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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

ENCLAVE AT WINTON MEADOWS

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ENCLAVE AT WINTON MEADOWS is made this 28th day of December 2011, by Beazer Homes Indiana LLP, an Indiana limited liability partnership ("Declarant").

Article I Creation of the Community

1.1. Purpose and Intent.

This Declaration of Covenants, Conditions and Restrictions for Enclave at Winton Meadows ("Declaration") establishes a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance and preservation of Enclave at Winton Meadows as a planned community. An integral part of the development plan is the formation of the Enclave at Winton Meadows Property Owners Association, Inc., an Indiana nonprofit corporation, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the Governing Documents (as defined in Article II below).

This Declaration is not intended to create, nor shall it be construed or deemed to create, a condominium pursuant to Indiana law (Indiana Code §32-25-1 et seq.).

1.2. Binding Effect.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article II below) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Community (as defined in Article II below), their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community.

All provisions of the Governing Documents shall apply to all owners and to all occupants of their dwellings, as well as their respective tenants, guests and invitees. Any lease on a dwelling shall provide that the lessee and all occupants of the leased dwelling shall be bound by the terms of the Governing Documents.

Article II Definitions

Unless otherwise specified, the capitalized terms in this Declaration and the attached exhibits shall be defined as follows:

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement.

"Articles of Incorporation" or "Articles": The Articles of Incorporation for Enclave at Winton Meadows Property Owners Association, Inc., as filed with the Secretary of State for the State of Indiana.

"Association": Enclave at Winton Meadows Property Owners Association, Inc., an Indiana nonprofit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Indiana corporate law.

"Builder": Any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers in the ordinary course of such Person's business.

"By-Laws": The By-Laws of Enclave at Winton Meadows Property Owners Association, Inc., as they may be amended.

"Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners or any areas designated as "Common Area" (or words of similar import) on any Recorded plat for the Community.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles. Common Expenses shall not include any expenses incurred during the Declarant Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class "A" vote of the Association.

"Community" or "Enclave at Winton Meadows": The property described in Exhibit "A" and any additional property made subject to this Declaration in the future by amendment or Supplemental Declaration in accordance with Article IX.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Community. Such standard may be more specifically determined by the Board and the Design Review Committee.

"Declarant": Beazer Homes Indiana LLP, an Indiana limited liability partnership, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibit "A" or "B" for the purpose of development and/or sale and who is designated as the Declarant in a Recorded instrument executed by the immediately preceding Declarant; provided, there shall be only one Declarant at any time.

"Declarant Control Period": The period of time during which the Declarant is entitled to appoint at least a majority of the members of the Board of Directors as provided in the By-Laws.

"Design Guidelines": The design and construction guidelines and application and review procedures applicable to the Community promulgated and administered pursuant to Article IV.

"Exclusive Common Area": A portion of the Common Area primarily benefiting one or more Units as more particularly described in Article XII.

"Governing Documents": A collective term referring to this Declaration, any Supplemental Declarations, the By-Laws, the Articles, the Design Guidelines, the Rules and any applicable permits, licenses or approvals issued by any governmental agency for the Community, as they may be amended.

"Master Plan": The land use plan for the development of the Community, as it may be amended from time to time, which plan includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article IX.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

"Mortgagee": A beneficiary or holder of a Mortgage.

"Mortgagor": Any Person who gives a Mortgage.

"Neighborhood": A group of Units designated as a separate Neighborhood for purposes of sharing Exclusive Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units within the Community as provided in Section 6.4. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Neighborhood, then the benefited Units shall constitute a sub-Neighborhood for purposes of determining and levying Neighborhood Assessments for such benefits or services.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association, if any, having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 6.4.

"Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood to fund Neighborhood Expenses, as described in Section 8.2.

"Neighborhood Association": A condominium association or other owners association, if any, having concurrent jurisdiction (subject to this Declaration) with the Association over any Neighborhood. Nothing in this Declaration shall require the creation of a Neighborhood Association for any Neighborhood.

"Neighborhood Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Units within a particular Neighborhood, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or by any Supplemental Declaration applicable to such Neighborhood.

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Record," "Recording," or "Recorded": To file, filing, or filed of record in the Office of the [INSERT PLACE OF PUBLIC RECORDS RECORDING] _____, Hendricks County, Indiana, or such other place which is designated as the official location for recording deeds and similar documents affecting title to real estate. The date of Recording shall refer to that time at which a document, map, or plat is Recorded.

"Rules": Those use restrictions and rules affecting the Community, which may be adopted, modified and repealed as set forth in Article III. The initial Rules are set forth on Exhibit "C."

"Special Assessment": Assessments levied in accordance with Section 8.4.

"Specific Assessment": Assessments levied in accordance with Section 8.5.

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

"Unit": A portion of the Community, whether improved or unimproved, depicted as a separately identified lot or parcel on a Recorded subdivision plat, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. In the case of a building within a condominium or other structure containing multiple dwellings for independent ownership, each dwelling shall be deemed to be a separate Unit. Vacant land or land on which improvements are under construction shall be deemed to be a single Unit until a subdivision plat, survey, or condominium instrument is Recorded subdividing the land into more than one Unit.

