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FAYE I. MOWERY
RECORDER
OF MARION CO.

DECLARATION OF COVENANTS AND RESTRICTIONS
EMERALD GREEN DEVELOPMENT PROJECT

THIS DECLARATION, made this ~~2nd~~ day of April, 1973, by Emerald Green, a limited partnership hereinafter referred to as the "Developer"), WITNESSES:

WHEREAS the Developer is the owner of all of the lands contained in the area shown on Exhibit "A", attached hereto and made a part hereof, which lands will be subdivided and known as the "Emerald Green Development Project" (hereinafter referred to as the "Project"); and

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

NOW, THEREFORE, the Developer hereby declares that all of the lots and lands located within the Project as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of apartments, lots and lands in the Project, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project as a whole and of each of said apartments, lots and lands situated therein. All of the Restrictions shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the Developer's successors in title to any real estate in the Project. The Developer specifically reserves the right and privilege, prior to the recording by the Developer of an instrument which portrays a particular lot or tract within the Project as shown on Exhibit "A", to exclude any real estate so shown from the Project, or to include additional real estate; provided, however, that the Developer may not create or sell and therefore include more than 550 lots or apartments within the Project.

RESALE, IC 36

1. DEFINITIONS. For the purposes of this Declaration, unless the context otherwise indicates or requires, the following terms shall have the meanings set forth below:

A. "Club" shall mean the Emerald Green Club, Inc., a not-for-profit corporation, the membership and powers of which are more fully described in paragraph 6 of this Declaration.

B. "Horizontal property regime" shall mean a horizontal property regime established by Developer in the Project. Developer intends to, but is not required to, establish several horizontal property regimes in the Project, each of which will manage, control and maintain the real estate located in such regime and each of which shall have an association of owners.

C. "Lot" shall mean any apartment, townhouse or dwelling unit, whether residential or otherwise, described by any

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IMAGE COPY
INSTRUMENT PREPARED BY DEVELOPER OR ITS AGENTS WHICH IS RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, AND SHALL INCLUDE APARTMENTS AS DEFINED BY THE HORIZONTAL PROPERTY ACT, IC 1971, 32-1-6-1 et seq.; Acts 1963, Ch. 349 §§ 1 et seq.

D. "Owner" shall mean an individual, corporation, partnership, association, trust or other legal entity or any combination thereof, who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

E. "Project" shall mean the Emerald Green Development Project and shall include all real estate shown on Exhibit "A."

F. "Recreational Area" means the real estate described in Exhibit "B" sometimes referred to as the "Commons" of the Project and any recreational facilities that are built thereon, which shall be leased to the Club for the benefit of the Owners in accordance with the terms of the Recreational Area Lease.

G. "Recreational Area Lease" or "Lease" means the long-term, net net lease described in paragraph 5 of this Declaration of Restrictions under which the Club is the lessee of the Recreational Area, and the Developer is the Lessor, a copy of such lease in its present form is attached hereto and made a part hereof as Exhibit "C".

2. CHARACTER OF THE PROJECT.

A. In General. Every Lot in the Project, unless it is otherwise designated by the Developer, is a residential lot and shall be used exclusively for residential purposes.

B. Other Restrictions. All tracts of ground in the Project shall be subject to all governmental zoning authority and other regulation affecting the Project.

3. GENERAL PROHIBITIONS.

A. In General. No noxious or offensive activities shall be carried on in the Project nor shall anything be done in the Project or on any Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Project.

B. Animals. No animals shall be kept or maintained on any Lot in the Project except the usual household pets, and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance.

C. Construction. Notwithstanding any provisions to the contrary contained herein or in any other instrument or agreement, the Developer or the builder may maintain during the period of construction and sale of the Lots, upon such portion of the premises as Developer deems necessary, such facilities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the construction and sale of the Lots, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

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4. OWNERSHIP, USE AND ENJOYMENT OF COMMONS AND RECREATIONAL AREA.

The Recreational Area shall remain private, and neither the Developer's execution or recording of an instrument portraying the Recreational Area, nor the doing of any other act by the Developer is, or is intended to be, or shall be construed as, a dedication to the public of such Recreational Area; provided that the Developer or the Club may dedicate or transfer all or any part of such Recreational Area to any public agency, authority or utility for use as roads or utilities. The Recreational Area is not a part of or included in any horizontal property regime and is not to be made a part of any horizontal property regime. Ownership of the Recreational Area shall be retained by Developer, subject, however, to the terms and conditions of the Recreational Area Lease as it may be changed, amended, or extended from time to time, which terms and conditions shall be mutually binding upon Developer and the Club.

The Developer expressly disclaims any warranties or representations regarding the density of use of any recreational facilities and the Developer further declares that it intends to but is not required to develop all sections of the Project with residential living units. Such development shall be in accordance with the applicable zoning regulations then in effect, shall be of such density as the Developer may determine, and may be multi-family dwellings for rent or sale.

5. RECREATIONAL AREA LEASE

For the recreation, enjoyment, use and other benefit of the Owners, the Club simultaneously with the recording of this Declaration, through its original Board of Directors, has entered into and acquired a long-term, net net lease for the Recreational Area (the "Recreational Area Lease" or the "Lease"). It is specifically recognized that the Club's incorporator and all of the members of the original Board of Directors are beneficiaries or otherwise connected with the Lessor and such circumstances shall not be construed or considered as a breach of the Board of Directors' duties to the Club nor grounds to invalidate the Lease in whole or in part. The Lease shall not be amended, revised or modified except by written agreement executed by Lessor and Lessee, and approved by seventy-five percent (75%) of the Owners of Lots in the Project.

All present and future Owners, mortgagees, tenants and occupants of the Lots, their successors and assigns, shall be bound by the Lease to the same extent and effect as though they had executed the Lease, including but not limited to:

- (a) adopting, ratifying, confirming and consenting to the execution of the Lease by the Club, as Lessee;
- (b) covenanting and promising to perform all of the covenants, promises and undertakings to be performed by the Owners under the Lease;
- (c) ratifying, confirming and approving each and every provision of the Lease and acknowledging that all of the terms and provisions thereof, including rental payments, are reasonable; and
- (d) agreeing that the person acting as incorporator and the persons acting as the Board

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of Directors in the acquisition of such leasehold have not breached any of their duties or obligations to the Club.

Each Owner, by acceptance of a deed to or other acquisition of a Lot, ratifies, acknowledges, consents and agrees to all the terms, conditions and provisions of the Lease, including but not limited to paragraph 8 of the Lease providing for liens in favor of the Lessor to secure to Lessor the payment of all monies due it or to become due it and to secure the performance by Lessee of all of Lessee's obligations under the Lease, and each Owner, by acceptance of a deed to a Lot, ratifies the acts of the Board of Directors in executing the Lease. The rental payments shall be made at the times and in the amounts specified in paragraph 4 of the Lease.

Each Owner shall have the right to use, occupy and enjoy the Recreational Area through the Club as Lessee, subject to all provisions of the Lease, this Declaration of Covenants and Restrictions, the Club's Articles of Incorporation, its By-Laws and such rules and regulations as the Club, by and through its Board of Directors, may from time to time adopt.

6. EMERALD GREEN CLUB, INC.

A. In General.

(i) There has been or will be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as "Emerald Green Club, Inc." Every Owner of a Lot in the Project shall be a member of the Club. If a person would realize upon his security and become the Owner of a Lot within the Project, he shall then be subject to all the requirements and limitations imposed in these Restrictions on other Owners of Lots within the Project and on members of the Club, including those provisions with respect to the payment of an annual charge, and assessments as may be established from time to time by the Board of Directors.

(ii) In addition to the foregoing, the Board of Directors of the Club shall establish associate memberships in the Club for persons who may from time to time be lessees of Lots in the Project pursuant to short or long term leases and who are not otherwise entitled to the benefits of membership by virtue of being Owners of Lots within the Project. Associate members shall have none of the rights of members to vote at meetings of the Club. The Board of Directors of the Club shall establish fees or charges for such associate memberships and rules and regulations concerning such associate memberships which may be different from those applicable to members generally.

B. Purposes of Club.

(i) The general purpose of the Club is to provide a means whereby the Recreational Area and such other recreational facilities or other areas within the Project as may be conveyed to the Club or leased by it from the Developer or otherwise, may be operated, maintained, repaired, replaced and insured. The Club may hold such properties in fee simple or may contract with the Developer for such facilities through the use of a long-term recreational area lease.

(ii) The Club may also contract with any or all of the associations of Owners of horizontal property regimes established in the Project to provide administrative,

managerial, bookkeeping, maintenance, repair and such other services as the Board of Directors of the Club may, from time to time, deem to be appropriate.

(iii) An additional purpose of the Club is to provide a means for the promulgation and enforcement of rules and regulations necessary to govern the use and enjoyment of the Recreational Area and such other recreational facilities within the Project as may be conveyed to and accepted by the Club, and to assure compliance by the Club with the terms and conditions of the Club's contractual undertakings, including but not limited to its Recreational Area Lease.

C. Power of Club to Levy and Collect Charges and Impose Liens.

(i) The Club shall have all of the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law, including the power to levy against the Lots within the Project a uniform annual charge or assessment and such additional special assessments as may be required to comply with the Club's obligation. Special assessments may include, but shall not be limited to, assessments for capital improvements in order to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any such capital improvement in accordance with the Recreational Area Lease. The Board of Directors of the Club, acting in accordance with the By-Laws of the Club and the provisions of the Recreational Area Lease, if any, shall determine the amount of the annual charge and method of its payment after consideration of the financial requirements of the Club. No charge shall ever be levied by the Club against the Developer except with respect to Lots which the Developer has leased. In addition, no charge shall be levied against (1) any corporation that may be created to acquire title to and operate utilities serving the Project, or (2) any local public authority which has had dedicated to it, and which has accepted, land within the project, except when such land is being utilized for residential purposes.

(ii) The Board of Directors of the Club shall fix the amount of the annual charge in accordance with the By-Laws and written notice of the charge so fixed shall be sent to each member.

(iii) Any charge levied or assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall, on the day on which such charge is fixed, become and remain a lien upon that Lot until paid in full, and shall also be a personal obligation of the Owner or Owners of that Lot at the time the charge fell due. Such charge shall bear interest at the rate of 8% per annum until paid in full. If, in the opinion of the Board of Directors of the Club, such charge has remained due and payable for an unreasonably long period of time, the Club may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the charge shall be obliged to pay any expense or costs, including attorneys' fees, incurred by the Club in collecting such charge. No such charge or lien shall exist at the conveyance of a Lot by Developer unless the Lot has been previously occupied. Every Owner of a Lot in the Project and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and, by acquisition of such interest, agrees that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid, unless otherwise provided by law or by these Restrictions. Every person who shall become an Owner

of a Lot in the Project is hereby notified that by the act of acquiring, such person, unless relieved of such obligation by law, shall be conclusively held to have covenanted to pay the Club all charges that the Club shall make pursuant to this subparagraph 6-C of the Restrictions.

(iv) The lien for assessments shall be subject and subordinate to all tax liens on the Lot in favor of any assessing unit or district and to any first mortgage of record. Sale or transfer of any Lot, other than by a mortgagee as hereinafter provided, shall not affect the assessment lien. In a conveyance of a Lot to a first mortgagee that is a bank, life insurance company, savings and loan association, or similar institutional lender, which is the result of a foreclosure of its mortgage or a conveyance in lieu thereof or to the conveyance of a Lot to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, such first mortgagee and the purchaser shall not be liable for any accrued and unpaid assessments irrespective of the fact that they have become a lien on the Lot, but shall be liable only for assessments which become due and payable after the sale.

(v) The Club shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Club that the assessments on a specified Lot have been paid or that certain assessments against said Lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Club for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

D. Purpose of the Assessments. The charges or assessments levied by the Club shall be used exclusively for the purpose of providing recreational facilities through the Recreational Area Lease and promoting the recreation, health, safety and welfare of the members of the Club, and, in particular, for the improvement and maintenance of the properties owned, operated or leased by the Club.

E. Suspension of Privileges of Membership. Notwithstanding any other provision contained herein, the Board of Directors of the Club shall have the right to suspend the voting rights, if any, and the right to use the facilities of the Club, of any member or associate member (i) during the period of any continuing violation of this Declaration of Covenants and Restrictions, after the existence of the violation shall have been declared by the Board of Directors; and (ii) during the period of any violation of the Articles of Incorporation, By-Laws or regulations of the Club.

F. Additional Assessments. In addition to the assessments provided herein, the Lots shall be subject to such assessments, both annual and special, as may from time to time be made by an association established by the Owners of any portion of the Project which is designated as a specific section or as a horizontal property regime.

7. REMEDIES.

A. In General. The Club or any party to whose benefit these Restrictions inure, including the Developer, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither the Developer nor the Club shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these

Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

8. ACCEPTANCE AND RATIFICATION.

The Owners of any Lot subject to these Restrictions, by (1) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Developer or a subsequent Owner of such Lot, or (2) by the act of occupancy of any Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of the Developer and of the Club with respect to these Restrictions, and also for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with the Developer, the Club, and to and with the Owners and subsequent owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

9. EASEMENTS.

A. In General. There is hereby created a blanket easement upon, across, over and under all of the lands in the Project for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the buildings within the Project. An easement is further granted to all police, fire protection, ambulance, delivery vehicles, and all similar persons to enter upon the streets and Commons in the performance of their duties. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Project except as initially programmed and approved by the Developer or thereafter approved by Developer or the Club's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer shall have the right to grant such easement on the Project without conflicting with the terms hereof. The easements provided for in this paragraph shall in no way affect any other recorded easement on said premises.

In addition, Developer expressly reserves the right to an easement of right of way (all or a part of which it may, but is not required to, dedicate to the public, in which event such right of way shall be accepted for maintenance and repair by the City of Indianapolis or an appropriate agency thereof), for any streets or right of way which the Developer deems to be appropriate or necessary for ingress and egress to any common areas, to the Recreational Area or to any Lot, which rights of way may include but are not limited to Commons Drive as presently constructed and as it may, from time to time, be further extended or improved.

B. Underground Easements. Easements for underground service may be crossed by driveways and walkways provided the Developer or builder makes prior arrangements with the utility company furnishing service. Such easements for the underground service shall be kept clear of all other improvements,

including buildings, patios, or other pavings, other than crossing walkways or driveways, and neither the Developer nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, flowers or other improvements of the Owner located on the land covered by said easements.

