or attempting to violate any covenant or restriction, either to the Association or by any Owner against any person (including the Association) of the Association may be by any proceeding at law or in equity instituted by and of the provisions contained in the Articles of Incorporation and By-Laws

Section 1. Enforcement. Enforcement of these covenants and restrictions

GENERAL PROVISIONS

ARTICLE XIV.

mortgage holders thereof.

shall be allocated equally among each lot, payable jointly to the Owners and and the project is terminated by the election hereinabove required, the proceeds the event of a total taking of the Common Area (or conveyance in lieu thereof), proceeds of such taking for such purpose as shall be reasonably necessary. In to reasonably the same condition as before the taking, using so much of the remaining portions of the Common Area to be restored functionally and aesthetically Area (or conveyance in lieu thereof) the Association shall promptly cause the

Section 2. Reconstruction. In the event of a partial taking of the Common

This instrument was prepared by Dixon B. Dann, Attorney-at-Law.

By: *[Signature]*  
Kenneth R. Thompson, General Partner

EDEN VILLAGE COMPANY,  
an Indiana limited partnership

day and year first above written.

limited partnership, has caused this document to be executed as of the

IN WITNESS WHEREOF, the said EDEN VILLAGE COMPANY, an Indiana

Declaration and the By-Laws, the provisions of this Declaration shall govern.

Section 8. Construction. In the event of an apparent conflict between this

for convenience of reference only and shall not be given any substantive effect.

Section 7. Captions. The Article and Section headings herein are intended

Member appearing on the records of the Association at the time of such mailing.

properly sent when mailed, postage prepaid, to the last known address of such

Association under the provisions of this Declaration shall be deemed to have been

Section 6. Notices. Any notice required to be sent to any Member of the

and effect.

in no way affect any other provisions which shall remain in full force

covenants or restrictions by legislation, judgment or court order shall

Section 5. Severability. Invalidity of any one or more of these

or to take such emergency action.

as the Association deems necessary, to accomplish such emergency repairs

living Unit at any time, without notice, with such persons and material

and contractors, shall have the right to enter upon and into any lot or

living Unit, the Association, through its duly authorized agents, employees

Unit from weather or otherwise to prevent damage or destruction to any lot or

repairs under this Declaration, or of taking emergency action to seal a living

Section 4. Emergency Access. For the purpose of performing emergency

Unit.

no notice shall be required), to enter upon and into any lot and living

after reasonable notice to the Owner (except in an emergency in which case

authorized agents, employees and contractors, shall have the right,

maintenance authorized by this Declaration, the Association, through its duly

Section 3. Access. For the purpose solely of performing the repairs and

UCC

UCC

UCC

This instrument was prepared by Dixon B. Dann, Attorney-at-Law.

My Commission Expires: 8/27/84

My County of Residence: Hamilton

Patricia S. Strong, Notary Public  
Patricia S. Strong

WITNESS my hand and Notarial Seal this 5<sup>th</sup> day of June, 1984.

Before me, a Notary Public in and for said County and State, personally appeared Kenneth E. Thompson, the General Partner of EDEN VILLAGE COMPANY, an Indiana limited partnership, and acknowledged the execution of the above and foregoing instrument for and on behalf of said limited partnership for the purposes and uses therein set forth.

STATE OF INDIANA )  
) SS: )  
COUNTY OF HAMILTON )

Legal Description of Original Real Estate

Lots 1, 9, 11, 12, 36, 39, 40, 43, 45 and 46 in Eden Village, an Addition in Hamilton County, Indiana, the plat of which is recorded in Plat Book 10, Pages 56 through 58, inclusive, in the office of the Recorder of Hamilton County, Indiana, as amended by plat recorded in Plat Book 10, Pages 90 through 93, inclusive, in the office of the Recorder of Hamilton County, Indiana.

ALSO:

The tract of real estate in Eden Village, an Addition in Hamilton County, Indiana, the plat of which is recorded in Plat Book 10, Pages 56 through 58, inclusive, in the office of the Recorder of Hamilton County, Indiana, as amended by plat recorded in Plat Book 10, Pages 90 through 93, inclusive, in the office of the Recorder of Hamilton County, Indiana, which contains approximately 2.777 acres and which is shown on said plat and identified thereon as "Green/Open Area", which tract of real estate is more particularly described by meter and bounds perimeter description as follows, to-wit:

A part of the Northeast Quarter of Section 31, Township 18 North, Range 4 East in Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Northeast Corner of the said Northeast Quarter Section; thence South 89 degrees 54 minutes 17 seconds West along the North line of the said Quarter Section 484.00 feet to the Northwest corner of Eden Estates - Section IX, a subdivision in Hamilton County, Indiana, the plat of which is recorded in Plat Book 6, pages 133-135 in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 05 minutes 43 seconds East along the West line of said Eden Estates - Section IX a distance of 40.00 feet to the Point of Beginning of this description; thence North 89 degrees 54 minutes 17 seconds West along said curve being the point of curvature of a 9.09457 degree curve to the left, the radius point of said curve being North 89 degrees 54 minutes 17 seconds East 630.00 feet from said point; thence Southeastly along said curve 143.76 feet to the point of tangency thereof, the radius point of said curve being North 76 degrees 49 minutes 49 seconds East 630.00 feet from said point; thence South 65 degrees 00 minutes 00 seconds West 167.66 feet; thence North 79 degrees 45 minutes 00 seconds West 92.00 feet; thence North 87 degrees 20 minutes 00 seconds West 108.00 feet; thence North 78 degrees 00 minutes 00 seconds West 45.00 feet; thence North 56 degrees 00 minutes 00 seconds West 55.00 feet; thence North 70 degrees 39 minutes 00 seconds West 42.00 feet; thence South 78 degrees 40 minutes 00 seconds West 59.00 feet; thence South 47 degrees 78 degrees 40 minutes 00 seconds West 50.00 feet; thence North 78 degrees 50 minutes 00 seconds West 47.00 feet; thence South 37 degrees 45 minutes 00 seconds West 111.00 feet to the East right-of-way line for Keystone Avenue (S.R. 431), (the next three (3) described courses being along said East right-of-way line); thence North 01 degrees 19 minutes 39 seconds East 185.00 feet; thence North 39 degrees 08 minutes 42 seconds East 101.18 feet; thence North 89 degrees 58 minutes 11 seconds East 150.00 feet; thence South 00 degrees 05 minutes 43 seconds East 1.99 feet; thence North 89 degrees 54 minutes 17 seconds East parallel with the North line of said Quarter Section 453.36 feet to the Point of Beginning of this description, containing 2.777 acres, more or less.

Exhibit "B"

Lots 8, 42 and 50 in Eden Village, an Addition in Hamilton County, Indiana, the plat of which is recorded in Plat Book 10, Pages 56 through 58, inclusive, in the office of the Recorder of Hamilton County, Indiana, as amended by plat recorded in Plat Book 10, Pages 90 through 93, inclusive, in the office of the Recorder of Hamilton County, Indiana.

Legal Description  
of Conveyed Lots



Legal Description of  
Additional Real Estate

All real estate in Eden Village, an Addition in Hamilton County, Indiana, the plat of which is recorded in Plat Book 10, Pages 56 through 58, inclusive, in the office of the Recorder of Hamilton County, Indiana, as amended by plat recorded in Plat Book 10, Pages 90 through 93, inclusive, in the office of the Recorder of Hamilton County, Indiana.

EXCEPTING THEREFROM, (a) the Original Real Estate, (b) the Conveyed Lots, and (c) such portions of the real estate in Eden Village as were dedicated to the public by the plat hereinabove described.

RECORDED  
PLAT BOOK 179  
PAGE 332  
MAY 10 1989  
HAMILTON COUNTY, INDIANA

CONSENT OF MORTGAGE

The undersigned, RAILROADMEN'S FEDERAL SAVINGS AND LOAN ASSOCIATION OF INDIANAPOLIS, a corporation under the laws of the United States of America, being the holder of the following described Mortgage encumbering all or portions of the Original Real Estate and the Additional Real Estate (each as described and defined in the above and foregoing Declaration of Covenants, Conditions, Restrictions and Easements for Eden Village (the "Declaration")), co-wit:

Mortgage from Kenneth E. Thompson dated August 1, 1983, and recorded August 1, 1983, as Instrument No. 83-8861, in Mortgage Record 440, page 851, in the office of the Recorder of Hamilton County, Indiana,

hereby CONSENTS to the execution and recording of the above and foregoing Declaration by Eden Village Company and the submission of the property described in said Mortgage to the provisions of said Declaration, and the undersigned further AGREES that its said Mortgage with respect to said property shall be subject and subordinate to the terms and provisions of the above and foregoing Declaration and all exhibits attached thereto and the documents incorporated therein; provided, however, that, except and to the extent that said Mortgage is modified by this Consent, such Mortgage shall remain in full force and effect, unaltered and enforce- able in accordance with its terms.