Article III Use and Conduct

3.1. Restrictions on Use, Occupancy, and Alienation.

The restrictions set forth in this Section 3.1 may be amended only in accordance with Section 18.2.

(a) **General.** Units shall be used only for residential and related purposes consistent with the Governing Documents. The provisions of this Article III shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Community or its use of any Units which it owns within the Community.

(b) **No Business Use.** No business, trade, or similar activity shall be conducted within the Community except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by

sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Community; (iii) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Community; and (iv) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required. Leasing a Unit shall not be considered a business or trade within the meaning of this subsection.

(c) Leasing of Units. "Leasing," for purposes of the Governing Documents, is defined as regular, exclusive occupancy of a Unit by any Person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Units may be leased only in their entirety. No fraction or portion of a Unit may be leased. All leases shall be in writing.

An Owner leasing his or her Unit shall provide notice of any lease, together with a copy of the lease and such other additional information as the Board may require, to the Board, or to such Person designated by the Board to receive such notice and information, no later than 10 days after the execution of the lease. The Owner must make available to the lessee copies of the Governing Documents.

(d) Subdivision of a Unit and Time-Sharing. No Unit shall be subdivided or its boundary lines changed; provided, Declarant, its successors and assigns, and Builders, with Declarant's approval, may subdivide, re-subdivide, change the boundary lines of, and replat Units and the Common Area in a manner consistent with the Community scheme of development, for so long as Declarant or any Builder owns any portion of the Community.

No Unit shall be made subject to any type of timesharing, fraction-sharing, interval ownership or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

(e) Occupants Bound. All provisions of the Governing Documents shall apply to all occupants, tenants, guests, and invitees of any Unit. Every Owner shall cause all occupants, tenants, guests, and invitees of his or her Unit to comply with the Governing Documents and shall be responsible for all violations and losses to the Area of Common Responsibility caused by such Persons, notwithstanding the fact that such Persons also are fully liable and may be sanctioned for any violation.

3.2. Framework for Regulation.

The Community has been established and is administered pursuant to the Governing Documents that have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

3.3. Rule Making Authority.

The initial Rules applicable to the Community are attached as Exhibit "C" to this Declaration. Subject to the terms of this Article III, the Rules may be modified in whole or in part, repealed or expanded as follows:

(a) Subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the Rules set forth on Exhibit "C." The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

(b) Alternatively, the Members, at a meeting duly called for such purpose as provided in the By-Laws, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Rules by a vote of Members representing at least 51% of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(c) A rules change adopted under this Section 3.3 shall take effect 30 days after the date on which written notice of the rules change is given to the Owners.

(d) Nothing in this Article III shall authorize the Board or the Members to modify, repeal or expand the Design Guidelines or other provisions of this Declaration. In the event of any inconsistency between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the provisions of the Declaration and the Rules, the provisions of the Declaration shall control.

(e) The procedures required under this Section 3.3 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times. The Board shall exercise business judgment in the enactment, amendment, and enforcement of such administrative rules and regulations.

3.4. Owners' Acknowledgment and Notice to Purchasers.

All Owners and occupants of Units are given notice that use of their Units is limited by the Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into and recording a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit may be affected and that the Rules may change from time to time. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

3.5. Protection of Owners and Others.

Except as may be specifically set forth in this Declaration (either initially or by amendment) or in Exhibit "C," neither the Board nor the Members may adopt any rule in violation of the following provisions:

- (a) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.
- (b) Displays. No rule shall abridge an Owner's right to display political, religious, or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods, nor shall any rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside structures on the Unit, including reasonable limitations on size and number to the extent permitted by Indiana Code §32-21-13-1 et seq.). Owners may display one "For Sale" or "For Rent" sign on their Units provided such signs are a similar size and quality as those used by local real estate brokers and agents which shall in no event exceed six square feet of surface area.
- (c) Household Composition. No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area.
- (d) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, that create an unreasonable source of annoyance, that violate applicable zoning ordinances or any zoning commitments Recorded in connection with the Community.
- (e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area, violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.
- (f) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may adopt minimum and maximum lease terms pursuant to Section 3.3 of this Declaration. Minimum and maximum lease terms may vary by Neighborhood. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.
- (g) Abriding Existing Rights. No rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.
- (h) Reasonable Rights To Develop. No rule or action by the Association or Board shall interfere Declarant's right to develop, market and sell property within the Community.
- (i) Interference with Easements. No rule may unreasonably interfere with the exercise of any easement.

Article IV Design and Landscaping

4.1. General.

All site work, landscaping, structures, improvements, and other items placed on a Unit in a manner or location visible from outside of any existing structures on the Unit are subject to standards for design, landscaping, and aesthetics adopted pursuant to the Design Guidelines and the approval procedures set forth in this Article IV.

No Owner, other than Declarant or a Builder authorized by Declarant, may obstruct or rechannel drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant, authorized Builders, and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

No prior approval is necessary to repaint the exterior of existing structures using the most recently approved color scheme for such structures or to rebuild or restore any damaged structures in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a structure visible from outside of the structure do require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by the Declarant or its designee.