10. RIGHT OF DEVELOPER TO USE PROJECT DURING CONSTRUCTION.

Notwithstanding any provisions to the contrary contained herein, or in any other instrument or agreement affecting the Project, the Developer, his successors, assigns or nominees, during the period when any portion of the Project is being developed or, if applicable, being conveyed, may maintain upon such portion of the Project as the Developer deems necessary, including but not limited to a part of the Recreational Area, such facilities, as in the sole opinion of the Developer, may be reasonably required, convenient or incidental to the development and sale of any part or parts of the Project, including but not limited to a business office, storage area, construction yard, signs, model units and sales office.

11. INTERPRETATION.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

12. DURATION.

The foregoing covenants and restrictions are for the mutual benefit and protection of the present and future Owners, the Club, and the Developer and shall run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2069, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then the Owners of a majority of the Lots in the Project.

13. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

IN TESTIMONY WHEREOF, witness the signature of the Declarant this 30th day of April, 1973.

EMERALD GREEN

By 8 : 0
General Partner

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared John C. Hart, a General Partner of Emerald Green, who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions for and on behalf of that limited partnership.

Witness my hand and seal this 30th day of April, 1973.

Anna Cox
Notary Public



My Commission expires:

June 9, 1974

CONSENT OF MORTGAGEE

The undersigned, First Federal Savings and Loan Association of Indianapolis, being the holder of existing mortgages on the Project and the Recreational Area, as defined in the above and foregoing Declaration of Covenants and Restrictions of Emerald Green Development Project, as follows:

A mortgage dated January 13, 1971, recorded January 14, 1971, as Instrument No. 71-1869 in the office of the Recorder of Marion County, Indiana;

A mortgage dated July 21, 1971, recorded August 24, 1971, as Instrument No. 71-44579 in the office of the Recorder of Marion County, Indiana; and a Modification Agreement thereto, dated October 12, 1972, recorded October 17, 1972, as Instrument No. 72-62845 in the office of the Recorder of Marion County, Indiana;

hereby consents to the recording of the above and foregoing Declaration of Covenants and Restrictions of Emerald Green Development Project, and the submission of the Project and Recreational Area to the provisions of such Declaration of Covenants and Restrictions, and further agrees that its mortgage with respect to the Project and Recreational Area shall be subject to the provisions of the above and foregoing Declaration of Covenants and Restrictions and exhibits attached thereto and documents incorporated therein; provided, however, except to the extent that the mortgage is modified by this Consent, such mortgages shall remain in full force and effect, unaltered and enforceable in accordance with the terms.

Executed this 9th day of May, 1973.

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF INDIANAPOLIS

By James B. Life
Senior Vice-President

ATTEST:

Geraldine H. Veach
Secretary-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared James B. Life and Geraldine H. Veach, the Senior Vice-President Secretary-Treasurer respectively, of First Federal Savings and Loan Association of Indianapolis, who acknowledged the execution of the above and foregoing Consent for and on behalf of said First Federal Savings and Loan Association of Indianapolis.

Witness my hand and Notarial Seal this 9th day of May, 1973.

Donald Leet
Notary Public

My commission expires:
October 20, 1976

This instrument was prepared by Peter D. Schellie, attorney at law.

A part of the Southeast Quarter and part of the Northeast Quarter of Section 14, Township 16 North, Range 2 East in Marion County, Indiana, more particularly described as follows:

Beginning on the East line of the said Southeast Quarter Section, North 00 degrees 01 minutes 00 seconds West, 2443.19 feet from the Southeast corner of the said Southeast Quarter Section; thence South 89 degrees 50 minutes 09 seconds West 1387.74 feet to the East line of highway right-of-way conveyed by grant recorded May 22, 1959, in Deed Record 1750, as Instrument #35996, in the Office of the Recorder of Marion County, Indiana; thence North 04 degrees 59 minutes 25 seconds West along the said East right-of-way line, 225.03 feet to the North line of the said Southeast Quarter Section; thence North 00 degrees 06 minutes 30 seconds East, along the East line of highway right-of-way conveyed by grant recorded May 29, 1959, in Deed Record 1751, as Instrument #37923 in the said Recorder's Office, 1452.00 feet to a point which lies North 1452.00 feet from the South line of the said Northeast Quarter Section, as measured parallel with the East line of the West Half of the said Northeast Quarter Section; thence North 89 degrees 40 minutes 32 seconds East parallel with the South line of the said Northeast Quarter Section, 67.84 feet to the East line of the said Half Quarter Section; thence South 00 degrees 04 minutes 03 seconds East along the said East line 17.90 feet to a point which lies North 00 degrees 04 minutes 03 seconds West 260.59 feet from the Southwest corner of a tract of 45.83 acres by parallel lines off the North end of the East Half of the said Northeast Quarter Section; thence South 60 degrees 30 minutes 54 seconds East 522.18 feet to the South line of the said tract of 45.83 acres; at a point which lies South 89 degrees 32 minutes 56 seconds West 880.00 feet from the Southeast corner of the said tract of 45.83 acres; thence continue South 60 degrees 30 minutes 54 seconds East 1011.94 feet to the East line of the said Northeast Quarter Section, at a point which lies Northerly 671.46 feet from the Southeast corner of the said Northeast Quarter Section; thence South 00 degrees 06 minutes 10 seconds East along the said East line 671.46 feet to the Southeast corner of the said Northeast Quarter Section; thence South 00 degrees 01 minutes 00 seconds East along the East line of the said Southeast Quarter Section, 228.17 feet to the place of beginning, containing 41.850 acres, more or less.

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Exhibit A

Best Original

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CIVIL ENGINEERING
LAND SURVEYING

PAUL I. CRIPE, INC.
150 E. MARKET STREET
INDIANAPOLIS, IND. 46204
534-5411

SUBDIVISION DESIGN
BUILDING DESIGN

LEGAL DESCRIPTION FOR SECTION TWO "A"
RECREATIONAL AREA OF EMERALD GREEN

A part of the East Half of the Northeast Quarter of Section 14, Township 16 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Commencing on the East line of the said Half Quarter Section North 00 degrees 06 minutes 10 seconds West, 526.46 feet from the Southeast corner of the said Half Quarter Section; thence South 89 degrees 53 minutes 50 seconds West, 415.00 feet to a curve having a radius of 184.05 feet, the radius point, of which, bears North 00 degrees 06 minutes 10 seconds West; thence Northwesterly along the said curve 95.04 feet to a point which bears South 29 degrees 29 minutes 06 seconds West from the said radius point; thence North 60 degrees 30 minutes 54 seconds West, 5.16 feet to the Place of Beginning; thence continue North 60 degrees 30 minutes 54 seconds West, 543.44 feet to a curve having a radius of 150.00 feet, the radius point, of which, bears North 29 degrees 29 minutes 06 seconds East; thence Northwesterly along the said curve 59.15 feet to a point which bears South 52 degrees 04 minutes 42 seconds West from the said radius point; thence South 52 degrees 04 minutes 42 seconds West, 25.00 feet to a point; thence South 00 degrees 06 minutes 30 seconds West, 313.77 feet; thence North 89 degrees 50 minutes 09 seconds East, 138.08 feet; thence South 00 degrees 06 minutes 30 seconds West, 10.00 feet; thence North 89 degrees 50 minutes 09 seconds East, 100.00 feet; thence South 60 degrees 30 minutes 54 seconds East, 98.94 feet; thence North 29 degrees 29 minutes 06 seconds East, 68.47 feet; thence North 89 degrees 50 minutes 09 seconds East, 167.68 feet; thence North 29 degrees 29 minutes 06 seconds East, 25.00 feet to the Place of Beginning, containing, 2.342 acres, more or less.

Subject to all highways and rights of way.

EXHIBIT B

RECREATIONAL AREA LEASE

THIS LEASE, executed this 30th day of April, 1973, by and between Emerald Green, a limited partnership ("Lessor"), and Emerald Green Club, Inc., an Indiana not-for-profit corporation ("Lessee"), WITNESSES:

1. Definitions. Unless otherwise specifically defined in this Lease, the terms used herein shall have the same meaning as those terms defined in the Code of By-Laws of Emerald Green Club, Inc., and in the Declaration of Covenants and Restrictions of Emerald Green Development Project recorded in the office of the Recorder of Marion County, Indiana, as Instrument No. _____.

2. The Leased Premises. The Lessor hereby leases and demises to the Lessee and the Lessee does hereby lease of and from the Lessor the property located in Marion County, Indiana, as described in the attached Exhibit A, together with all improvements, buildings and structures now or hereafter placed thereon, and all furniture, furnishings, fixtures, machinery and equipment thereon or hereafter bought or placed thereon or intended for use thereon, commonly referred to in the Declaration of Covenants and Restrictions as the Commons and hereinafter referred to as the "Leased Premises."

3. Term. The term of this Lease shall be for a period of fifty (50) years commencing with the execution hereof ("Lease Term"). At the end of the Lease Term and unless the Lessor indicates otherwise by written notice given the Lessee at least ninety (90) days prior to the expiration of the Lease Term, this Lease shall be extended for a fifteen (15) year period upon the terms and conditions set forth herein. Thereafter and unless the Lessee and Lessor agree otherwise not later than ninety (90) days before the expiration of any term, this Lease shall be automatically renewed and extended for successive five (5) year terms.

4. Rent. Subject to the provisions of paragraph 4(d) of this Lease, Lessee agrees to pay to the Lessor rent as follows:

(a) Minimum Rent. Lessee shall pay as minimum rent for the Leased Premises the sum of \$45,000 per year, payable in equal monthly installments of \$3,750 per month, without relief from valuation or appraisement laws, such monthly installments to be paid in advance and to begin on the first day of August, 1973, and on the first day of each month thereafter during the Lease Term.

(b) Increase in Rent. On the first day of January, 1978, and at the end of each fifth year thereafter during the Lease Term, the parties agree that the annual minimum rent as set forth in paragraph 4(a) of this Lease or as modified by paragraph 4(d) of this Lease shall be increased during such subsequent five-year period in the same proportion that the B.L.S. Consumer Price Index (all items-national average) published by the Bureau of Labor Statistics, United States Department of Labor, averaged for the calendar year immediately preceding the applicable five-year period, has increased over the B.L.S. Consumer Price Index published and averaged for the calendar year 1972 (the applicable year for determining the said B.L.S. Consumer Price Index for the first five-year period would be 1977 and for the second five-year period would be 1982 and so forth throughout the Lease Term); provided, however, in no event shall the minimum rent payable during any five-year period be less than the minimum rent set forth in paragraph 4(a) of this Lease or as modified by paragraph 4(d) of this Lease.

If the Bureau of Labor Statistics shall discontinue the publication of such Consumer Price Index or shall adopt a new method of computing the Consumer Price Index, the parties agree to use a similar or other mutually agreeable method of determining the increase in the cost of living.

(c) Additional Rent. Subject to the provisions of paragraph 4(d) of this Lease, Lessee agrees to pay as additional rent to Lessor the following:

(1) Insurance. Lessee shall pay to the Lessor at least ten (10) days prior to the date such becomes due, the premiums for all insurance policies which the Lessee is obligated to carry under the terms of this Lease.

(2) Utilities. Lessee shall promptly pay as the same shall become due all charges for utilities and services used in connection with the Leased Premises, including but not limited to water, sewage, gas, electricity, telephone and other utility services.

(3) Repair and Maintenance. Lessee shall, during the Lease Term at its own cost and expense, maintain and keep in good repair and

replace as necessary when worn out or obsolete, all structures, fixtures and improvements which may at any time be situated upon the Leased Premises, and all appurtenances thereto, including but not limited to all landscaping, sidewalks, steps and the interior and exterior of all structures. Lessee will use, keep and maintain the Leased Premises and improvements thereon as well as all appurtenances thereto in conformity and in compliance with all ordinances, rulings, regulations and orders of any governmental agency having jurisdiction thereof and will protect, indemnify and keep harmless Lessor from and against any loss, cost, damages and expense occasioned by or arising out of any breach or default in the performance of these provisions, conditions and covenants occasioned by or arising out of any accident, injury or damage to person or property in or about or upon the Leased Premises or due directly or indirectly to the construction, use or occupancy of the Leased Premises by the Lessee, any person or persons occupying, holding or claiming by, through or under Lessee.

(d) Adjustment to Rent. In the event there are fewer than 450 Lots in the Project, the minimum rent per year that shall be paid by Lessee to Lessor for the Leased Premises shall be equal to Forty-five Thousand Dollars divided by 450 and multiplied by the number of Lots in the Project which have been sold or leased by the Developer, and the additional rent and all other expenditures required by Lessee under the terms of the Lease shall be equal to the amount of such additional rent and expenditures divided by 450 and multiplied by the number of Lots in the Project which have been sold or leased by the Developer.

5. Use of the Leased Premises. Lessee will not use or permit the Leased Premises to be used for any illegal or improper purpose and will at its expense comply with all requirements of law and with all ordinances, regulations or orders of any state, municipal or other public authority affecting the Leased Premises. Lessee will also comply with all requirements of the insurance company insuring the Lessor against fire and other hazards. It is understood and agreed between the Lessee and Lessor that the Leased Premises during the Lease Term may be used and occupied only for recreational and social purposes and such use shall be limited to Owners of Lots in the Project, their families, guests and lessees

pursuant to the rules and regulations to be promulgated by the Lessee or its successors in interest and authority.

6. Construction. Lessee shall not in any manner alter or permit the alterations of or upon any part of the Leased Premises without first obtaining the written consent of the Lessor and any alteration or addition to the Leased Premises shall be made in accordance with all applicable laws and shall remain for the benefit of the Lessor. Lessee shall indemnify and save harmless the Lessor from all costs and expenses incurred in connection with any construction or alteration. No person shall be entitled to any lien, directly or indirectly, derived through or by virtue of any act or omission of the Lessee upon the Leased Premises for any improvements or fixtures made thereon or installed therein or for or on account of any labor or material furnished to the Leased Premises and nothing contained in this Lease shall be construed to constitute a consent by the Lessor to the creation of any lien.

Nothing herein shall be construed as prohibiting the Lessee from making repairs, or doing ordinary maintenance or remodeling to preserve the improvements located on the Leased Premises.

7. No Lien Clause. No person shall be entitled to any lien directly or indirectly derived through or under the Lessee or through or under any act or omission of the Lessee upon the Leased Premises or any improvements hereafter situated thereon, or on account of or for any labor or materials furnished for the Leased Premises or such improvements or for or on account of any matter or thing whatsoever. Nothing in this Lease shall be construed to constitute a

consent by the Lessor to the creation of any lien. In the event, despite this clause, any lien is placed on the Leased Premises, the Lessee shall upon request of the Lessor cause such lien to be removed or provide a good and sufficient corporate surety bond saving the Lessor harmless from such lien and interest expense or cost connected therewith.