EXECUTED THIS 3rd day of July, 1984.

RAILROADMEN'S FEDERAL SAVINGS AND LOAN ASSOCIATION OF INDIANAPOLIS

ATTEST: G. S. Martin, Secretary (undersigned) By: L. B. Utterback, (vice) President

STATE OF INDIANA ) ) SS: COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared L. B. Utterback and G. S. Martin, by me known, and by me known to be the (vice) President and (undersigned) Secretary, respectively, of RAILROADMEN'S FEDERAL SAVINGS AND LOAN ASSOCIATION OF INDIANAPOLIS, a corporation under the laws of the United States of America, who acknowledged the execution of the above and foregoing Consent for and on behalf of said corporation for the uses and purposes therein set forth.

WITNESS my hand and Notarial Seal this 3rd day of July, 1984.

Thomas E. Jones, Notary Public

My Commission Expires: November 19, 1987 My County of Residence: Marion

This instrument was prepared by Dixon B. Dann, Attorney-at-Law.

CONSENT OF MORTGAGEE

The undersigned, THE INDIANA NATIONAL BANK, a national banking association, being the holder of the following described real estate mortgage and other items of collateral security (collectively, the "Collateral") encumbering all or portions of the Original Real Estate and the Additional Real Estate [each as described and defined in the above and foregoing Declaration or Covenants, Conditions, Restrictions and Easements for Eden Village (the "Declaration")], to-wit:

1. Real Estate Mortgage from Eden Village Company to The Indiana National Bank, dated April 16, 1984, recorded April 18, 1984, as Instrument No. 84-4835 in Mortgage Record 453, page 194, in the office of the Recorder of Hamilton County, Indiana; and
2. Security interests granted pursuant to a Security Agreement between Eden Village Company and The Indiana National Bank dated January 19, 1984, as evidenced by financing statements filed with the Secretary of State of Indiana on February 9, 1984, as Statement No. 1019892, and filed with the Recorder of Hamilton County, Indiana on January 24, 1984 as U.C.C. Statement No. 84-107,

hereby CONSENTS to the execution and recording of the above and foregoing Declaration by Eden Village Company and the submission of the property described in said Collateral to the provisions of said Declaration, and the undersigned further AGREES that its said Collateral with respect to said property shall be subject and subordinate to the terms and provisions of the above and foregoing Declaration and all exhibits attached thereto and the documents incorporated therein; provided, however, that, except and to the extent that said Collateral is modified by this Consent, such Collateral shall remain in full force and effect, unaltered and enforceable in accordance with its terms.

EXECUTED THIS 7th day of June, 1984.

THE INDIANA NATIONAL BANK

ATTEST:

By: B. Johnson  
B. Johnson  
Vice President

(Assistant) Secretary  
This Instrument Recorded  
Mary L. Clark, Recorder, Hamilton County, Ind.  
1984

Before me, a Notary Public in and for said County and State, personally appeared B. Johnson and B. Johnson (Vice) President and (Assistant) Secretary, of THE INDIANA NATIONAL BANK, a national banking association, who acknowledged the execution of the above and foregoing Consent for and on behalf of said association for the uses and purposes therein set forth.

WITNESS my hand and Notarial Seal this 7th day of June, 1984.

Nancy S. Hutton  
NANCY S. HUTTON, Notary Public  
My Commission Expires November 14, 1985  
County of Hamilton - Marion  
Notary Public

My Commission Expires:

My County of Residence:

This instrument was prepared by Dixon B. Dunn, Attorney-at-Law.

84 9092

CONSENT AND SUBORDINATION TO EDEN VILLAGE PLATS AND UTILITY EASEMENT DEDICATIONS

WHEREAS, by that certain Mortgage from KENNETH E. THOMPSON ("Thompson") to RAILROADMEN'S FEDERAL SAVINGS AND LOAN ASSOCIATION OF INDIANAPOLIS, a corporation under the laws of the United States of America ("Railroadmen's"), dated August 1, 1983, and recorded August 1, 1983, as instrument No. 83-8861, in Mortgage Record 440, pages 851 and 852, in the office of the Recorder of Hamilton County, Indiana (the "Mortgage"), Thompson mortgaged to Railroadmen's the real estate in Hamilton County, Indiana more particularly described in said Mortgage (the "Real Estate"); and