Approval under this Article IV is not a substitute for any approvals, consents, permits or reviews required by any municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

This Article IV shall not apply to the Declarant's design and construction activities or to the Association's activities during the Declarant Control Period.

4.2. Design Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Community, acknowledges that, as the developer of the Community and as an Owner of portions of Community as well as other real estate within the vicinity of the Community, Declarant has a substantial interest in ensuring that the improvements within the Community enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article IV ("Work") shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under

this Article IV shall continue so long as Declarant owns any portion of the Community or has the right to expand the Community pursuant to Section 9.1 of this Declaration, unless earlier terminated in a written instrument executed and Recorded by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article IV to a design review committee appointed by the Association's Board of Directors ("DRC"), or a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article IV, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

(b) Design Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article IV, the Association, acting through the DRC, shall assume jurisdiction over design matters hereunder. The DRC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the DRC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the DRC or Declarant's rights under this Article IV terminate, the Association shall have no jurisdiction over design matters.

(c) Fees; Assistance. For purposes of this Article IV, the entity having jurisdiction in a particular case (i.e., the Declarant or the DRC) shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such Persons in the Association's annual operating budget as a Common Expense.

4.3. Guidelines and Procedures.

(a) Design Guidelines. Declarant has prepared the initial Design Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions which vary from Neighborhood to Neighborhood. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Design Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Community or has a right to expand the Community pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the DRC, unless Declarant also expressly delegates the power to amend the Design Guidelines to the DRC. Upon termination or delegation of Declarant's right to amend, the DRC shall have the authority to amend the Design Guidelines with the approval of the Board. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Community. In Declarant's discretion, such Design Guidelines may be Recorded, in which event the Recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. No Work shall commence on any portion of the Community until an application for approval has been submitted to, and approved by, the Reviewer. Such application shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Design Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall, within 30 days after receipt of a completed application and all required information, respond in writing to the applicant at the address specified in the application. The response may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto approval by the DRC pursuant to this Section 4.3. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

Until expiration of Declarant's rights under this Article IV, the DRC shall notify Declarant in writing within three business days after the DRC has approved any application relating to proposed Work within the scope of matters delegated to the DRC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have ten days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC and the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article IV, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article IV will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of the Design Guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances; and shall in all events be subject to Declarant's veto rights pursuant to Section 4.3(b) of this Declaration. For purposes of this Section 4.5, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article IV are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any Person. Review and approval of any application pursuant to this Article IV is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design.

Declarant, the Association, the Board, the DRC, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work, any defects in

Plans revised or approved hereunder, or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board, the DRC, and any members thereof shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of compliance certifying that there are no known violations of this Article IV or the Design Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Article V Maintenance and Repair

5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all structures, parking areas, and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and the Governing Documents, unless such maintenance responsibility is otherwise assumed by, or assigned to, the Association pursuant to this Declaration, any Supplemental Declaration or other covenants applicable to such Unit. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.5. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.2. Maintenance of Neighborhood Property.

Any Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants.

Upon resolution of the Board, Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this Section 5.2 shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section 5.2 shall not constitute discrimination within a class.

5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section 5.3 shall apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

Article VI The Association and its Members

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also is the primary entity responsible for administration and enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Indiana law including Indiana Code §32-25.5-1-1 et seq.

6.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3

and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, member, manager, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any.

Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2; provided, there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.9.

In any situation where there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The sole Class "B" Member shall be the Declarant. So long as the Class "B" membership exists, no votes shall be exercised for Units owned by the Class "B" Member. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under the Governing Documents, are specified in the relevant provisions of the Governing Documents. The Class "B" Member is authorized to appoint the members of the Board of Directors during the Declarant Control Period, as specified in the By-Laws. After termination of the Declarant Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

The Class "B" membership shall terminate two years after expiration of the Declarant Control Period pursuant to the By-Laws unless the Declarant voluntarily terminates such membership earlier by Recording a written notice of termination. Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to one vote for each Unit which it owns.

6.4. Neighborhoods.

Any Neighborhood, acting either through a Neighborhood Committee elected as provided in the By-Laws or through a Neighborhood Association, if any, may request that the Association provide a higher level of service than that which the Association generally provides to all Neighborhoods, or may request that the Association provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration may initially assign the property submitted thereby to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries; provided, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

Article VII Association Powers and Responsibilities

7.1. Acceptance and Control of Association Property.

The Declarant and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests.

Upon the Declarant's written request, the Association shall reconvey to the Declarant any unimproved real property that the Declarant originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate. The Association may permit use of Common Area facilities by persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) the Common Area and all improvements and structures situated thereon;
- (b) landscaping within public rights-of-way within or abutting the Community;
- (c) any ponds, streams and/or wetlands located within the Community which serve as part of the drainage and storm water retention system for the Community, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein;
- (d) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and
- (e) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members,

such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and to be maintained by the Association unless and until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association's obligation to maintain the Area of Common Responsibility shall include, but not be limited to, the obligation to undertake any monitoring, maintenance, repair, replacement or other action required by any applicable permits, licenses or approvals issued by any governmental agency for the Community.