8. Security. For the purpose of securing unto Lessor the payment of all rent and the performance of all the covenants of Lessee under this Lease for the benefit of the Lessor, Lessee hereby grants to Lessor the liens described in this paragraph 8, and all of Lessee's rights of enforcement for collection of the rental payments and other assessments against members of the Club relating to this Lease and due Lessor under this Lease, including, but not limited to, the right of the Lessor to a lien on any Lot, the owner of which has not made his requisite payment to the Club. The liens shall be cumulative and Lessor may exercise one or some without waiving the others or may exercise all simultaneously.

(a) Lessee's Interest. The Lessee hereby gives and grants unto the Lessor a continuing first lien paramount and superior to all others upon any right, title and interest to the Lessee in and to this Lease and the Leased Premises.

(b) Lessee's Assets. Lessee hereby gives and grants unto Lessor a continuing first lien paramount and superior to all others, including Lot Owners, on its assets.

(c) Lots. Lessor, the Declarant in Emerald Green, reserves unto itself a continuing lien in the nature of a mortgage upon all of the individual Lots of Emerald Green, which lien, except as otherwise provided in this Lease, shall be prior and superior to all other liens and encumbrances, provided, however, that if the Owner of any Lot pays his proportionate share of the amount of the unpaid rent or other obligations due the Lessee, the lien as to his Lot shall be extinguished. All

persons claiming by, through or under the Declarant shall be deemed to have assumed the lien created hereunder.

(d) Foreclosure. The liens created hereunder shall secure the payment of all monies due Lessor under this Lease and may be foreclosed as provided by law for the foreclosure of mortgages. In any such action or other action to enforce the provisions of these liens, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to attorneys' fees and court costs. The foreclosure or other action to enforce the liens provided herein shall not be considered or construed as a termination or cancellation of this Lease or operate as an extinguishment of such liens except that such lien shall not stand as security for any amounts realized and actually collected by Lessor in foreclosure or such other action.

(e) Judgments. If Lessor obtains a judgment against Lessee for any reason, the amount of such judgment shall be the obligation of all members of the Club and Lessor shall have a lien in the nature of a mortgage upon all the individual Lots in the Project, provided, however, that if the Owner of any Lot pays his proportionate share of the amount of the judgment, the lien as to his Lot shall be extinguished.

(f) Rights of First Mortgagees. Notwithstanding the above, Lessor hereby subordinates its liens hereunder to all tax liens on the Lots in favor of any assessing unit or district and to the lien of any first mortgagee of record and will execute an instrument of subordination or join in the execution and delivery of a mortgage (provided Lessor does not assume or become obligated to perform any of the covenants of the mortgagor therein) as the mortgagee may require.

(g) Acceptance and Ratification. All present and future Owners and mortgagees of Lots in Emerald Green shall be subject to and shall comply with the provisions of this Lease. The acceptance of a deed of conveyance or obtaining a first mortgage on any Lot shall constitute an agreement that the provisions of this Lease are accepted and ratified by such Owner or mortgagee and all such provisions of this Lease shall bind any person having at any time any interest or estate in a Lot or the Property as though such person or persons had executed this Lease or as though such provisions were recited and stipulated in length in each and every deed, conveyance, mortgage or lease thereof.

If Lessor deems it necessary and if Lessee fails to perform its obligations and collect from the appropriate

members the requisite assessments to meet the financial obligation of the Club under the Lease, Lessor may pursue the remedies available to the Club for collection of such assessments, including, but not limited to, institution of such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. In any such action, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to, attorneys' fees and court costs.

9. Lessor's Right to Sell, Assign and Encumber.

Lessor shall have the right to assign and encumber its interest under this Lease as follows:

(a) Existing Mortgages. The Leased Premises are subject to existing mortgages held by First Federal Savings and Loan Association of Indianapolis, and recorded in the office of the Recorder of Marion County, Indiana, as Instrument Nos. 71-1869 and 71-44579 (as modified by Instrument No. 72-62845), which mortgages are incorporated herein by reference. The Lease of the Leased Premises herein is made subject to such mortgages and Lessor shall be obligated to perform all of the covenants of the mortgagor therein except as provided in the Consent of Mortgagee attached to the Declaration of Covenants and Restrictions of Emerald Green Development Project.

(b) Further Mortgages. Lessor shall have the right at all times to further and additionally mortgage and encumber its interest under this Lease in and to the Leased Premises, and Lessee's interest in and to the same shall at all times be subordinate and inferior to those of such additional future and further mortgages; provided, however, Lessee shall at all times have the right to use, occupy and enjoy the Leased Premises in accordance with the provisions of this Lease. Lessee does hereby agree that it will for itself (and if required by the mortgagee) subordinate its interest in and to the Leased Premises and this Lease to any such mortgage and mortgages by an instrument of subordination or by joinder as mortgagor in such mortgage (provided that by such joinder the Lessee shall not assume any of the obligations of the mortgagor), as the mortgagee may require.

(c) Assignment and Sale. Lessor may sell or assign in whole or in part any or all of its right, title

and interest in and to this Lease and the Leased Premises.

10. Lessee's Right to Assign and Encumber. Lessee shall have no right to mortgage or otherwise encumber any of its right, title and interest in and to this Lease or the Leased Premises nor shall it have the right to assign the same or any part thereof, except if the corporate status of Lessee is terminated for any reason, this Lease shall not terminate or otherwise be affected but Lessee's interest in the leasehold created herein shall be distributed to the Owners of the Lots within the Project, and such Owners shall thereafter jointly and severally comprise the Lessee.

11. Eminent Domain.

(a) As to the Leased Premises.

(1) Total Taking. If during the Lease Term all or any part of the Leased Premises and the improvements located thereon shall be acquired by the exercise of eminent domain by any public or quasi public body in such a manner that the Leased Premises shall become unusable by the Lessee for the purpose it is then using the Leased Premises, then this Lease shall, at the option of the Lessee, be terminated on the date possession of the Leased Premises or part thereof is so taken. Lessee shall have no claim against the Lessor or any other person, firm, corporation or governmental authority on account of any such acquisition for the value of any unexpired portion of the Lease Term remaining after possession of the Leased Premises is taken. All damages awarded therefor shall belong to and be the sole property of Lessor.

(2) Partial Taking. In the event during the Lease Term only a part of the Leased Premises shall be acquired by the exercise of eminent domain but the balance of the Leased Premises are usable by Lessee and the Lease is not terminated, all damages awarded therefor shall become the sole property of the Lessor and the minimum rent to be paid by Lessee to Lessor shall be equitably adjusted.

(b) As to Emerald Green. If, during the Lease Term, there shall be a taking (acquisition by the

exercise of eminent domain by any public or quasi public body) of all or any part of the Project, the following shall apply:

(1) Certain Takings Not Included. A taking of less than the fee simple title or a taking of ten percent (10%) or less of the Lots contained in the Project shall not be construed or considered as a taking under the provisions of this paragraph 11(b). For purposes of this paragraph 11(b), a taking of a Lot shall be deemed such when at least sixty percent (60%) of the floor space thereof has been taken.

(2) Total Taking. If the taking includes all of the Lots comprising the Project immediately prior to the time of taking, this Lease shall terminate effective as of the date of taking.

(3) Partial Taking. If the taking is greater than ten percent (10%) of the Lots and less than a total taking, the following shall apply:

(i) Rent. The minimum rent provided in paragraph 4 shall be reduced in accordance with the number of Lots taken.

(ii) Additional Rent. The Lessee shall be entitled to a reduction of its liability for additional rent by an amount equal to that percentage of the additional rent to which each of the Lots which was totally taken was obligated to pay.

12. Effect of Destruction of Buildings or Termination of Entities Upon Lease. No destruction or damage to the land or any Building or Lot in the Project by fire, hurricane, windstorm, erosion, insurrection, riot, war or other casualty of any kind, character or nature shall be deemed to entitle Lessee to surrender possession of the Leased Premises or to terminate this Lease or to violate any of its provisions or cause any rebate or abatement in rent then due or thereafter becoming due under the terms of this Lease. The termination of any or all horizontal property regimes located in the Project shall not terminate this Lease. The termination of the corporate status of Lessee,

either voluntarily or involuntarily, shall not terminate this Lease but upon such termination all of the Owners of Lots in these Projects, shall automatically and by operation of this Lease jointly and severally constitute the Lessee hereunder and shall jointly and severally be obligated to perform each and all of the Lessee's obligations, covenants, and undertakings hereunder.

13. Duty of Lessee to Assess and Pay. It shall be the duty and the obligation of Lessee to assess the Lot Owners in the Project in accordance with the Articles of Incorporation and By-Laws of Lessee in such amounts as shall be necessary to pay Lessee's obligations hereunder and to otherwise perform its covenants and promises herein.

14. Insurance. Lessee shall at its sole expense as provided in paragraph 4(c)(1) of this Lease, throughout the Lease Term, keep in force insurance policies as follows:

(a) Public Liability. Comprehensive general public liability insurance in which Lessor and Lessee shall be named insureds against claims for bodily injury, sickness and disease, including death, at any time resulting therefrom or for injury to or destruction of property, including the loss of use thereof arising out of ownership, maintenance, use or operation of the Leased Premises or any building or improvement or personalty located thereon. The amount of such insurance shall be determined by Lessee's Board of Directors but in any event shall be not less than \$300,000 for each individual and \$500,000 for each incident.

(b) Property Insurance. Policies of insurance insuring against loss or damage to the facilities and improvements now or hereafter located upon the Leased Premises and all furniture, fixtures, machinery, equipment and furnishings now or hereafter brought or placed thereon as a result of fire, windstorm, hail, flood, and such other hazards as may be included in the broadest form of extended coverage insurance as available from time to time and, to the extent required by Lessor, insurance to cover loss or damage resulting from war, riot, civil insurrection or disturbance. Insurance required hereunder shall be an amount equal to the "maximum insurable value," including foundation and excavation costs. The term "maximum insurable value" as used herein shall mean the actual replacement cost of the improvements required to be insured without deduction

for depreciation. If policies insuring replacement costs are not available, then the term "maximum insurable value" shall mean the actual cash value with due allowance for depreciation of the property.

(c) General. All insurance required hereunder shall be in such form and amount and issued by such companies as shall be approved in writing by the Lessor, which approval shall not be unreasonably withheld. All policies required hereunder shall be for the benefit of the Lessor, the Lessee and mortgagee of the Leased Premises as their interests may appear and shall be fixed subject to such provisions as mortgagees of the Leased Premises may require.

15. Reconstruction and Repair. In the event of any damage or destruction to the Leased Premises and the improvements thereon for any reason during the Lease Term, whether or not there is insurance to cover such casualty and whether or not if insured the proceeds are sufficient or are paid therefor, the following shall be applicable:

(a) Reconstruction and Repair by Lessee. Lessee, at its expense, shall repair and reconstruct any and all improvements, buildings and structures damaged and replace and repair all personal property damaged so as to restore the Leased Premises to the condition at least as good as that which existed prior to the fire or casualty. Work to repair or reconstruct shall be commenced no later than ninety (90) days after the occurrence of the damage and shall be completed no later than twelve (12) months after the date of commencement; provided, however, these limitations may be extended by reason of an act of nature, war, civil commotion or disorder, material shortage, strikes or other events over which the Lessee has no control. Lessee shall, within sixty (60) days after the occurrence of the damage, present to Lessor the plans and specifications for the reconstruction and repair, which plans and specifications must be approved in writing by Lessor, which approval shall not be unreasonably withheld.

(b) Insurance. In the event there are insurance proceeds payable by reason of the damage, such proceeds shall be paid to Lessor who shall deposit such funds in a special account in a bank of Marion County, Indiana, and such sum shall be

available to the Lessee for purposes of reconstruction and repairs. All payments made from such funds must be approved by Lessor. In the event that the funds from the insurance are insufficient to pay the full cost of the repair and reconstruction, Lessee shall be obligated to pay any deficiency. If, after payment of all costs involved in the repair and reconstruction of the damage, there are insurance proceeds remaining, such proceeds shall be distributed first to the Lessor to the extent required to bring current all obligations due from the Lessee to the Lessor under the terms of the Lease and the balance shall be paid over to the Lessee.

(c) Mortgage. Notwithstanding anything contained in this paragraph 15 and subsections hereunder, it is agreed that the provisions of any mortgage now or hereafter encumbering the Leased Premises relating to insurance proceeds shall have priority and supersede all provisions hereof. In the event the mortgagee shall have an option to apply insurance proceeds to the reduction or payment of the mortgage debt and elects to do so, Lessor shall be required within one hundred twenty (120) days after application of sums by the mortgagees to make available to the Lessee an amount equal to the proceeds from the insurance. If a mortgagee shall elect to permit application of the insurance proceeds to reconstruction and repair, the mortgagee may hold such funds and may impose such terms and conditions relative to requiring Lessee to supplement such funds in such amounts as may be necessary to pay for the reconstruction and repair, and to the disbursement of such funds and to such other matters relating to the funds as the mortgagee may require.

16. Interest Not Part of Common Areas. Lessee's interest under this Lease and in and to the Leased Premises is not a part of any horizontal property regime now established or which may be established in the Project; and, accordingly, and notwithstanding the provisions of paragraph 8, no mortgage lien or other encumbrance against a Lot or the Property shall be considered or construed as a mortgage lien or other encumbrance against the Lessor's title in and to the Leased Premises or the Lessee's interest under this Lease. To the extent that it shall be necessary to perform any of its promises and covenants herein or to

exercise any of its rights, privileges and remedies hereunder, Lessee shall at all times be the irrevocable agent in fact for each Owner of a Lot or of any other Lot and for each Owner of a mortgage or other lien upon a Lot, except Lessee shall not at any time be the agent in fact for the Lessor. In performing the promises and covenants and in the exercise of its rights, remedies and privileges, Lessee shall be deemed to be acting for itself and as agent in fact for each and every one of the above described parties.