WHEREAS, immediately following the recording of the Mortgage, Thompson caused to be recorded a plat of all of the Real Estate, whereby Thompson laid off, platted and subdivided the real estate described therein for a subdivision to be known as Eden Village, in accordance with, and subjected said real estate to the terms, covenants, conditions, easements and restrictions contained in, said plat, which plat was recorded August 1, 1983, as instrument No. 83-8862, in Plat Book 10, pages 56 through 58, inclusive, in the office of the Recorder of Hamilton County, Indiana (the "Plat"); and

WHEREAS, thereafter, there was recorded a final plat of all of the Real Estate, whereby the real estate described therein was laid off, platted and subdivided in accordance with, and subjected to the terms, covenants, conditions, easements and restrictions contained in, said final plat for said subdivision known as Eden Village, which final plat was recorded November 17, 1983, as instrument No. 83-14698, in Plat Book 10, Pages 90 through 93, inclusive, in the said Recorder's office (the "Final Plat"); and

WHEREAS, thereafter, in order to better and more appropriately develop the Real Estate and said subdivision known as Eden Village, the following instruments were executed and recorded, by which additional drainage and utility easements were granted, dedicated and established affecting portions of the Real Estate as therein more particularly described:

- (a) Utility Easement Dedication dated December 7, 1983, recorded December 7, 1983, in Easement Record 1, page 554, in said Recorder's office ("Dedication One"); and
- (b) Second Utility Easement Dedication dated January 19, 1984, recorded January 24, 1984, in Easement Record 1, page 688, in said Recorder's office ("Dedication Two"); and

WHEREAS, by the terms of both the Plat and the Final Plat, all streets and alleys shown thereon and not theretofore dedicated, were thereby dedicated to the public; and

WHEREAS, in order to provide for the better and more appropriate development of the Real Estate and said subdivision known as Eden Village, Railroadmen's desires by this Consent to provide for the Plat, the Final Plat, Dedication One and Dedication Two to be senior and superior to the Mortgage;

The Instrument Recorded, Hamilton County, Ind. May 10 1984  
Mary L. Clark, Recorder

RAILROADMEN'S FEDERAL SAVINGS AND  
 LOAN ASSOCIATION OF INDIANAPOLIS  
 BY: [Signature]  
 (Vice) President  
 G. S. Martin  
 (Assistant) Secretary

IN WITNESS WHEREOF, RAILROADMEN'S FEDERAL SAVINGS AND  
 LOAN ASSOCIATION OF INDIANAPOLIS has caused this instrument  
 to be executed by its duly authorized officers this 3rd  
 day of \_\_\_\_\_, 1984.

Provided, however, that, except and to the extent that  
 said Mortgage is modified, subordinated and otherwise affected  
 by this consent, such Mortgage shall remain in full force  
 and effect, unaltered and enforceable in accordance with its  
 terms.

EXCEPTING THEREFROM Lots 8, 30, 39, 40, 42, 45, 46 and  
 50.  
 Addition in Hamilton County, Indiana, the plat of which  
 is recorded in Plat Book 10, pages 56 through 58,  
 inclusive, in the office of the Recorder of Hamilton  
 County, Indiana, as amended by plat recorded in Plat  
 Book 10, Pages 90 through 93, inclusive, in the office  
 of the Recorder of Hamilton County, Indiana.

It is the further intent of Railroadmen's in executing  
 this consent to acknowledge and agree that, as of the date  
 hereof, the Mortgage encumbers, in lieu of the Real Estate  
 as originally described in the Mortgage, the following  
 described real estate in the County of Hamilton, State of  
 Indiana, to-wit:

NOW, THEREFORE, in consideration of the premises,  
 Railroadmen's hereby CONSENTS to the execution and recording  
 of the Plat, the final Plat, Dedication One and Dedication  
 Two and the submission of the real estate described in said  
 Mortgage to the provisions of said Plat, final Plat, Dedication  
 One and Dedication Two. Railroadmen's hereby AGREES that  
 its Mortgage with respect to said property shall be, and is  
 hereby declared, stipulated and agreed to be, subject and  
 subordinate to all of the terms, covenants, conditions,  
 easements and restrictions contained in and shown upon the  
 Plat, the final Plat, Dedication One and Dedication Two.  
 Railroadmen's further hereby JOINS in the Plat and the final  
 Plat to the extent necessary to effectually release from the  
 Mortgage, and permit an effective unencumbered dedication to  
 the public of, all streets and alleys shown upon the Plat  
 and the final Plat.