There are hereby reserved to the Association easements over the Community as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and improvements within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant as long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other Recorded covenants, or agreements with the owner(s) thereof.

7.3. Insurance.

(a) Required Coverages. The Association shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies the Association obtains shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building codes and ordinances;

(ii) commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the

Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) directors and officers liability coverage;

(v) commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) such additional insurance as the Board, in its business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (1) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense and (2) premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Exclusive Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Hendricks County, Indiana.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment pursuant to Section 8.5.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Indiana which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the Association's name as trustee for the benefited parties. Policies on the Common Area shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement; and

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(v) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(vi) a cross liability provision; and

(vii) a provision vesting in the Board exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Community covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, means repairing or

restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. In the event the Common Area damaged or destroyed is Exclusive Common Area, Members representing at least 75% of the Units to which the Exclusive Common Area is assigned must also agree not to repair or reconstruct the Exclusive Common Area.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy a Special Assessment to cover the shortfall.

7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator, provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote to the extent permitted by applicable law;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article IV and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Design Guidelines from continuing or performing any further activities in the Community; and

(viii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

(b) In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) Recording a notice of lien against a Unit for assessments due under this Declaration without the requirement of the signature of or any further consent of the Owner; and

(iii) bringing suit at law or in equity to enjoin any violation, to recover monetary damages or to foreclose a lien.

(c) In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation and may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(e) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) the Association's position is not strong enough to justify taking any or further action;
- (ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;
- (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

(f) The Association, by contract or other agreement, may enforce applicable city and county ordinances, if applicable, and permit any city or county agency having jurisdiction over the Community to enforce ordinances within the Community for the benefit of the Association and its Members.

(g) To the extent any remedy or right granted to the Association in this Section 7.4 is inconsistent with or contrary to applicable law then in effect, the remedies and rights shall be limited to the extent necessary to comply with the applicable laws then in effect.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.6. Indemnification of Officers, Directors and Others.

To the fullest extent permitted by Indiana law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles and Indiana law.

To the fullest extent permitted by Indiana law, the officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). To the fullest extent permitted by Indiana law, the Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on

account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7. Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers and that each Person using the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.8. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefore.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

7.9. Provision of Services.

The Association may provide or provide for services and facilities for the Members, their guests, lessees, and invitees, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control service, cable television service, caretaker, transportation, fire protection, utilities, and similar services and facilities. Nothing herein shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing services provided, in its discretion, unless otherwise required by the Governing Documents. No Owner shall be exempt from the obligation to pay for such services, if provided to all Owners or Units as a Common Expense, or provided

to all Owners or Units within a Neighborhood as a Neighborhood Expense, based upon non-use or any other reason.

7.10 Relations with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services or a higher level of Common Area maintenance.

7.11 Facilities and Services Open to the Public.

Certain facilities and areas within the Community may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: roads, greenbelts, trails and paths, parks, docks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter. Use by the public may be made subject to the payment of user fees. The Board may adopt rules and regulations governing the public's use of any services, facilities, or areas within the Community.

Article VIII Association Finances

8.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.6.

The Association is hereby authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the date set for the meeting to approve such budget. The budget must be approved by a majority of the Class "A" votes in the Association and by the Class "B" Member, if such exists. In the event a quorum is not present at

the meeting to approve the budget, the Board, pursuant to Indiana Code §32-25.5-3-3(f), may adopt a budget that does not exceed one hundred ten percent (110%) of last approved budget. The failure to obtain a quorum of the membership at such meeting shall not prevent the budget from becoming effective.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the approved budget most recently in effect shall continue in effect until a new budget is determined.

Subject to any limitations set forth in Indiana Code §32-25.5-3-1 et seq., the Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.2. Budgeting and Allocating Neighborhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.4 and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood and Special Assessments against the Units in such Neighborhood.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units in the Neighborhood which are subject to assessment under Section 8.6 to fund Neighborhood Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall send a copy of the Neighborhood budget, together with notice of the amount of the Neighborhood Assessment to be levied pursuant to such budget, to each Owner in the Neighborhood at least 30 days prior to the date set for the Neighborhood meeting to approve such budget. The budget must be approved by a majority of the Owners of Units in the Neighborhood to which the Neighborhood Assessment applies. In the event a quorum is not present at the meeting to approve the Neighborhood budget, the Board, pursuant to Indiana Code §32-25.5-3-3(f), may adopt a Neighborhood budget that does not exceed one hundred ten percent (110%) of last approved Neighborhood budget. The failure to obtain a quorum of the membership at such meeting shall not prevent the Neighborhood budget from becoming effective.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

Subject to any limitations set forth in Indiana Code §32-25.5-3-1 et seq., the Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above.

8.3. Budgeting for Reserves.

The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 or the Neighborhood Expense budgets adopted pursuant to Section 8.2, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

8.4. Special Assessments.

In addition to other authorized assessments, and subject to any limitations and requirements set forth in Indiana Code §32-25.5-3-1 et seq., the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration or required by applicable law, any Special Assessment for a Common Expense shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes in the Association and any Special Assessment for Neighborhood Expenses shall require the affirmative vote or written consent of more than 50% of the total votes allocated to Units which will be subject to such Special Assessment. Any Special Assessment shall also require the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Notwithstanding the foregoing, Special Assessments that are less than or equal to 25% of the current Base Assessment may be imposed without the affirmative vote of the Members to which such Special Assessment applies.