17. Lessor's Right To Perform Lessee's Covenants.

If Lessee shall fail to pay the costs of maintenance and repairs or if it shall fail to take out, maintain and deliver insurance policies, or if it shall fail to perform any other act or covenant on its part herein to be performed, then the Lessor may, but shall not be obligated to, and without notice or demand upon the Lessee, perform the act omitted or failed to be performed by Lessee. If such performance by Lessor constitutes in whole or in part the payment of money, such monies so paid by Lessor, together with interest thereon at the rate of seven percent (7%) per annum and reasonable attorneys' fees incurred by Lessor and collection of such monies, shall be deemed additional rent hereunder and shall be payable to the Lessor on demand or, at the option of the Lessor, may be added to any rent then due or thereafter becoming due under this Lease. Lessee covenants to pay any such sums with interest and reasonable attorneys' fees, and the Lessor shall have, in addition to any and all other rights and remedies herein provided, the same rights and remedies in the event of nonpayment of such monies

as in the case of default by the Lessee in the payment of rent.

18. Lessor's Right of Entry. Lessor and its agents shall have the right of entry upon the Leased Premises at all reasonable times to examine the condition and use thereof; provided, however, such right shall be exercised in a manner so as not to interfere with the Lessee in the conduct of Lessee's operation of the Leased Premises, and if the Leased Premises are damaged by casualty which causes the Leased Premises to be exposed to the elements, then Lessor may, but is not obligated to, enter upon the Leased Premises to make emergency repairs.

19. No Termination Upon Casualty. No damage or destruction to buildings, structures, improvements or furnishings, fixtures, machinery, or equipment now or hereafter located upon the Leased Premises by fire, windstorm, or other casualty shall entitle Lessee to surrender possession or to terminate this Lease or to violate any of its covenants or to cause any rebate, abatement or adjustments in the rent then due or thereafter becoming due under the terms hereof. If the Lease be cancelled or terminated by reason of the Lessee's default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation or termination of this Lease, be deemed immediately to become the absolute and unconditional property of the Lessor.

20. Redelivery of Premises. At the termination of this Lease by expiration of the Lease Term or otherwise,

Lessee shall peaceably and quietly deliver possession of the Leased Premises and all improvements situated thereon, including but not limited to all personal property, to the Lessor in good condition and thereupon all buildings, improvements and personal property then situated upon the Leased Premises shall become and remain the property of the Lessor, and no compensation shall be allowed or paid by the Lessor to the Lessee therefor.

21. Interest. When not otherwise provided in this Lease, all sums of money coming due from Lessee to Lessor shall bear interest at the rate of seven percent (7%) per annum from the date the same shall become due until the date the same are paid.

22. Indemnification. Lessee indemnifies and agrees to save harmless Lessor from and against any and all claims, debts, demands or obligations which may be made against the Lessor or against the Lessor's title in the Leased Premises arising by reason of or in connection with the making of this Lease, the ownership by the Lessee of its interest in this Lease and in and to the Leased Premises and the Lessee's occupancy and possession of the Leased Premises. If it becomes necessary for the Lessor to defend any actions seeking to impose any such liability, Lessee will pay to Lessor all costs of reasonable attorneys' fees incurred by it in effecting such defense in addition to any other sums which Lessee may be called upon to pay by reason of the entry of a judgment against Lessor in which such claim is asserted.

23. Attorneys' Fees and Costs. Lessee shall pay Lessor all court costs, reasonable attorneys' fees,

including fees in connection with appeals and other costs incurred and expended by Lessor in enforcing the terms of this Lease, without relief from valuation or appraisal laws.

24. Waste. Lessee shall not do or suffer any waste or damage, disfigurement or injury to the Leased Premises or to any improvements, structures, buildings and personal property now or hereafter placed or brought thereon.

25. Relationship. Although this is a long-term Lease, the parties understand and agree that the relationship between them is that of landlord and tenant.

26. Default and Remedy. Each of the following shall be deemed a default by Lessee:

(a) Failure to pay the rent as herein provided when due.

(b) Failure to pay any additional rent, costs or expenses which may be provided in this Lease, when due.

(c) Failure to perform any act to be performed by the Lessee hereunder or to comply with any condition or covenant contained herein.

(d) The abandonment of the Leased Premises by Lessee or its adjudication as a bankrupt, the making by the Lessee of a general assignment for the benefit of creditors, Lessee's taking the benefit of any insolvency action or law, the appointment of a permanent receiver or trustee in bankruptcy for the Lessee or its assets, the appointment of a temporary receiver for the Lessee or its assets if such temporary receivership has not been vacated or set aside within thirty (30) days from the date of such appointment; the initiation of an arrangement or similar proceedings for the benefit of creditors by or against the Lessee.

In the event of any default provided above and the continuance of such default after ten (10) days' written notice is given by Lessor to Lessee, the Lessor shall then

have, in addition to any other rights and remedies which the Lessor may have, the option to terminate this Lease. In the event of termination of this Lease, the Lessor may re-enter the Leased Premises, take possession of all or any part thereof and remove all property and persons therefrom and shall not be liable for any damage therefor or for trespass. No such re-entry shall be deemed as acceptance of the surrender of this Lease or a satisfaction of the Lessee's obligation to pay the rent as provided herein or any other obligations of Lessee hereunder.

The failure of Lessor to exercise any option herein provided on account of any default shall not constitute a waiver of the same or any subsequent default and no waiver of any condition or covenant of this Lease by either party shall be deemed to constitute a waiver by either party of any default for the same or any other condition or covenant.

27. Early Termination. If this Lease is terminated at any time prior to the expiration of the Lease Term by reason of the breach of any of Lessor's covenants, all rights, estates and interests of the Lessee in and under this Lease and in and to the Leased Premises and all insurance policies and all insurance monies paid or payable thereunder and all utility deposits and all prepaid expenses as to the Leased Premises, shall, without any compensation made therefor to the Lessee, at once pass to and become the property of the Lessor, and Lessor shall have the right to use the Recreational Area in any manner and to allow any person, or persons to use the Recreational Area, as Lessor in its sole and uncontrolled discretion should desire.

28. Easements. The Leased Premises are subject to such easements for public utility and ingress and egress as now appear in the public records and in the Declaration of Covenants and Restrictions of Emerald Green and Lessor shall have at all times during the Lease Term the exclusive right to create upon and over the Leased Premises easements from time to time as the Lessor, in its sole discretion, shall deem appropriate, free and clear of the provisions of this Lease.

29. Rights of All Residents or Owners to Use Leased Premises. All residents and Owners of Lots in the Project (regardless of when such Lots are constructed or improved) shall have the right to use the Leased Premises. Such residents and Owners in their use of the Leased Premises shall be obligated to abide by the rules and regulations as may from time to time be adopted by Lessee and shall be obligated to pay their proportionate share of the rent and other expenditures of the Club.

30. Time of the Essence. Time is of the essence in all provisions of this Lease, including, but not limited to, the obligation to pay money.

31. Changes in Writing. No modification, release or discharge or waiver of any of the provisions hereof shall be of any force or effect unless in writing signed by the Lessor.

32. Covenants Running With the Land. All covenants, promises, conditions and obligations contained herein are covenants running with the Leased Premises and covenants running with the Property described in the

Declaration of Covenants and Restrictions of Emerald Green and any Supplemental or Amended Declarations and the same shall be binding upon the Lessor, its heirs, personal representatives and assigns, and the Lessee, its successors and assigns, its present and future members and beneficiaries, and present and future Lot owners in Emerald Green, and their heirs, personal representatives, successors and assigns.

33. Entire Agreement. This instrument constitutes the entire agreement between the parties and there are no representations, promises or understandings not expressed herein.

34. Notice. Any notice required or permitted to be given or served by either party to this Lease shall be deemed to have been given and served by either party to this Lease when made in writing, by certified or registered mail, return receipt requested, addressed as follows:

Lessor: Emerald Green
3643 Mission Drive
Indianapolis, Indiana 46224

Lessee: Emerald Green Club, Inc.
6363 Commons Drive
Indianapolis, Indiana

All rental payments shall be made to the Lessor at the above address. The addresses may be changed from time to time by either party by serving notice as above provided.

35. Construction. This Lease shall be construed in accordance with the laws of the State of Indiana.

36. Captions and Titles. The captions and titles contained in this Lease are for convenience and

reference only and in no way define, limit or describe the scope or content of this Lease or any part thereof nor in any way affect this Lease.

37. Severability. The invalidity in whole or in part of any covenant, promise or undertaking of any paragraph, subparagraph, sentence, clause, phrase or word or of any provision of this Lease shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

EMERALD GREEN

By [Signature]
General Partner

"Lessor"

EMERALD GREEN CLUB, INC.

ATTEST:

[Signature]
Secretary

By [Signature]
President

"Lessee"

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared John C. Hart, by me known to be a General Partner of Emerald Green, who acknowledged the execution of the above and foregoing Recreational Area Lease for and on behalf of said partnership.

Witness my hand and Notarial Seal this 30th day of

April, 1973.



[Signature]
() Notary Public

My commission expires:

June 9, 1974

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared John J. Nichols and Robert C. Binder, by me known to be the President and Secretary, respectively, of Emerald Green Club, Inc., who acknowledged the execution of the above and foregoing Recreational Area Lease for and on behalf of said Corporation.

Witness my hand and Notarial Seal this 30th day of April, 1973.



My commission expires:

June 9, 1974

Irma Cook
Notary Public

Be Original

201-06859

CIVIL ENGINEERING
LAND SURVEYING

PAUL I. CRIFE, INC.
150 E. MARKET STREET
INDIANAPOLIS, IND. 46204
634-3411

SUBDIVISION DESIGN
BUILDING DESIGN

LEGAL DESCRIPTION FOR SECTION TWO "A"
RECREATIONAL AREA OF EMERALD GREEN

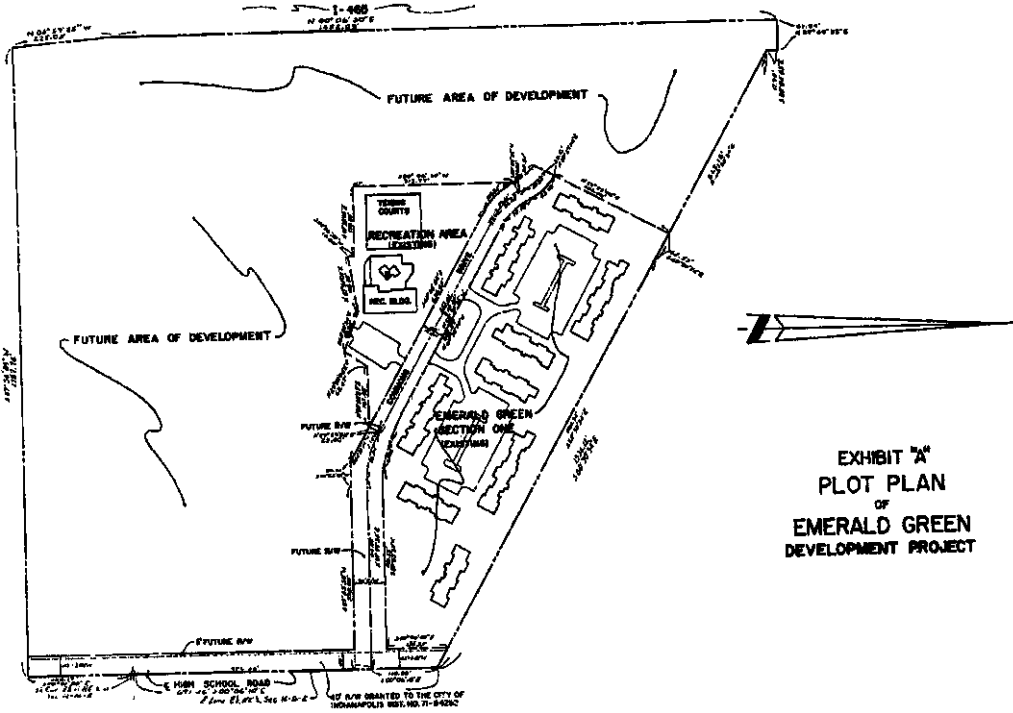
A part of the East Half of the Northeast Quarter of Section 14, Township 16 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Commencing on the East line of the said Half Quarter Section North 00 degrees 06 minutes 10 seconds West, 526.46 feet from the Southeast corner of the said Half Quarter Section; thence South 89 degrees 53 minutes 50 seconds West, 415.00 feet to a curve having a radius of 184.05 feet, the radius point, of which, bears North 00 degrees 06 minutes 10 seconds West; thence Northwesterly along the said curve 95.04 feet to a point which bears South 29 degrees 29 minutes 06 seconds West from the said radius point; thence North 60 degrees 30 minutes 54 seconds West, 5.16 feet to the Place of Beginning; thence continue North 60 degrees 30 minutes 54 seconds West, 543.44 feet to a curve having a radius of 150.00 feet, the radius point, of which, bears North 29 degrees 29 minutes 06 seconds East; thence Northwesterly along the said curve 59.15 feet to a point which bears South 52 degrees 04 minutes 42 seconds West from the said radius point; thence South 52 degrees 04 minutes 42 seconds West, 25.00 feet to a point; thence South 00 degrees 06 minutes 30 seconds West, 313.77 feet; thence North 89 degrees 50 minutes 09 seconds East, 138.08 feet; thence South 00 degrees 06 minutes 30 seconds West, 10.00 feet; thence North 89 degrees 50 minutes 09 seconds East, 100.00 feet; thence South 60 degrees 30 minutes 54 seconds East, 98.94 feet; thence North 29 degrees 29 minutes 06 seconds East, 68.47 feet; thence North 89 degrees 50 minutes 09 seconds East, 167.68 feet; thence North 29 degrees 29 minutes 06 seconds East, 25.00 feet to the Place of Beginning, containing, 2.342 acres, more or less.

Subject to all highways and rights of way.

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EXHIBIT A



I hereby certify that the sitting plan is true and correct and represents a copy of a copy of the Board of Public Works and part of the Board of Public Works of the City of Chicago, Illinois, under a contract with the City of Chicago, Illinois, and is published as required by law.

EXHIBIT "A"
PLOT PLAN
 OF
EMERALD GREEN
DEVELOPMENT PROJECT

444
 140
 17
 1-1-1958
 73 45337

NO.	DATE	DESCRIPTION
1	1-1-1958	PAUL L. CRPE, INC. DESIGNING ENGINEERS FOR EAST MARKET STREET
2	1-1-1958	EMERALD GREEN

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40 50
RECEIVED FOR RECORD

Mar 9 3 50 PM '73

DECLARATION OF COVENANTS AND RESTRICTIONS
EMERALD GREEN DEVELOPMENT PROJECT

FAYE I. MOWERY
RECORDER
OF MARION CO.