RECEIVED  
MAY 23 1984  
HARRISON COUNTY, INDIANA  
NOTARY PUBLIC

This instrument Recorded  
May 19, 1984  
Mary L. Clark, Recorder,  
Harrison County, Ind.

This instrument was prepared by Dixon B. Damm, Attorney-at-law.

My County of Residence: Marion

My Commission Expires: November 19, 1987

Thelma E. Jones, Notary Public

July, 1984.

WITNESS my hand and Notarial Seal this 3rd day of

G. S. Martin, by me known, and  
State, personally appeared I. E. Thibault  
Secretary, respectively, of RAILROADMEN'S FEDERAL SAVINGS  
AND LOAN ASSOCIATION OF INDIANAPOLIS, a corporation under  
the laws of the United States of America, who acknowledged  
the execution of the above and foregoing instrument for and on  
behalf of said corporation for the uses and purposes therein  
set forth.

STATE OF INDIANA )  
) SS: )  
COUNTY OF MARION )







7446268

THIS INSTRUMENT PREPARED BY TERRY D. MEDLEY, ATTORNEY AT LAW.

RECEIVED  
FOR RECORD  
DEC 29 3 00 PM '89  
SHARON K. CHERRY  
RECORDER  
HAMILTON CO., IN

Before me, a Notary Public in and for said County and State, personally  
ROGER W. KELLY and Beverly A. Kelly  
I have presented the execution of the foregoing Amendments and who, having been  
advised of the contents thereof, stated that any representations therein contained are true.  
Witness my hand and Notarial Seal this 1st day of November, 1989.  
Signature *[Signature]*  
Printed Name *[Name]* Notary Public  
Residing in *[Address]* Hamilton County, Indiana.

STATE OF INDIANA )  
COUNTY OF HAMILTON )  
SS: )  
Notary Seal: NOTARY PUBLIC, HAMILTON CO., INDIANA, 1989. Commission expires 11-19-91.

RECEIVED  
FOR RECORD

91 OCT 11 P3:17

STATE ARCHIVES  
RECORDS  
HAMILTON CO. IN

The Instrument Recorded / 8-11 / 1981  
Sharon K. Cherry, Recorder, Hamilton County, Indiana

This Declaratory Addendum to Declaration, made this 19 day of August, 1991, by the Board of Directors and Officers for the Village Homeowners Association, Inc. for Eden Village subdivision. WITNESSETH THAT:

WHEREAS, by that certain Declaration of Covenants, Conditions, Restrictions and Easements for Eden Village dated June, 5, 1984, and recorded July 10, 1984 as Instrument No. 84-9091, in Miscellaneous Record 179, page 284, in the Office of the Recorder of Hamilton County, Indiana (hereinafter referred to as "the Declaration"), said Eden Village subdivision and the real estate described therein was subjected to the terms, provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens of the "Declaration"; and

WHEREAS, Article VII of said Declaration charges the Village Homeowners Association, Inc. (hereinafter referred to as the "Association") with certain duties and obligations which are described in particular in Exhibit "A" attached herein and made a part hereof by reference; and

WHEREAS, certain duties and obligations as set out in said Article VII of the Declaration have never been complied with by

DECLARATORY ADDENDUM TO  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
EDEN VILLAGE

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INSTR. # 9127279

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shall by virtue of recordation of this document be deemed to have and all potential and future purchasers of Eden Village real estate of said Association and of the present and future Administrations shall hereafter be deemed to be policy of all prior Administrations says that the following notifications and declarations by them Village Homeowners Association, Inc. hereby expressly avers and herein, the Board of Directors and Officers on behalf of the NOW THEREFORE, in consideration of the premises, contained future.

no intention of said Association complying with said duties in the certain Association duties are not complied with and that there is estate located in the Eden Village subdivision on notice that Administration to put all potential and future purchasers of real WARRAS, it is the desire by the present Association and

by all Predecessor Boards of Directors and/or Association Officers; WARRAS, there has been unanimous acquisition to said policy accumulating a fund to provide the above service.