8.5. Specific Assessments.

Subject to any limitations and requirements set forth in Indiana Code §32-25.5-3-1 et seq., the Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit, upon request of the Unit Owner, pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit

Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in the Neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

8.6. Authority To Assess Owners; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article VIII and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is conveyed by Declarant to an Owner or Builder, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article VIII, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Indiana law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and

independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether any such assessment has been paid or remains unpaid. Such certificate shall be conclusive evidence of payment and shall be binding on the Association and the Members. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Make Contribution to the Association. During the Class "B" membership, Declarant shall have no obligation to pay assessments (whether Base, Neighborhood, Special or Specific) on Units which it owns. Declarant shall have the right, but not the obligation, to make a contribution to the Association by paying assessments on Units it owns in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. This contribution may, at the election of Declarant, be made in the form of a loan to the Association. Regardless of Declarant's election, Declarant's contribution hereunder may be made in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" membership, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

8.8. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, fines (subject to the limitations of Indiana law), and costs of collection (including attorneys fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, judicial or nonjudicial foreclosure.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessments shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessments, its pro rata share of the assessments that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.6, including such acquirer, its successors and assigns.

8.9. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant that are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

8.10. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-half of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents.

Article IX Expansion of the Community

9.1. Expansion by Declarant.

Until all property described on Exhibit "B" has been subjected to this Declaration or 20 years after the this Declaration is Recorded, whichever is earlier, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, Recorded instrument executed by Declarant.

Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the Recording of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent

of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon Recording unless otherwise provided therein.

9.3. Additional Covenants and Easements.

The Declarant may subject any portion of the Community to additional covenants and easements by Recording a Supplemental Declaration, concurrent with or after the annexation of the subject property, setting forth such additional covenants and easements. Any such Supplemental Declaration shall require the written consent of the owner(s) of the subject property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Section 9.1, for the purpose of removing any portion of the Community from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community and does not reduce the total number of Units then subject to this Declaration by more than 10%. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant.

10.2. Marketing and Sales Activities.

Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities and shall not be subject to fees or rental charges.

10.3. Right To Develop.

Declarant reserves for itself and its employees, agents and designees a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and

installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Community acknowledges that the Community is a planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

10.4. Right To Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Community without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

10.5. Right To Approve Changes in Community Standards.

No amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.6. Right To Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed and Recorded by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.7. Exclusive Rights To Use Name of Development.

No Person shall use the name "Enclave at Winton Meadows" or any derivative of such name in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Enclave at Winton Meadows" in printed or promotional matter where such term is used solely to specify that particular property is located within Enclave at Winton Meadows and the Association shall be entitled to use the words "Enclave at Winton Meadows" in its name.

10.8. Termination of Rights.

The rights contained in this Article X shall not terminate until the earlier of (a) 20 years from the date this Declaration is Recorded, or (b) Recording by Declarant of a written statement that all sales activity has ceased.

10.9. Amendment.

This Article X, and any other provision of this Declaration that reserves or grants Declarant any right or privilege, may not be amended without the written consent of the Declarant, so long as Declarant owns any property within the Community or has the right to subject additional property to this Declaration pursuant to Section 9.1.

Article XI Easements

11.1. Easements in Common Area.

Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to:
 - (i) adopt Rules pursuant to Article III regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to Section 3.24 of the By-Laws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facilities situated upon the Common Area;
 - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of such use fees as the Board may establish; and
 - (vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
- (d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated Exclusive Common Areas, as described in Article XII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An

Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

11.1. Easements of Encroachment.

There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

Notwithstanding the foregoing, Declarant reserves for itself and its employees, agents and designees, a right of access and use and an easement over and upon all of the Community (but not through a structure) to the extent reasonably necessary for the purpose of installing and maintaining roads, trails, pathways and walkways for the enjoyment, use, access, and development of the Community. This shall include, but not be limited to, the right to locate a portion of such roads, trails, pathways and walkways on a Unit for a distance that exceeds three feet from the common boundary for the benefit of the Declarant, the Association and its Members, provided such encroachment does not eliminate the ability of the Owner of such Unit to construct or maintain a dwelling on the Unit. The Declarant further reserves for itself, the Association and the Members, a right of access and use and an easement over such roads, trails, pathways and walkways. Such encroachment, and any use of such roads, trails, pathways and walkways shall not be deemed a trespass.

11.2. Easements for Utilities, Etc.

(a) **Installation and Maintenance.** There are hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Community (but not through a structure) to the extent reasonably necessary for the purpose of monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; wetlands and drainage systems; street lights and signage; all Common Area improvements; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which the Declarant or the Association owns or within easements designated for such purposes on recorded plats of the Community. This shall include, but not be limited to, the right to temporarily place construction materials and debris on Units and the Common Area.

Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Community for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) **Specific Easements.** There is hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, the non-exclusive right and

power to grant such specific easements to any party as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibit "A" or "B."

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section 11.3 shall be promptly repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant of such Unit.

11.4. Easements to Serve Additional Property.

The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of the exercise of this easement.

11.5. Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over the Community as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Wetlands and Water Feature Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any portion of the Community abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section 11.6.

Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Community, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care

in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

Article XII Exclusive Common Areas

12.1. Purpose.

Certain portions of the Common Area may be designated as Exclusive Common Area and assigned for the exclusive use or primary benefit of one or more Units within the Community. By way of illustration and not limitation, Exclusive Common Areas may include common driveways, entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area. At the election of the Board, all costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area may be allocated among the Units to which the Exclusive Common Area is assigned and assessed as either a Specific Assessment or a Neighborhood Assessment as appropriate.

12.2. Designation.

Initially, any Exclusive Common Area shall be designated as such in the Supplemental Declaration submitting such property to the Declaration, in the deed conveying such area to the Association, a Supplemental Declaration or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area and Exclusive Common Area may be reassigned upon approval of the Board and the vote of a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes for the Units affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

12.3. Use by Others.

Upon approval of a majority of Owners of Units to which any Exclusive Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the expenses attributable to such Exclusive Common Area.

Article XIII Party Walls and Other Shared Structures

13.1. General Rules of Law to Apply.

Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Article XIII, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

13.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

13.3. Right to Contribution Runs With Land.

The right of any Owner to contribution from any other Owner under this Article XIII shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

Article XIV Limitation on Litigation

Except as provided in this Article XIV, the Association shall not commence a judicial or administrative proceeding without the approval of Owners representing at least 75% of the Class "A" votes in the Association. This Article XIV shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Article XIV shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Article XV Mortgage Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Community.

15.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

15.2. Other Provisions for First Lien Holders.

To the extent not inconsistent with Indiana law:

(a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

15.3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

15.4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Article XVI Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. To the extent permitted by applicable law, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Article XVII Changes in Common Area

17.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least 67% of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or

proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section 17.2 shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

17.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Hendricks County, Indiana or to any other local, state, or federal governmental or quasi-governmental entity with or without compensation therefor.

Article XVIII General Provisions

18.1. Duration.

(a) Unless terminated as provided in Section 18.1(b), this Declaration shall have perpetual duration. If Indiana law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided herein.

(b) Unless otherwise provided by Indiana law, in which case such law shall control, this Declaration may not be terminated within the first 20 years after the date of Recording without the consent of all Unit Owners. Thereafter, it may be terminated only by a Recorded instrument signed by Owners of at least 75% of the total Units within the Community and by the Declarant, if the Declarant owns any portion of the Community. Nothing in this Section 18.1 shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

18.2. Amendment.

(a) In addition to specific amendment rights granted elsewhere in this Declaration, during the Declarant Control Period, the Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state, or federal governmental agency.

In addition, during the Class "B" membership, the Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment is consistent with the overall plan of development for the Community.

(b) Except as otherwise specifically provided Section 18.2(a) above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of not less than 75% of the total number of Units within the Community and the consent of the Declarant, so long as the Declarant has the unilateral right to subject additional property to the provisions of this Declaration pursuant to Section 9.1, any such amendment shall also require the Declarant's written consent.

Notwithstanding anything in Section 18.2(b) above, the percentage of votes necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

(c) No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.3. Severability.

If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

18.4. Cumulative Effect: Conflict.

The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this Section 18.4 shall preclude any Supplemental Declaration or other Recorded declaration, covenants and restrictions applicable to any portion of the Community from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the provisions of any other articles of incorporation, by-laws, rules, or policies governing any Neighborhood, the Governing Documents shall control. If there are conflicts between any of the Governing Documents and Indiana law, Indiana law shall control. If there are conflicts between or among any of the Governing Documents, then the Declaration, the Articles, and the By-Laws (in that order) shall control.

18.5. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 18.2. Exhibit "C" attached to this Declaration is incorporated by this reference and amendment of such exhibit shall be governed by the provisions of Article III. All other exhibits are attached for informational purposes and may be amended as provided therein.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 28th day of March, 2011.

BEAZER HOMES INDIANA LLP, an [SEAL]
Indiana limited liability partnership

By: Beazer Homes Investments, LLC,
Managing Partner

By: Beazer Homes Corp., Sole Member,



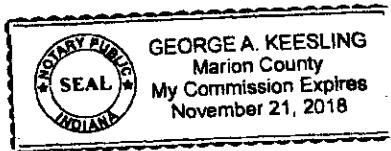
Steve Cook, LD Manager
Division—Indianapolis

STATE OF INDIANA)
)
COUNTY OF Marion)

ACKNOWLEDGEMENT

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared STACE COOK and _____, with whom I am personally acquainted, and who, upon oath, acknowledged themselves to be the LD Manager and _____, respectively, of Beazer Homes Corp., a Tennessee corporation, and that they, being authorized so to do, executed the foregoing instrument for the purposes therein on behalf of said corporation.

WITNESS my hand and Notarial Seal in said State and County this 28 day of December, 2011.