THIS DECLARATION, made this 2nd day of April, 1973, by Emerald Green, a limited partnership (hereinafter referred to as the "Developer"), WITNESSES:

WHEREAS, the Developer is the owner of all of the lands contained in the area shown on Exhibit "A", attached hereto and made a part hereof, which lands will be subdivided and known as the "Emerald Green Development Project" (hereinafter referred to as the "Project"); and

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

NOW, THEREFORE, the Developer hereby declares that all of the lots and lands located within the Project as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of apartments, lots and lands in the Project, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project as a whole and of each of said apartments, lots and lands situated therein. All of the Restrictions shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the Developer's successors in title to any real estate in the Project. The Developer specifically reserves the right and privilege, prior to the recording by the Developer of an instrument which portrays a particular lot or tract within the Project as shown on Exhibit "A", to exclude any real estate so shown from the Project, or to include additional real estate; provided, however, that the Developer may not create or sell and therefore include more than 550 lots or apartments within the Project.

1. DEFINITIONS. For the purposes of this Declaration, unless the context otherwise indicates or requires, the following terms shall have the meanings set forth below:

A. "Club" shall mean the Emerald Green Club, Inc., a not-for-profit corporation, the membership and powers of which are more fully described in paragraph 6 of this Declaration.

B. "Horizontal property regime" shall mean a horizontal property regime established by Developer in the Project. Developer intends to, but is not required to, establish several horizontal property regimes in the Project, each of which will manage, control and maintain the real estate located in such regime and each of which shall have an association of owners.

C. "Lot" shall mean any apartment, townhouse or dwelling unit, whether residential or otherwise, described by any

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instrument prepared by Developer or its agents which is recorded in the office of the Recorder of Marion County, Indiana, and shall include apartments as defined by the Horizontal Property Act, IC 1971, 32-1-6-1 et seq.; Acts 1963, ch. 349 §§ 1 et seq.

D. "Owner" shall mean an individual, corporation, partnership, association, trust or other legal entity or any combination thereof, who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

E. "Project" shall mean the Emerald Green Development Project and shall include all real estate shown on Exhibit "A."

F. "Recreational Area" means the real estate described in Exhibit "B" sometimes referred to as the "Commons" of the Project and any recreational facilities that are built thereon, which shall be leased to the Club for the benefit of the Owners in accordance with the terms of the Recreational Area Lease.

G. "Recreational Area Lease" or "Lease" means the long-term, net net lease described in paragraph 5 of this Declaration of Restrictions under which the Club is the lessee of the Recreational Area, and the Developer is the Lessor, a copy of such lease in its present form is attached hereto and made a part hereof as Exhibit "C".

2. CHARACTER OF THE PROJECT.

A. In General. Every Lot in the Project, unless it is otherwise designated by the Developer, is a residential lot and shall be used exclusively for residential purposes.

B. Other Restrictions. All tracts of ground in the Project shall be subject to all governmental zoning authority and other regulation affecting the Project.

3. GENERAL PROHIBITIONS.

A. In General. No noxious or offensive activities shall be carried on in the Project nor shall anything be done in the Project or on any Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Project.

B. Animals. No animals shall be kept or maintained on any Lot in the Project except the usual household pets, and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance.

C. Construction. Notwithstanding any provisions to the contrary contained herein or in any other instrument or agreement, the Developer or the builder may maintain during the period of construction and sale of the Lots, upon such portion of the premises as Developer deems necessary, such facilities as in the sole opinion of Developer may be reasonably required, convenient or incidental to the construction and sale of the Lots, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

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4. OWNERSHIP, USE AND ENJOYMENT OF COMMONS AND RECREATIONAL AREA.

The Recreational Area shall remain private, and neither the Developer's execution or recording of an instrument portraying the Recreational Area, nor the doing of any other act by the Developer is, or is intended to be, or shall be construed as, a dedication to the public of such Recreational Area; provided that the Developer or the Club may dedicate or transfer all or any part of such Recreational Area to any public agency, authority or utility for use as roads or utilities. The Recreational Area is not a part of or included in any horizontal property regime and is not to be made a part of any horizontal property regime. Ownership of the Recreational Area shall be retained by Developer, subject, however, to the terms and conditions of the Recreational Area Lease as it may be changed, amended, or extended from time to time, which terms and conditions shall be mutually binding upon Developer and the Club.

The Developer expressly disclaims any warranties or representations regarding the density of use of any recreational facilities and the Developer further declares that it intends to but is not required to develop all sections of the Project with residential living units. Such development shall be in accordance with the applicable zoning regulations then in effect, shall be of such density as the Developer may determine, and may be multi-family dwellings for rent or sale.

5. RECREATIONAL AREA LEASE

For the recreation, enjoyment, use and other benefit of the Owners, the Club simultaneously with the recording of this Declaration, through its original Board of Directors, has entered into and acquired a long-term, net net lease for the Recreational Area (the "Recreational Area Lease" or the "Lease"). It is specifically recognized that the Club's incorporator and all of the members of the original Board of Directors are beneficiaries or otherwise connected with the Lessor and such circumstances shall not be construed or considered as a breach of the Board of Directors' duties to the Club nor grounds to invalidate the Lease in whole or in part. The Lease shall not be amended, revised or modified except by written agreement executed by Lessor and Lessee, and approved by seventy-five percent (75%) of the Owners of Lots in the Project.

All present and future Owners, mortgagees, tenants and occupants of the Lots, their successors and assigns, shall be bound by the Lease to the same extent and effect as though they had executed the Lease, including but not limited to:

(a) adopting, ratifying, confirming and consenting to the execution of the Lease by the Club, as Lessee;

(b) covenanting and promising to perform all of the covenants, promises and undertakings to be performed by the Owners under the Lease;

(c) ratifying, confirming and approving each and every provision of the Lease and acknowledging that all of the terms and provisions thereof, including rental payments, are reasonable; and

(d) agreeing that the person acting as incorporator and the persons acting as the Board

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of Directors in the acquisition of such leasehold have not breached any of their duties or obligations to the Club.

Each Owner, by acceptance of a deed to or other acquisition of a Lot, ratifies, acknowledges, consents and agrees to all the terms, conditions and provisions of the Lease, including but not limited to paragraph 8 of the Lease providing for liens in favor of the Lessor to secure to Lessor the payment of all monies due it or to become due it and to secure the performance by Lessee of all of Lessee's obligations under the Lease, and each Owner, by acceptance of a deed to a Lot, ratifies the acts of the Board of Directors in executing the Lease. The rental payments shall be made at the times and in the amounts specified in paragraph 4 of the Lease.

Each Owner shall have the right to use, occupy and enjoy the Recreational Area through the Club as Lessee, subject to all provisions of the Lease, this Declaration of Covenants and Restrictions, the Club's Articles of Incorporation, its By-Laws and such rules and regulations as the Club, by and through its Board of Directors, may from time to time adopt.

6. EMERALD GREEN CLUB, INC.

A. In General.

(i) There has been or will be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as "Emerald Green Club, Inc." Every Owner of a Lot in the Project shall be a member of the Club. If a person would realize upon his security and become the Owner of a Lot within the Project, he shall then be subject to all the requirements and limitations imposed in these Restrictions on other Owners of Lots within the Project and on members of the Club, including those provisions with respect to the payment of an annual charge, and assessments as may be established from time to time by the Board of Directors.

(ii) In addition to the foregoing, the Board of Directors of the Club shall establish associate memberships in the Club for persons who may from time to time be lessees of Lots in the Project pursuant to short or long term leases and who are not otherwise entitled to the benefits of membership by virtue of being Owners of Lots within the Project. Associate members shall have none of the rights of members to vote at meetings of the Club. The Board of Directors of the Club shall establish fees or charges for such associate memberships and rules and regulations concerning such associate memberships which may be different from those applicable to members generally.

B. Purposes of Club.

(i) The general purpose of the Club is to provide a means whereby the Recreational Area and such other recreational facilities or other areas within the Project as may be conveyed to the Club or leased by it from the Developer or otherwise, may be operated, maintained, repaired, replaced and insured. The Club may hold such properties in fee simple or may contract with the Developer for such facilities through the use of a long-term recreational area lease.

(ii) The Club may also contract with any or all of the associations of Owners of horizontal property regimes established in the Project to provide administrative,

managerial, bookkeeping, maintenance, repair and such other services as the Board of Directors of the Club may, from time to time, deem to be appropriate.

(iii) An additional purpose of the Club is to provide a means for the promulgation and enforcement of rules and regulations necessary to govern the use and enjoyment of the Recreational Area and such other recreational facilities within the Project as may be conveyed to and accepted by the Club, and to assure compliance by the Club with the terms and conditions of the Club's contractual undertakings, including but not limited to its Recreational Area Lease.

C. Power of Club to Levy and Collect Charges and Impose Liens.

(i) The Club shall have all of the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law, including the power to levy against the Lots within the Project a uniform annual charge or assessment and such additional special assessments as may be required to comply with the Club's obligation. Special assessments may include, but shall not be limited to, assessments for capital improvements in order to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any such capital improvement in accordance with the Recreational Area Lease. The Board of Directors of the Club, acting in accordance with the By-Laws of the Club and the provisions of the Recreational Area Lease, if any, shall determine the amount of the annual charge and method of its payment after consideration of the financial requirements of the Club. No charge shall ever be levied by the Club against the Developer except with respect to Lots which the Developer has leased. In addition, no charge shall be levied against (1) any corporation that may be created to acquire title to and operate utilities serving the Project, or (2) any local public authority which has had dedicated to it, and which has accepted, land within the project, except when such land is being utilized for residential purposes.

(ii) The Board of Directors of the Club shall fix the amount of the annual charge in accordance with the By-Laws and written notice of the charge so fixed shall be sent to each member.

(iii) Any charge levied or assessed against any Lot, together with interest and other charges or costs as herein-after provided, shall, on the day on which such charge is fixed, become and remain a lien upon that Lot until paid in full, and shall also be a personal obligation of the Owner or Owners of that Lot at the time the charge fell due. Such charge shall bear interest at the rate of 8% per annum until paid in full. If, in the opinion of the Board of Directors of the Club, such charge has remained due and payable for an unreasonably long period of time, the Club may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the charge shall be obliged to pay any expense or costs, including attorneys' fees, incurred by the Club in collecting such charge. No such charge or lien shall exist at the conveyance of a Lot by Developer unless the Lot has been previously occupied. Every Owner of a Lot in the Project and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and, by acquisition of such interest, agrees that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid, unless otherwise provided by law or by these Restrictions. Every person who shall become an Owner

of a Lot in the Project is hereby notified that by the act of acquiring, such person, unless relieved of such obligation by law, shall be conclusively held to have covenanted to pay the Club all charges that the Club shall make pursuant to this sub-paragraph 6-C of the Restrictions.

(iv) The lien for assessments shall be subject and subordinate to all tax liens on the Lot in favor of any assessing unit or district and to any first mortgage of record. Sale or transfer of any Lot, other than by a mortgagee as hereinafter provided, shall not affect the assessment lien. In a conveyance of a Lot to a first mortgagee that is a bank, life insurance company, savings and loan association, or similar institutional lender, which is the result of a foreclosure of its mortgage or a conveyance in lieu thereof or to the conveyance of a Lot to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, such first mortgagee and the purchaser shall not be liable for any accrued and unpaid assessments irrespective of the fact that they have become a lien on the Lot, but shall be liable only for assessments which become due and payable after the sale.

(v) The Club shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Club that the assessments on a specified Lot have been paid or that certain assessments against said Lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Club for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

D. Purpose of the Assessments. The charges or assessments levied by the Club shall be used exclusively for the purpose of providing recreational facilities through the Recreational Area Lease and promoting the recreation, health, safety and welfare of the members of the Club, and, in particular, for the improvement and maintenance of the properties owned, operated or leased by the Club.

E. Suspension of Privileges of Membership. Notwithstanding any other provision contained herein, the Board of Directors of the Club shall have the right to suspend the voting rights, if any, and the right to use the facilities of the Club, of any member or associate member (i) during the period of any continuing violation of this Declaration of Covenants and Restrictions, after the existence of the violation shall have been declared by the Board of Directors; and (ii) during the period of any violation of the Articles of Incorporation, By-Laws or regulations of the Club.

F. Additional Assessments. In addition to the assessments provided herein, the Lots shall be subject to such assessments, both annual and special, as may from time to time be made by an association established by the Owners of any portion of the Project which is designated as a specific section or as a horizontal property regime.

7. REMEDIES.

A. In General. The Club or any party to whose benefit these Restrictions inure, including the Developer, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither the Developer nor the Club shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these

Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

8. ACCEPTANCE AND RATIFICATION.

The Owners of any Lot subject to these Restrictions, by (1) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Developer or a subsequent Owner of such Lot, or (2) by the act of occupancy of any Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of the Developer and of the Club with respect to these Restrictions, and also for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with the Developer, the Club, and to and with the Owners and subsequent owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

9. EASEMENTS.

A. In General. There is hereby created a blanket easement upon, across, over and under all of the lands in the Project for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the buildings within the Project. An easement is further granted to all police, fire protection, ambulance, delivery vehicles, and all similar persons to enter upon the streets and Commons in the performance of their duties. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Project except as initially programmed and approved by the Developer or thereafter approved by Developer or the Club's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer shall have the right to grant such easement on the Project without conflicting with the terms hereof. The easements provided for in this paragraph shall in no way affect any other recorded easement on said premises.

In addition, Developer expressly reserves the right to an easement of right of way (all or a part of which it may, but is not required to, dedicate to the public, in which event such right of way shall be accepted for maintenance and repair by the City of Indianapolis or an appropriate agency thereof), for any streets or right of way which the Developer deems to be appropriate or necessary for ingress and egress to any common areas, to the Recreational Area or to any Lot, which rights of way may include but are not limited to Commons Drive as presently constructed and as it may, from time to time, be further extended or improved.

B. Underground Easements. Easements for underground service may be crossed by driveways and walkways provided the Developer or builder makes prior arrangements with the utility company furnishing service. Such easements for the underground service shall be kept clear of all other improvements,

including buildings, patios, or other pavings, other than crossing walkways or driveways, and neither the Developer nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, flowers or other improvements of the Owner located on the land covered by said easements.

10. RIGHT OF DEVELOPER TO USE PROJECT DURING CONSTRUCTION.

Notwithstanding any provisions to the contrary contained herein, or in any other instrument or agreement affecting the Project, the Developer, his successors, assigns or nominees, during the period when any portion of the Project is being developed or, if applicable, being conveyed, may maintain upon such portion of the Project as the Developer deems necessary, including but not limited to a part of the Recreational Area, such facilities, as in the sole opinion of the Developer, may be reasonably required, convenient or incidental to the development and sale of any part or parts of the Project, including but not limited to a business office, storage area, construction yard, signs, model units and sales office.