3. enforcement of lot assessments for the purpose of
2. the Association has further historically limited lawn and planting care to weekly mowing and periodic treatment and trimming of lawns as determined by the Officers and Board of Directors;
1. the Association has never nor is it anticipated that it will in the future maintain and repair the exterior of living units or any of the buildings or improvements located on the lots (including but not limited to the requirement that the association be responsible for painting, replacement of trim and caulking, the maintenance and repair of exterior windows and doors and necessary painting, staining and repair of patio structures as originally built on a lot;

the following:  
Predecessor Boards of Directors and/or Association Officers, namely

Notice of such policy, and relative thereto does hereby declare and

notify as follows:

1. Contrary to rights and obligations of the Village Homeowners Association, Inc. as set out in Article VII of the Declaration, all potential and future purchasers of real estate located in said Eden Village subdivision are hereby put on notice that certain duties and obligations are not performed by the Association as contemplated by the Declaration, Articles of Incorporation and By-Laws, to-wit:

a. The Association Administrations past, present and it is anticipated that future Associations as well, do not and will not accept responsibility for the maintenance and repair of the exterior of living units or any other buildings and improvements located on lots (including the responsibility to paint the exterior, the replacement of trim and caulking, the maintenance and repair of roofs, gutters, downspouts, and overhangs, the maintenance and repair of exterior windows and doors and necessary painting, staining and repair of patio structures.

b. It is further anticipated that as in the past and present all future Associations will limit lawn and plant care to weekly mowing and periodic treatment and trimming of lawns as the necessity therefore is determined by the Officers and Board of Directors.

c. It should also be noted that assessments for the purpose of accumulating funds for the above purposes, uses and services as provided in the Declaration have never been assessed by the Association.

IN WITNESS WHEREOF, the Board of Directors and Officers of the Village Homeowners Associations, Inc. have executed this instrument as of the day and year first hereinabove set forth.

VILLAGE HOMEOWNERS ASSOCIATION, INC.

*Raymond William President*  
*James J. For Treasurer*  
9127279

B

This instrument was prepared by: Leroy D. Hedley, Attorney at Law.  
Address: 650 E. Carmel Drive, Suite 150, Carmel, Indiana 46032

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My Commission Expires: 9-19-91  
Signature: [Signature]  
Printed: LEROY D. HEDLEY  
Residing in HAMILTON County, Indiana  
Witness my hand and Notarial Seal this 19 day of August, 1991.

Before me, a Notary Public, in and for said County and State personally appeared all of the Officers and Directors of the Village Homeowners Association, who acknowledged the execution of the foregoing Declaratory addendum this 19 day of August, 1991.

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF HAMILTON )

**"OFFICERS"**  
[Signature]  
[Signature]  
[Signature]  
**"DIRECTORS"**  
[Signature]  
[Signature]  
[Signature]

9127279

Section 1. The Common Area and Exterior. The Association, subject to the rights and obligations of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area and all improvements (if any) thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. Such responsibility (to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of Lots) shall include, but not be limited to, the following: the maintenance and repair of the Common Area improvements, if any, and all other improvements or material located within or used in connection with the Common Area. In order to preserve the uniform and high standard of the Property, the Association shall also be responsible for the maintenance and repair of the exterior of all living Units and any other buildings and improvements located on Lots, and the Lots themselves, which responsibility shall include, but not be limited to, the following: the maintenance and repair of exterior surfaces of all buildings on the Property, including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, gutters, downspouts and overhangs, the maintenance and repair of exterior windows and doors, and necessary painting, staining and repair of patio structures as originally built on a Lot (but not of additions thereto).

OTHER RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

ARTICLE VII.

EXHIBIT "A"

made by an Owner). The Association shall mow, trim, water and otherwise care for and maintain all grass, trees, shrubbery, plants and other landscaping located on lots (including, but not limited to, any landscaping located in the planting strip along the southern boundary of the real estate included in the Initial Plat, as required by the Initial Plat), excluding, however, any landscaping located on limited Common Area which has been installed by the Owner thereof, and such Owner shall be responsible for the maintenance and care of such landscaping on his own limited Common Area at his sole cost and expense. All maintenance and repair of the individual living Units and any other buildings shall be the sole obligation of and shall be performed at the sole cost and expense of the individual Owner thereof, except to the extent the exterior maintenance and repair is provided by the Association. In the event that the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

*10-11*  
The Association Records  
Sharon K. Chapp, Recorder, Hamilton County, Indiana

**Section 2. Lawn and Planting Maintenance.** To the extent the Association

undertakes to water gardens and plantings established by individual Owners, it will not be responsible for any damage to such gardens and plantings due to overwatering, underwatering or improper watering. In lieu of maintaining separate water lines for the purpose of watering the Common Area and any landscaping on the lots, the Association may draw water for such purposes from exterior all-locks on each living Unit or lot, provided that it rotates such drawing among living Units or lots in reasonable proximity to the area required to be watered by a schedule or other reasonable means so as to approximately equalize the amount of water taken from each such living Unit or lot over the course of a season.

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