George A. Keesling
Notary Public for Indiana
My Commission Expires: _____

EXHIBIT "A"

Winton Meadows, Section 4

A part of the Northwest Quarter of Section 36, Township 16 North, Range 1 East, in Washington Township, Hendricks County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Quarter Section; thence North 88 degrees 03 minutes 56 seconds East along the North line of said Quarter Section a distance of 1,299.41 feet to the POINT OF BEGINNING of this description; thence continuing North 88 degrees 03 minutes 56 seconds East 447.68 feet; thence South 00 degrees 51 minutes 20 seconds East 420.03 feet; thence South 62 degrees 38 minutes 40 seconds West 16.72 feet; thence South 39 degrees 05 minutes 01 seconds West 130.00 feet; thence South 50 degrees 54 minutes 59 seconds East 41.54 feet; thence South 39 degrees 05 minutes 01 seconds West 190.00 feet; thence South 50 degrees 54 minutes 59 seconds East 92.13 feet; thence South 01 degrees 12 minutes 59 seconds East 606.71 feet; thence South 21 degrees 53 minutes 23 seconds East 152.34 feet; thence South 27 degrees 54 minutes 52 seconds East 98.00 feet; thence North 62 degrees 05 minutes 08 seconds East 33.42 feet; thence South 27 degrees 54 minutes 52 seconds East 50.00 feet; thence South 62 degrees 05 minutes 08 seconds West 10.00 feet; thence South 27 degrees 54 minutes 52 seconds East 148.00 feet; thence South 62 degrees 05 minutes 08 seconds West 170.00 feet; thence South 23 degrees 03 minutes 33 seconds West 85.43 feet; thence South 01 degrees 08 minutes 46 seconds East 340.00 feet; thence South 89 degrees 00 minutes 15 seconds West 148.00 feet; thence South 01 degrees 08 minutes 46 seconds East 29.88 feet; thence South 88 degrees 51 minutes 14 seconds West 50.00 feet; thence North 01 degrees 08 minutes 46 seconds West 10.00 feet; thence South 88 degrees 51 minutes 14 seconds West 150.00 feet; thence North 01 degrees 08 minutes 46 seconds West 2,268.77 feet; to the place of beginning, containing 19.592 acres, more or less, subject to all legal highways, rights-of-way, easements, and restrictions of record.

This subdivision consists of 40 lots numbered 1-40 (all inclusive) and Four Common Areas labeled 1-4 (all inclusive). The size of lots and width of streets are shown in feet and decimal parts thereof.

Cross-Reference is hereby made to a survey plat prepared by The Schneider Corporation in accordance with Title 865, Article 1, Chapter 12 of the Indiana Administrative Code recorded as Instrument Number 201200324 in the Office of the Recorder of Hendricks County, Indiana.

I, the undersigned, hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana and that the within plat represents a subdivision of the lands surveyed within the cross referenced survey plat, and that to the best of my knowledge and belief there has been no change from the matters of the survey revealed by the cross-reference survey on any lines that are common with the new subdivision.

Witness my signature this _____ day of _____, 2011

SA:62155S4\Legal\Plat\Plat.rtf
KRG

EXHIBIT "B"

A part of the Northwest Quarter of Section 36, Township 16 North, Range 1 East, in Washington Township, Hendricks County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Quarter Section; thence North 88 degrees 03 minutes 56 seconds East along the North line of said Quarter Section a distance of 1,747.09 feet to the Northwest corner of land deeded to Goeffrey and Hilary Cox and recorded in Deed Book 306, page 201 in the Office of the Recorder of Hendricks County, Indiana; thence South 00 degrees 51 minutes 20 seconds East along the West line of said real estate a distance of 420.03 feet to the POINT OF BEGINNING of this description; thence North 88 degrees 03 minutes 30 seconds East along the South line of said real estate a distance of 204.98 feet to the West line of the East Half of the Northeast Quarter of the Northwest Quarter; thence South 01 degrees 12 minutes 59 seconds East along said West line a distance of 914.11 feet to the Southwest corner of said East Half; thence North 88 degrees 02 minutes 48 seconds East along the South line of said East Half a distance of 654.78 feet; thence South 01 degrees 26 minutes 28 seconds East 1,333.43 feet; thence South 88 degrees 05 minutes 20 seconds West 1,313.29 feet; thence North 01 degrees 08 minutes 46 seconds West 398.08 feet; thence North 88 degrees 51 minutes 14 seconds East 150.00 feet; thence South 01 degrees 08 minutes 46 seconds East 10.00 feet; thence North 88 degrees 51 minutes 14 seconds East 50.00 feet; thence North 01 degrees 08 minutes 46 seconds West 29.88 feet; thence North 89 degrees 00 minutes 15 seconds East 148.00 feet; thence North 01 degrees 08 minutes 46 seconds West 340.00 feet; thence North 23 degrees 03 minutes 33 seconds East 85.43 feet; thence North 62 degrees 05 minutes 08 seconds East 170.00 feet; thence North 27 degrees 54 minutes 52 seconds West 148.00 feet; thence North 62 degrees 05 minutes 08 seconds East 10.00 feet; thence North 27 degrees 54 minutes 52 seconds West 50.00 feet; thence South 62 degrees 05 minutes 08 seconds West 33.42 feet; thence North 27 degrees 54 minutes 52 seconds West 98.00 feet; thence North 21 degrees 53 minutes 23 seconds West 152.34 feet; thence North 01 degrees 12 minutes 59 seconds West 606.71 feet; thence North 50 degrees 54 minutes 59 seconds West 92.13 feet; thence North 39 degrees 05 minutes 01 seconds East 190.00 feet; thence North 50 degrees 54 minutes 59 seconds West 41.54 feet; thence North 39 degrees 05 minutes 01 seconds East 130.00 feet; thence North 62 degrees 38 minutes 40 seconds East 16.72 feet to the place of beginning, containing 38.458 acres, more or less, subject to all legal highways, rights-of-way, easements, and restrictions of record.