11. INTERPRETATION.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

12. DURATION.

The foregoing covenants and restrictions are for the mutual benefit and protection of the present and future Owners, the Club, and the Developer and shall run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2069, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then the Owners of a majority of the Lots in the Project.

13. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

IN TESTIMONY WHEREOF, witness the signature of the Declarant this 3rd day of April, 1973.

EMERALD GREEN

By 8 _____
General Partner

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STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for said County and State, personally appeared John C. Hart, a General Partner of Emerald Green, who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions for and on behalf of that limited partnership.

Witness my hand and seal this 30th day of April, 1973.

John Cox
Notary Public



My commission expires: June 9, 1974

10707101

CONSENT OF MORTGAGEE

The undersigned, First Federal Savings and Loan Association of Indianapolis, being the holder of existing mortgages on the Project and the Recreational Area, as defined in the above and foregoing Declaration of Covenants and Restrictions of Emerald Green Development Project, as follows:

A mortgage dated January 13, 1971, recorded January 14, 1971, as Instrument No. 71-1869 in the office of the Recorder of Marion County, Indiana;

A mortgage dated July 21, 1971, recorded August 24, 1971, as Instrument No. 71-44579 in the office of the Recorder of Marion County, Indiana; and a Modification Agreement thereto, dated October 12, 1972, recorded October 17, 1972, as Instrument No. 72-62845 in the office of the Recorder of Marion County, Indiana;

hereby consents to the recording of the above and foregoing Declaration of Covenants and Restrictions of Emerald Green Development Project, and the submission of the Project and Recreational Area to the provisions of such Declaration of Covenants and Restrictions, and further agrees that its mortgage with respect to the Project and Recreational Area shall be subject to the provisions of the above and foregoing Declaration of Covenants and Restrictions and exhibits attached thereto and documents incorporated therein; provided, however, except to the extent that the mortgage is modified by this Consent, such mortgages shall remain in full force and effect, unaltered and enforceable in accordance with the terms.

Executed this 9th day of May, 1973.

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF INDIANAPOLIS

By James B. Life
Senior Vice-President

ATTEST:
Geraldine H. Veach
Secretary-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared James B. Life and Geraldine H. Veach, the Senior Vice-President and Secretary-Treasurer respectively, of First Federal Savings and Loan Association of Indianapolis, who acknowledged the execution of the above and foregoing Consent for and on behalf of said First Federal Savings and Loan Association of Indianapolis.

Witness my hand and Notarial Seal this 9th day of May, 1973.

Flonda Leet
Notary Public

My commission expires:
October 20, 1976

This instrument was prepared by Peter D. Schellie, attorney at law.

A part of the Southeast Quarter and part of the Northeast Quarter of Section 14, Township 16 North, Range 2 East in Marion County, Indiana, more particularly described as follows:

Beginning on the East line of the said Southeast Quarter Section, North 00 degrees 01 minutes 00 seconds West, 2443.19 feet from the Southeast corner of the said Southeast Quarter Section; thence South 89 degrees 50 minutes 09 seconds West 1387.74 feet to the East line of highway right-of-way conveyed by grant recorded May 22, 1959, in Deed Record 1750, as Instrument #35996, in the Office of the Recorder of Marion County, Indiana; thence North 04 degrees 59 minutes 25 seconds West along the said East right-of-way line, 225.03 feet to the North line of the said Southeast Quarter Section; thence North 00 degrees 06 minutes 30 seconds East, along the East line of highway right-of-way conveyed by grant recorded May 29, 1959, in Deed Record 1751, as Instrument #37923 in the said Recorder's Office, 1452.00 feet to a point which lies North 1452.00 feet from the South line of the said Northeast Quarter Section, as measured parallel with the East line of the West Half of the said Northeast Quarter Section; thence North 89 degrees 40 minutes 32 seconds East parallel with the South line of the said Northeast Quarter Section, 67.84 feet to the East line of the said Half Quarter Section; thence South 00 degrees 04 minutes 03 seconds East along the said East line 17.90 feet to a point which lies North 00 degrees 04 minutes 03 seconds West 260.59 feet from the Southwest corner of a tract of 45.83 acres by parallel lines off the North end of the East Half of the said Northeast Quarter Section; thence South 60 degrees 30 minutes 54 seconds East 522.18 feet to the South line of the said tract of 45.83 acres; at a point which lies South 89 degrees 32 minutes 56 seconds West 880.00 feet from the Southeast corner of the said tract of 45.83 acres; thence continue South 60 degrees 30 minutes 54 seconds East 1011.94 feet to the East line of the said Northeast Quarter Section, at a point which lies Northerly 671.46 feet from the Southeast corner of the said Northeast Quarter Section; thence South 00 degrees 06 minutes 10 seconds East along the said East line 671.46 feet to the Southeast corner of the said Northeast Quarter Section; thence South 00 degrees 01 minutes 00 seconds East along the East line of the said Southeast Quarter Section, 228.17 feet to the place of beginning, containing 41.850 acres, more or less.

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Exhibit A

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201-06859

CIVIL ENGINEERING
LAND SURVEYING

PAUL I. CRIFE, INC.
130 E. MARKET STREET
INDIANAPOLIS, IND. 46204
636-2411

SUBDIVISION DESIGN
BUILDING DESIGN

**LEGAL DESCRIPTION FOR SECTION TWO "A"
RECREATIONAL AREA OF EMERALD GREEN**

A part of the East Half of the Northeast Quarter of Section 14, Township 16 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Commencing on the East line of the said Half Quarter Section North 00 degrees 06 minutes 10 seconds West, 526.46 feet from the Southeast corner of the said Half Quarter Section; thence South 89 degrees 53 minutes 50 seconds West, 415.00 feet to a curve having a radius of 184.05 feet, the radius point, of which, bears North 00 degrees 06 minutes 10 seconds West; thence Northwesterly along the said curve 95.04 feet to a point which bears South 29 degrees 29 minutes 06 seconds West from the said radius point; thence North 60 degrees 30 minutes 54 seconds West, 5.16 feet to the Place of Beginning; thence continue North 60 degrees 30 minutes 54 seconds West, 543.44 feet to a curve having a radius of 150.00 feet, the radius point, of which, bears North 29 degrees 29 minutes 06 seconds East; thence Northwesterly along the said curve 59.15 feet to a point which bears South 52 degrees 04 minutes 42 seconds West from the said radius point; thence South 52 degrees 04 minutes 42 seconds West, 25.00 feet to a point; thence South 00 degrees 06 minutes 30 seconds West, 313.77 feet; thence North 89 degrees 50 minutes 09 seconds East, 138.08 feet; thence South 00 degrees 06 minutes 30 seconds West, 10.00 feet; thence North 89 degrees 50 minutes 09 seconds East, 100.00 feet; thence South 60 degrees 30 minutes 54 seconds East, 98.94 feet; thence North 29 degrees 29 minutes 06 seconds East, 68.47 feet; thence North 89 degrees 50 minutes 09 seconds East, 167.68 feet; thence North 29 degrees 29 minutes 06 seconds East, 25.00 feet to the Place of Beginning, containing, 2.342 acres, more or less.

Subject to all highways and rights of way.

EXHIBIT B

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RECREATIONAL AREA LEASE

THIS LEASE, executed this 30th day of April, 1973, by and between Emerald Green, a limited partnership ("Lessor"), and Emerald Green Club, Inc., an Indiana not-for-profit corporation ("Lessee"), WITNESSES:

1. Definitions. Unless otherwise specifically defined in this Lease, the terms used herein shall have the same meaning as those terms defined in the Code of By-Laws of Emerald Green Club, Inc., and in the Declaration of Covenants and Restrictions of Emerald Green Development Project recorded in the office of the Recorder of Marion County, Indiana, as Instrument No. _____.

2. The Leased Premises. The Lessor hereby leases and demises to the Lessee and the Lessee does hereby lease of and from the Lessor the property located in Marion County, Indiana, as described in the attached Exhibit A, together with all improvements, buildings and structures now or hereafter placed thereon, and all furniture, furnishings, fixtures, machinery and equipment thereon or hereafter bought or placed thereon or intended for use thereon, commonly referred to in the Declaration of Covenants and Restrictions as the Commons and hereinafter referred to as the "Leased Premises."

3. Term. The term of this Lease shall be for a period of fifty (50) years commencing with the execution hereof ("Lease Term"). At the end of the Lease Term and unless the Lessor indicates otherwise by written notice given the Lessee at least ninety (90) days prior to the expiration of the Lease Term, this Lease shall be extended for a fifteen (15) year period upon the terms and conditions set forth herein. Thereafter and unless the Lessee and Lessor agree otherwise not later than ninety (90) days before the expiration of any term, this Lease shall be automatically renewed and extended for successive five (5) year terms.

73 28237

EXHIBIT C

4. Rent. Subject to the provisions of paragraph 4(d) of this Lease, Lessee agrees to pay to the Lessor rent as follows:

(a) Minimum Rent. Lessee shall pay as minimum rent for the Leased Premises the sum of \$45,000 per year, payable in equal monthly installments of \$3,750 per month, without relief from valuation or appraisal laws, such monthly installments to be paid in advance and to begin on the first day of August, 1973, and on the first day of each month thereafter during the Lease Term.

(b) Increase in Rent. On the first day of January, 1978, and at the end of each fifth year thereafter during the Lease Term, the parties agree that the annual minimum rent as set forth in paragraph 4(a) of this Lease or as modified by paragraph 4(d) of this Lease shall be increased during such subsequent five-year period in the same proportion that the B.L.S. Consumer Price Index (all items-national average) published by the Bureau of Labor Statistics, United States Department of Labor, averaged for the calendar year immediately preceding the applicable five-year period, has increased over the B.L.S. Consumer Price Index published and averaged for the calendar year 1972 (the applicable year for determining the said B.L.S. Consumer Price Index for the first five-year period would be 1977 and for the second five-year period would be 1982 and so forth throughout the Lease Term); provided, however, in no event shall the minimum rent payable during any five-year period be less than the minimum rent set forth in paragraph 4(a) of this Lease or as modified by paragraph 4(d) of this Lease.

If the Bureau of Labor Statistics shall discontinue the publication of such Consumer Price Index or shall adopt a new method of computing the Consumer Price Index, the parties agree to use a similar or other mutually agreeable method of determining the increase in the cost of living.

(c) Additional Rent. Subject to the provisions of paragraph 4(d) of this Lease, Lessee agrees to pay as additional rent to Lessor the following:

(1) Insurance. Lessee shall pay to the Lessor at least ten (10) days prior to the date such becomes due, the premiums for all insurance policies which the Lessee is obligated to carry under the terms of this Lease.

(2) Utilities. Lessee shall promptly pay as the same shall become due all charges for utilities and services used in connection with the Leased Premises, including but not limited to water, sewage, gas, electricity, telephone and other utility services.

(3) Repair and Maintenance. Lessee shall, during the Lease Term at its own cost and expense, maintain and keep in good repair and

replace as necessary when worn out or obsolete, all structures, fixtures and improvements which may at any time be situated upon the Leased Premises, and all appurtenances thereto, including but not limited to all landscaping, sidewalks, steps and the interior and exterior of all structures. Lessee will use, keep and maintain the Leased Premises and improvements thereon as well as all appurtenances thereto in conformity and in compliance with all ordinances, rulings, regulations and orders of any governmental agency having jurisdiction thereof and will protect, indemnify and keep harmless Lessor from and against any loss, cost, damages and expense occasioned by or arising out of any breach or default in the performance of these provisions, conditions and covenants occasioned by or arising out of any accident, injury or damage to person or property in or about or upon the Leased Premises or due directly or indirectly to the construction, use or occupancy of the Leased Premises by the Lessee, any person or persons occupying, holding or claiming by, through or under Lessee.

(d) Adjustment to Rent. In the event there are fewer than 450 Lots in the Project, the minimum rent per year that shall be paid by Lessee to Lessor for the Leased Premises shall be equal to Forty-five Thousand Dollars divided by 450 and multiplied by the number of Lots in the Project which have been sold or leased by the Developer, and the additional rent and all other expenditures required by Lessee under the terms of the Lease shall be equal to the amount of such additional rent and expenditures divided by 450 and multiplied by the number of Lots in the Project which have been sold or leased by the Developer.

5. Use of the Leased Premises. Lessee will not use or permit the Leased Premises to be used for any illegal or improper purpose and will at its expense comply with all requirements of law and with all ordinances, regulations or orders of any state, municipal or other public authority affecting the Leased Premises. Lessee will also comply with all requirements of the insurance company insuring the Lessor against fire and other hazards. It is understood and agreed between the Lessee and Lessor that the Leased Premises during the Lease Term may be used and occupied only for recreational and social purposes and such use shall be limited to Owners of Lots in the Project, their families, guests and lessees

pursuant to the rules and regulations to be promulgated by the Lessee or its successors in interest and authority.

6. Construction. Lessee shall not in any manner alter or permit the alterations of or upon any part of the Leased Premises without first obtaining the written consent of the Lessor and any alteration or addition to the Leased Premises shall be made in accordance with all applicable laws and shall remain for the benefit of the Lessor. Lessee shall indemnify and save harmless the Lessor from all costs and expenses incurred in connection with any construction or alteration. No person shall be entitled to any lien, directly or indirectly, derived through or by virtue of any act or omission of the Lessee upon the Leased Premises for any improvements or fixtures made thereon or installed therein or for or on account of any labor or material furnished to the Leased Premises and nothing contained in this Lease shall be construed to constitute a consent by the Lessor to the creation of any lien.

Nothing herein shall be construed as prohibiting the Lessee from making repairs, or doing ordinary maintenance or remodeling to preserve the improvements located on the Leased Premises.

7. No Lien Clause. No person shall be entitled to any lien directly or indirectly derived through or under the Lessee or through or under any act or omission of the Lessee upon the Leased Premises or any improvements hereafter situated thereon, or on account of or for any labor or materials furnished for the Leased Premises or such improvements or for or on account of any matter or thing whatsoever. Nothing in this Lease shall be construed to constitute a

consent by the Lessor to the creation of any lien. In the event, despite this clause, any lien is placed on the Leased Premises, the Lessee shall upon request of the Lessor cause such lien to be removed or provide a good and sufficient corporate surety bond saving the Lessor harmless from such lien and interest expense or cost connected therewith.

8. Security. For the purpose of securing unto Lessor the payment of all rent and the performance of all the covenants of Lessee under this Lease for the benefit of the Lessor, Lessee hereby grants to Lessor the liens described in this paragraph 8, and all of Lessee's rights of enforcement for collection of the rental payments and other assessments against members of the Club relating to this Lease and due Lessor under this Lease, including, but not limited to, the right of the Lessor to a lien on any Lot, the owner of which has not made his requisite payment to the Club. The liens shall be cumulative and Lessor may exercise one or some without waiving the others or may exercise all simultaneously.

(a) Lessee's Interest. The Lessee hereby gives and grants unto the Lessor a continuing first lien paramount and superior to all others upon any right, title and interest to the Lessee in and to this Lease and the Leased Premises.

(b) Lessee's Assets. Lessee hereby gives and grants unto Lessor a continuing first lien paramount and superior to all others, including Lot Owners, on its assets.

(c) Lots. Lessor, the Declarant in Emerald Green, reserves unto itself a continuing lien in the nature of a mortgage upon all of the individual Lots of Emerald Green, which lien, except as otherwise provided in this Lease, shall be prior and superior to all other liens and encumbrances, provided, however, that if the Owner of any Lot pays his proportionate share of the amount of the unpaid rent or other obligations due the Lessee, the lien as to his Lot shall be extinguished. All

persons claiming by, through or under the Declarant shall be deemed to have assumed the lien created hereunder.

(d) Foreclosure. The liens created hereunder shall secure the payment of all monies due Lessor under this Lease and may be foreclosed as provided by law for the foreclosure of mortgages. In any such action or other action to enforce the provisions of these liens, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to attorneys' fees and court costs. The foreclosure or other action to enforce the liens provided herein shall not be considered or construed as a termination or cancellation of this Lease or operate as an extinguishment of such liens except that such lien shall not stand as security for any amounts realized and actually collected by Lessor in foreclosure or such other action.

(e) Judgments. If Lessor obtains a judgment against Lessee for any reason, the amount of such judgment shall be the obligation of all members of the Club and Lessor shall have a lien in the nature of a mortgage upon all the individual Lots in the Project, provided, however, that if the Owner of any Lot pays his proportionate share of the amount of the judgment, the lien as to his Lot shall be extinguished.

(f) Rights of First Mortgagees. Notwithstanding the above, Lessor hereby subordinates its liens hereunder to all tax liens on the Lots in favor of any assessing unit or district and to the lien of any first mortgagee of record and will execute an instrument of subordination or join in the execution and delivery of a mortgage (provided Lessor does not assume or become obligated to perform any of the covenants of the mortgagor therein) as the mortgagee may require.

(g) Acceptance and Ratification. All present and future Owners and mortgagees of Lots in Emerald Green shall be subject to and shall comply with the provisions of this Lease. The acceptance of a deed of conveyance or obtaining a first mortgage on any Lot shall constitute an agreement that the provisions of this Lease are accepted and ratified by such Owner or mortgagee and all such provisions of this Lease shall bind any person having at any time any interest or estate in a Lot or the Property as though such person or persons had executed this Lease or as though such provisions were recited and stipulated in length in each and every deed, conveyance, mortgage or lease thereof.

If Lessor deems it necessary and if Lessee fails to perform its obligations and collect from the appropriate

persons claiming by, through or under the Declarant shall be deemed to have assumed the lien created hereunder.

(d) Foreclosure. The liens created hereunder shall secure the payment of all monies due Lessor under this Lease and may be foreclosed as provided by law for the foreclosure of mortgages. In any such action or other action to enforce the provisions of these liens, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to attorneys' fees and court costs. The foreclosure or other action to enforce the liens provided herein shall not be considered or construed as a termination or cancellation of this Lease or operate as an extinguishment of such liens except that such lien shall not stand as security for any amounts realized and actually collected by Lessor in foreclosure or such other action.

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(f) Rights of First Mortgagees. Notwithstanding the above, Lessor hereby subordinates its liens hereunder to all tax liens on the Lots in favor of any assessing unit or district and to the lien of any first mortgagee of record and will execute an instrument of subordination or join in the execution and delivery of a mortgage (provided Lessor does not assume or become obligated to perform any of the covenants of the mortgagor therein) as the mortgagee may require.

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If Lessor deems it necessary and if Lessee fails to perform its obligations and collect from the appropriate

members the requisite assessments to meet the financial obligation of the Club under the Lease, Lessor may pursue the remedies available to the Club for collection of such assessments, including, but not limited to, institution of such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. In any such action, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to, attorneys' fees and court costs.

9. Lessor's Right to Sell, Assign and Encumber.

Lessor shall have the right to assign and encumber its interest under this Lease as follows:

(a) Existing Mortgages. The Leased Premises are subject to existing mortgages held by First Federal Savings and Loan Association of Indianapolis, and recorded in the office of the Recorder of Marion County, Indiana, as Instrument Nos. 71-1869 and 71-44579 (as modified by Instrument No. 72-62845), which mortgages are incorporated herein by reference. The Lease of the Leased Premises herein is made subject to such mortgages and Lessor shall be obligated to perform all of the covenants of the mortgage therein except as provided in the Consent of Mortgage attached to the Declaration of Covenants and Restrictions of Emerald Green Development Project.

(b) Further Mortgages. Lessor shall have the right at all times to further and additionally mortgage and encumber its interest under this Lease in and to the Leased Premises, and Lessee's interest in and to the same shall at all times be subordinate and inferior to those of such additional future and further mortgages; provided, however, Lessee shall at all times have the right to use, occupy and enjoy the Leased Premises in accordance with the provisions of this Lease. Lessee does hereby agree that it will for itself (and if required by the mortgagee) subordinate its interest in and to the Leased Premises and this Lease to any such mortgage and mortgages by an instrument of subordination or by joinder as mortgagor in such mortgage (provided that by such joinder the Lessee shall not assume any of the obligations of the mortgagor), as the mortgagee may require.

(c) Assignment and Sale. Lessor may sell or assign in whole or in part any or all of its right, title

and interest in and to this Lease and the Leased Premises.

10. Lessee's Right to Assign and Encumber. Lessee shall have no right to mortgage or otherwise encumber any of its right, title and interest in and to this Lease or the Leased Premises nor shall it have the right to assign the same or any part thereof, except if the corporate status of Lessee is terminated for any reason, this Lease shall not terminate or otherwise be affected but Lessee's interest in the leasehold created herein shall be distributed to the Owners of the Lots within the Project, and such Owners shall thereafter jointly and severally comprise the Lessee.

11. Eminent Domain.

(a) As to the Leased Premises.

(1) Total Taking. If during the Lease Term all or any part of the Leased Premises and the improvements located thereon shall be acquired by the exercise of eminent domain by any public or quasi public body in such a manner that the Leased Premises shall become unusable by the Lessee for the purpose it is then using the Leased Premises, then this Lease shall, at the option of the Lessee, be terminated on the date possession of the Leased Premises or part thereof is so taken. Lessee shall have no claim against the Lessor or any other person, firm, corporation or governmental authority on account of any such acquisition for the value of any unexpired portion of the Lease Term remaining after possession of the Leased Premises is taken. All damages awarded therefor shall belong to and be the sole property of Lessor.

(2) Partial Taking. In the event during the Lease Term only a part of the Leased Premises shall be acquired by the exercise of eminent domain but the balance of the Leased Premises are usable by Lessee and the Lease is not terminated, all damages awarded therefor shall become the sole property of the Lessor and the minimum rent to be paid by Lessee to Lessor shall be equitably adjusted.

(b) As to Emerald Green. If, during the Lease Term, there shall be a taking (acquisition by the

exercise of eminent domain by any public or quasi public body) of all or any part of the Project, the following shall apply:

(1) Certain Takings Not Included. A taking of less than the fee simple title or a taking of ten percent (10%) or less of the Lots contained in the Project shall not be construed or considered as a taking under the provisions of this paragraph 11(b). For purposes of this paragraph 11(b), a taking of a Lot shall be deemed such when at least sixty percent (60%) of the floor space thereof has been taken.

(2) Total Taking. If the taking includes all of the Lots comprising the Project immediately prior to the time of taking, this Lease shall terminate effective as of the date of taking.

(3) Partial Taking. If the taking is greater than ten percent (10%) of the Lots and less than a total taking, the following shall apply:

(i) Rent. The minimum rent provided in paragraph 4 shall be reduced in accordance with the number of Lots taken.

(ii) Additional Rent. The Lessee shall be entitled to a reduction of its liability for additional rent by an amount equal to that percentage of the additional rent to which each of the Lots which was totally taken was obligated to pay.

12. Effect of Destruction of Buildings or Termination of Entities Upon Lease. No destruction or damage to the land or any Building or Lot in the Project by fire, hurricane, windstorm, erosion, insurrection, riot, war or other casualty of any kind, character or nature shall be deemed to entitle Lessee to surrender possession of the Leased Premises or to terminate this Lease or to violate any of its provisions or cause any rebate or abatement in rent then due or thereafter becoming due under the terms of this Lease. The termination of any or all horizontal property regimes located in the Project shall not terminate this Lease. The termination of the corporate status of Lessee,

either voluntarily or involuntarily, shall not terminate this Lease but upon such termination all of the Owners of Lots in these Projects, shall automatically and by operation of this Lease jointly and severally constitute the Lessee hereunder and shall jointly and severally be obligated to perform each and all of the Lessee's obligations, covenants, and undertakings hereunder.

13. Duty of Lessee to Assess and Pay. It shall be the duty and the obligation of Lessee to assess the Lot Owners in the Project in accordance with the Articles of Incorporation and By-Laws of Lessee in such amounts as shall be necessary to pay Lessee's obligations hereunder and to otherwise perform its covenants and promises herein.

14. Insurance. Lessee shall at its sole expense as provided in paragraph 4(c)(1) of this Lease, throughout the Lease Term, keep in force insurance policies as follows:

(a) Public Liability. Comprehensive general public liability insurance in which Lessor and Lessee shall be named insureds against claims for bodily injury, sickness and disease, including death, at any time resulting therefrom or for injury to or destruction of property, including the loss of use thereof arising out of ownership, maintenance, use or operation of the Leased Premises or any building or improvement or personalty located thereon. The amount of such insurance shall be determined by Lessee's Board of Directors but in any event shall be not less than \$300,000 for each individual and \$500,000 for each incident.

(b) Property Insurance. Policies of insurance insuring against loss or damage to the facilities and improvements now or hereafter located upon the Leased Premises and all furniture, fixtures, machinery, equipment and furnishings now or hereafter brought or placed thereon as a result of fire, windstorm, hail, flood, and such other hazards as may be included in the broadest form of extended coverage insurance as available from time to time and, to the extent required by Lessor, insurance to cover loss or damage resulting from war, riot, civil insurrection or disturbance. Insurance required hereunder shall be an amount equal to the "maximum insurable value," including foundation and excavation costs. The term "maximum insurable value" as used herein shall mean the actual replacement cost of the improvements required to be insured without deduction

consent by the Lessor to the creation of any lien. In the event, despite this clause, any lien is placed on the Leased Premises, the Lessee shall upon request of the Lessor cause such lien to be removed or provide a good and sufficient corporate surety bond saving the Lessor harmless from such lien and interest expense or cost connected therewith.

8. Security. For the purpose of securing unto Lessor the payment of all rent and the performance of all the covenants of Lessee under this Lease for the benefit of the Lessor, Lessee hereby grants to Lessor the liens described in this paragraph 8, and all of Lessee's rights of enforcement for collection of the rental payments and other assessments against members of the Club relating to this Lease and due Lessor under this Lease, including, but not limited to, the right of the Lessor to a lien on any Lot, the owner of which has not made his requisite payment to the Club. The liens shall be cumulative and Lessor may exercise one or some without waiving the others or may exercise all simultaneously.

(a) Lessee's Interest. The Lessee hereby gives and grants unto the Lessor a continuing first lien paramount and superior to all others upon any right, title and interest to the Lessee in and to this Lease and the Leased Premises.

(b) Lessee's Assets. Lessee hereby gives and grants unto Lessor a continuing first lien paramount and superior to all others, including Lot Owners, on its assets.

(c) Lots. Lessor, the Declarant in Emerald Green, reserves unto itself a continuing lien in the nature of a mortgage upon all of the individual Lots of Emerald Green, which lien, except as otherwise provided in this Lease, shall be prior and superior to all other liens and encumbrances, provided, however, that if the Owner of any Lot pays his proportionate share of the amount of the unpaid rent or other obligations due the Lessee, the lien as to his Lot shall be extinguished. All

persons claiming by, through or under the Declarant shall be deemed to have assumed the lien created hereunder.

(d) Foreclosure. The liens created hereunder shall secure the payment of all monies due Lessor under this Lease and may be foreclosed as provided by law for the foreclosure of mortgages. In any such action or other action to enforce the provisions of these liens, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to attorneys' fees and court costs. The foreclosure or other action to enforce the liens provided herein shall not be considered or construed as a termination or cancellation of this Lease or operate as an extinguishment of such liens except that such lien shall not stand as security for any amounts realized and actually collected by Lessor in foreclosure or such other action.

(e) Judgments. If Lessor obtains a judgment against Lessee for any reason, the amount of such judgment shall be the obligation of all members of the Club and Lessor shall have a lien in the nature of a mortgage upon all the individual Lots in the Project, provided, however, that if the Owner of any Lot pays his proportionate share of the amount of the judgment, the lien as to his Lot shall be extinguished.

(f) Rights of First Mortgagees. Notwithstanding the above, Lessor hereby subordinates its liens hereunder to all tax liens on the Lots in favor of any assessing unit or district and to the lien of any first mortgagee of record and will execute an instrument of subordination or join in the execution and delivery of a mortgage (provided Lessor does not assume or become obligated to perform any of the covenants of the mortgage therein) as the mortgagee may require.

(g) Acceptance and Ratification. All present and future Owners and mortgagees of Lots in Emerald Green shall be subject to and shall comply with the provisions of this Lease. The acceptance of a deed of conveyance or obtaining a first mortgage on any Lot shall constitute an agreement that the provisions of this Lease are accepted and ratified by such Owner or mortgagee and all such provisions of this Lease shall bind any person having at any time any interest or estate in a Lot or the Property as though such person or persons had executed this Lease or as though such provisions were recited and stipulated in length in each and every deed, conveyance, mortgage or lease thereof.

If Lessor deems it necessary and if Lessee fails to perform its obligations and collect from the appropriate

members the requisite assessments to meet the financial obligation of the Club under the Lease, Lessor may pursue the remedies available to the Club for collection of such assessments, including, but not limited to, institution of such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. In any such action, including appeals, Lessor shall be entitled to recover all costs incurred by it, including but not limited to, attorneys' fees and court costs.