S:\62155\Legal\Remainder of Winton Meadows.rtf

EXHIBIT "C"

Initial Rules

The following restrictions shall apply to all of the Community until such time as they are amended, modified, repealed or limited by rules of the Association adopted pursuant to Article III of the Declaration.

1. General. The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibit "A" or "B," offices for any property manager retained by the Association or business offices for the Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. Restricted Activities. The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Any activity which violates local, state, or federal laws or regulations is prohibited within the Community; however, the Association shall have no obligation to take enforcement action in the event of a violation.

(b) Parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats, and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages is prohibited; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for any period of time reasonably necessary to provide service or to make a delivery to a Unit or the Common Area. In addition, Declarant and authorized Builders may park and use construction vehicles, trailers, and other equipment on a Unit or Common Area for purposes relating to the construction, development, marketing, and sale of property without complying with this subsection. For purposes of this Section 2(b) "commercial vehicles" shall include, without limitation, semi-trucks, semi-trucks and trailers, wreckers or tow trucks, hydraulic or mechanical lift vehicles (excludes handicap lifts), cranes, trucks or vans with chemical storage chemical storage for landscaping or pest treatment, oversized trucks greater than one ton of has more than six wheels, vans or buses for commercial which seats twelve or more passengers and any vehicle with prominent advertising (e.g., vehicles "wrapped" bumper to bumper or side to side with advertising, advertising painted on portions of the vehicle or other signage or decals). Notwithstanding the foregoing, the term "commercial vehicle" shall not include any government or emergency vehicle such as police, sheriff, marshal, fire, rescue or ambulance;

(c) Raising, breeding, or keeping animals, livestock, or poultry of any kind is prohibited, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise physically restrained or confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law.

(d) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Unit;

(e) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(f) Outside burning of trash, leaves, debris or other materials, except during the normal course of constructing a dwelling on a Unit;

(g) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(h) Use and discharge of firecrackers and other fireworks;

(i) Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(j) No Owner, other than Declarant or a Builder authorized by Declarant, may obstruct or rechannel drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant, authorized Builders, and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit is prohibited without prior approval pursuant to Article IV.

(m) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, is prohibited except in strict compliance with the provisions of Article IV of this Declaration, the Design Guidelines, and the Rules. This shall include, without limitation, signs, permanent basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; swimming pools and other water features; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind; and satellite dishes and antennas. Children's playsets are permitted within the backyard of a Unit without being subject to the provisions of Article IV of the Declaration or the Design Guidelines. In addition, portable basketball hoops are not subject to the provisions of the Article IV of the Declaration or the Design Guidelines, however, Rules may be adopted regarding the use of portable basketball hoops (e.g. the Association could require the removal of portable basketball hoops that are broken or have fallen into disrepair);

(n) The display of signs of any kind on any Unit except as provided in Section 3.5(b) of the Declaration and as may be required by legal proceedings or by a governmental entity (e.g., a building permit or a foreclosure notice). Notwithstanding the above, Declarant and Builders authorized by Declarant may erect or display signs, banners, flags, balloons, or other things in connection with development, construction, marketing, and sales activities. In addition, the Board may erect or display signs that it deems reasonable and appropriate in its discretion, subject to the Community-Wide Standard.

(o) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge; and

(p) Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, wetlands, or other ground or surface waters within the Community, except that Declarant and the Association shall have the right to draw water from such sources.

3. Prohibited Activities. The following activities are prohibited within the Community:

(a) Structures, equipment or other items on the exterior portions of a Unit which have become rusty, dilapidated or otherwise fallen into disrepair;

(b) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community, or any portion thereof, as determined in the Board's discretion;

(c) Metal, plastic, fabric or chain link fences of any kind; and

(c) Accumulation or storage of combustible materials or debris on Units, except to the extent reasonably necessary during the construction of a dwelling on the Unit. This Rule shall not preclude the storage of reasonable amount of firewood on a Unit provided that it is stacked and stored in a safe manner and location.

I affirm under penalties of perjury that I have taken reasonable care to redact each Social Security Number in this document, unless required by law Andrew Devin.

This instrument prepared by Andrew Devin, Esq., Beazer Homes, 1000 Abernathy Road, Suite 260, Atlanta, Georgia, 30328