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(b) Further Mortgages. Lessor shall have the right at all times to further and additionally mortgage and encumber its interest under this Lease in and to the Leased Premises, and Lessee's interest in and to the same shall at all times be subordinate and inferior to those of such additional future and further mortgages; provided, however, Lessee shall at all times have the right to use, occupy and enjoy the Leased Premises in accordance with the provisions of this Lease. Lessee does hereby agree that it will for itself (and if required by the mortgagee) subordinate its interest in and to the Leased Premises and this Lease to any such mortgage and mortgages by an instrument of subordination or by joinder as mortgagor in such mortgage (provided that by such joinder the Lessee shall not assume any of the obligations of the mortgagor), as the mortgagee may require.

(c) Assignment and Sale. Lessor may sell or assign in whole or in part any or all of its right, title

and interest in and to this Lease and the Leased Premises.

10. Lessee's Right to Assign and Encumber. Lessee shall have no right to mortgage or otherwise encumber any of its right, title and interest in and to this Lease or the Leased Premises nor shall it have the right to assign the same or any part thereof, except if the corporate status of Lessee is terminated for any reason, this Lease shall not terminate or otherwise be affected but Lessee's interest in the leasehold created herein shall be distributed to the Owners of the Lots within the Project, and such Owners shall thereafter jointly and severally comprise the Lessee.

11. Eminent Domain.

(a) As to the Leased Premises.

(1) Total Taking. If during the Lease Term all or any part of the Leased Premises and the improvements located thereon shall be acquired by the exercise of eminent domain by any public or quasi public body in such a manner that the Leased Premises shall become unusable by the Lessee for the purpose it is then using the Leased Premises, then this Lease shall, at the option of the Lessee, be terminated on the date possession of the Leased Premises or part thereof is so taken. Lessee shall have no claim against the Lessor or any other person, firm, corporation or governmental authority on account of any such acquisition for the value of any unexpired portion of the Lease Term remaining after possession of the Leased Premises is taken. All damages awarded therefor shall belong to and be the sole property of Lessor.

(2) Partial Taking. In the event during the Lease Term only a part of the Leased Premises shall be acquired by the exercise of eminent domain but the balance of the Leased Premises are usable by Lessee and the Lease is not terminated, all damages awarded therefor shall become the sole property of the Lessor and the minimum rent to be paid by Lessee to Lessor shall be equitably adjusted.

(b) As to Emerald Green. If, during the Lease Term, there shall be a taking (acquisition by the

exercise of eminent domain by any public or quasi public body) of all or any part of the Project, the following shall apply:

(1) Certain Takings Not Included. A taking of less than the fee simple title or a taking of ten percent (10%) or less of the Lots contained in the Project shall not be construed or considered as a taking under the provisions of this paragraph 11(b). For purposes of this paragraph 11(b), a taking of a Lot shall be deemed such when at least sixty percent (60%) of the floor space thereof has been taken.

(2) Total Taking. If the taking includes all of the Lots comprising the Project immediately prior to the time of taking, this Lease shall terminate effective as of the date of taking.

(3) Partial Taking. If the taking is greater than ten percent (10%) of the Lots and less than a total taking, the following shall apply:

(i) Rent. The minimum rent provided in paragraph 4 shall be reduced in accordance with the number of Lots taken.

(ii) Additional Rent. The Lessee shall be entitled to a reduction of its liability for additional rent by an amount equal to that percentage of the additional rent to which each of the Lots which was totally taken was obligated to pay.

12. Effect of Destruction of Buildings or Termination of Entities Upon Lease. No destruction or damage to the land or any Building or Lot in the Project by fire, hurricane, windstorm, erosion, insurrection, riot, war or other casualty of any kind, character or nature shall be deemed to entitle Lessee to surrender possession of the Leased Premises or to terminate this Lease or to violate any of its provisions or cause any rebate or abatement in rent then due or thereafter becoming due under the terms of this Lease. The termination of any or all horizontal property regimes located in the Project shall not terminate this Lease. The termination of the corporate status of Lessee,

either voluntarily or involuntarily, shall not terminate this Lease but upon such termination all of the Owners of Lots in these Projects, shall automatically and by operation of this Lease jointly and severally constitute the Lessee hereunder and shall jointly and severally be obligated to perform each and all of the Lessee's obligations, covenants, and undertakings hereunder.

13. Duty of Lessee to Assess and Pay. It shall be the duty and the obligation of Lessee to assess the Lot Owners in the Project in accordance with the Articles of Incorporation and By-Laws of Lessee in such amounts as shall be necessary to pay Lessee's obligations hereunder and to otherwise perform its covenants and promises herein.

14. Insurance. Lessee shall at its sole expense as provided in paragraph 4(c)(1) of this Lease, throughout the Lease Term, keep in force insurance policies as follows:

(a) Public Liability. Comprehensive general public liability insurance in which Lessor and Lessee shall be named insureds against claims for bodily injury, sickness and disease, including death, at any time resulting therefrom or for injury to or destruction of property, including the loss of use thereof arising out of ownership, maintenance, use or operation of the Leased Premises or any building or improvement or personalty located thereon. The amount of such insurance shall be determined by Lessee's Board of Directors but in any event shall be not less than \$300,000 for each individual and \$500,000 for each incident.

(b) Property Insurance. Policies of insurance insuring against loss or damage to the facilities and improvements now or hereafter located upon the Leased Premises and all furniture, fixtures, machinery, equipment and furnishings now or hereafter brought or placed thereon as a result of fire, windstorm, hail, flood, and such other hazards as may be included in the broadest form of extended coverage insurance as available from time to time and, to the extent required by Lessor, insurance to cover loss or damage resulting from war, riot, civil insurrection or disturbance. Insurance required hereunder shall be an amount equal to the "maximum insurable value," including foundation and excavation costs. The term "maximum insurable value" as used herein shall mean the actual replacement cost of the improvements required to be insured without deduction

for depreciation. If policies insuring replacement costs are not available, then the term "maximum insurable value" shall mean the actual cash value with due allowance for depreciation of the property.

(c) General. All insurance required hereunder shall be in such form and amount and issued by such companies as shall be approved in writing by the Lessor, which approval shall not be unreasonably withheld. All policies required hereunder shall be for the benefit of the Lessor, the Lessee and mortgagee of the Leased Premises as their interests may appear and shall be fixed subject to such provisions as mortgagees of the Leased Premises may require.

15. Reconstruction and Repair. In the event of any damage or destruction to the Leased Premises and the improvements thereon for any reason during the Lease Term, whether or not there is insurance to cover such casualty and whether or not if insured the proceeds are sufficient or are paid therefor, the following shall be applicable:

(a) Reconstruction and Repair by Lessee. Lessee, at its expense, shall repair and reconstruct any and all improvements, buildings and structures damaged and replace and repair all personal property damaged so as to restore the Leased Premises to the condition at least as good as that which existed prior to the fire or casualty. Work to repair or reconstruct shall be commenced no later than ninety (90) days after the occurrence of the damage and shall be completed no later than twelve (12) months after the date of commencement; provided, however, these limitations may be extended by reason of an act of nature, war, civil commotion or disorder, material shortage, strikes or other events over which the Lessee has no control. Lessee shall, within sixty (60) days after the occurrence of the damage, present to Lessor the plans and specifications for the reconstruction and repair, which plans and specifications must be approved in writing by Lessor, which approval shall not be unreasonably withheld.

(b) Insurance. In the event there are insurance proceeds payable by reason of the damage, such proceeds shall be paid to Lessor who shall deposit such funds in a special account in a bank of Marion County, Indiana, and such sum shall be

available to the Lessee for purposes of reconstruction and repairs. All payments made from such funds must be approved by Lessor. In the event that the funds from the insurance are insufficient to pay the full cost of the repair and reconstruction, Lessee shall be obligated to pay any deficiency. If, after payment of all costs involved in the repair and reconstruction of the damage, there are insurance proceeds remaining, such proceeds shall be distributed first to the Lessor to the extent required to bring current all obligations due from the Lessee to the Lessor under the terms of the Lease and the balance shall be paid over to the Lessee.

(c) Mortgage. Notwithstanding anything contained in this paragraph 15 and subsections hereunder, it is agreed that the provisions of any mortgage now or hereafter encumbering the Leased Premises relating to insurance proceeds shall have priority and supersede all provisions hereof. In the event the mortgagee shall have an option to apply insurance proceeds to the reduction or payment of the mortgage debt and elects to do so, Lessor shall be required within one hundred twenty (120) days after application of sums by the mortgagees to make available to the Lessee an amount equal to the proceeds from the insurance. If a mortgagee shall elect to permit application of the insurance proceeds to reconstruction and repair, the mortgagee may hold such funds and may impose such terms and conditions relative to requiring Lessee to supplement such funds in such amounts as may be necessary to pay for the reconstruction and repair, and to the disbursement of such funds and to such other matters relating to the funds as the mortgagee may require.

16. Interest Not Part of Common Areas. Lessee's interest under this Lease and in and to the Leased Premises is not a part of any horizontal property regime now established or which may be established in the Project; and, accordingly, and notwithstanding the provisions of paragraph 8, no mortgage lien or other encumbrance against a Lot or the Property shall be considered or construed as a mortgage lien or other encumbrance against the Lessor's title in and to the Leased Premises or the Lessee's interest under this Lease. To the extent that it shall be necessary to perform any of its promises and covenants herein or to

exercise any of its rights, privileges and remedies hereunder, Lessee shall at all times be the irrevocable agent in fact for each Owner of a Lot or of any other Lot and for each Owner of a mortgage or other lien upon a Lot, except Lessee shall not at any time be the agent in fact for the Lessor. In performing the promises and covenants and in the exercise of its rights, remedies and privileges, Lessee shall be deemed to be acting for itself and as agent in fact for each and every one of the above described parties.

17. Lessor's Right To Perform Lessee's Covenants.

If Lessee shall fail to pay the costs of maintenance and repairs or if it shall fail to take out, maintain and deliver insurance policies, or if it shall fail to perform any other act or covenant on its part herein to be performed, then the Lessor may, but shall not be obligated to, and without notice or demand upon the Lessee, perform the act omitted or failed to be performed by Lessee. If such performance by Lessor constitutes in whole or in part the payment of money, such monies so paid by Lessor, together with interest thereon at the rate of seven percent (7%) per annum and reasonable attorneys' fees incurred by Lessor and collection of such monies, shall be deemed additional rent hereunder and shall be payable to the Lessor on demand or, at the option of the Lessor, may be added to any rent then due or thereafter becoming due under this Lease. Lessee covenants to pay any such sums with interest and reasonable attorneys' fees, and the Lessor shall have, in addition to any and all other rights and remedies herein provided, the same rights and remedies in the event of nonpayment of such monies

as in the case of default by the Lessee in the payment of rent.

18. Lessor's Right of Entry. Lessor and its agents shall have the right of entry upon the Leased Premises at all reasonable times to examine the condition and use thereof; provided, however, such right shall be exercised in a manner so as not to interfere with the Lessee in the conduct of Lessee's operation of the Leased Premises, and if the Leased Premises are damaged by casualty which causes the Leased Premises to be exposed to the elements, then Lessor may, but is not obligated to, enter upon the Leased Premises to make emergency repairs.

19. No Termination Upon Casualty. No damage or destruction to buildings, structures, improvements or furnishings, fixtures, machinery, or equipment now or hereafter located upon the Leased Premises by fire, windstorm, or other casualty shall entitle Lessee to surrender possession or to terminate this Lease or to violate any of its covenants or to cause any rebate, abatement or adjustments in the rent then due or thereafter becoming due under the terms hereof. If the Lease be cancelled or terminated by reason of the Lessee's default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation or termination of this Lease, be deemed immediately to become the absolute and unconditional property of the Lessor.

20. Redelivery of Premises. At the termination of this Lease by expiration of the Lease Term or otherwise,

Lessee shall peaceably and quietly deliver possession of the Leased Premises and all improvements situated thereon, including but not limited to all personal property, to the Lessor in good condition and thereupon all buildings, improvements and personal property then situated upon the Leased Premises shall become and remain the property of the Lessor, and no compensation shall be allowed or paid by the Lessor to the Lessee therefor.

21. Interest. When not otherwise provided in this Lease, all sums of money coming due from Lessee to Lessor shall bear interest at the rate of seven percent (7%) per annum from the date the same shall become due until the date the same are paid.

22. Indemnification. Lessee indemnifies and agrees to save harmless Lessor from and against any and all claims, debts, demands or obligations which may be made against the Lessor or against the Lessor's title in the Leased Premises arising by reason of or in connection with the making of this Lease, the ownership by the Lessee of its interest in this Lease and in and to the Leased Premises and the Lessee's occupancy and possession of the Leased Premises. If it becomes necessary for the Lessor to defend any actions seeking to impose any such liability, Lessee will pay to Lessor all costs of reasonable attorneys' fees incurred by it in effecting such defense in addition to any other sums which Lessee may be called upon to pay by reason of the entry of a judgment against Lessor in which such claim is asserted.

23. Attorneys' Fees and Costs. Lessee shall pay Lessor all court costs, reasonable attorneys' fees,

including fees in connection with appeals and other costs incurred and expended by Lessor in enforcing the terms of this Lease, without relief from valuation or appraisal laws.

24. Waste. Lessee shall not do or suffer any waste or damage, disfigurement or injury to the Leased Premises or to any improvements, structures, buildings and personal property now or hereafter placed or brought thereon.

25. Relationship. Although this is a long-term Lease, the parties understand and agree that the relationship between them is that of landlord and tenant.

26. Default and Remedy. Each of the following shall be deemed a default by Lessee:

(a) Failure to pay the rent as herein provided when due.

(b) Failure to pay any additional rent, costs or expenses which may be provided in this Lease, when due.

(c) Failure to perform any act to be performed by the Lessee hereunder or to comply with any condition or covenant contained herein.

(d) The abandonment of the Leased Premises by Lessee or its adjudication as a bankrupt, the making by the Lessee of a general assignment for the benefit of creditors, Lessee's taking the benefit of any insolvency action or law, the appointment of a permanent receiver or trustee in bankruptcy for the Lessee or its assets, the appointment of a temporary receiver for the Lessee or its assets if such temporary receivership has not been vacated or set aside within thirty (30) days from the date of such appointment; the initiation of an arrangement or similar proceedings for the benefit of creditors by or against the Lessee.

In the event of any default provided above and the continuance of such default after ten (10) days' written notice is given by Lessor to Lessee, the Lessor shall then