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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

GRANT PARK PATIO HOMES OF PRESTWICK

A Subdivision located in Hendricks County, Indiana

39+2

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
GRANT PARK PATIO HOMES OF PRESTWICK**

THIS Declaration of Covenants, Conditions and Restrictions of Grant Park Patio Homes of Prestwick ("Declaration") is made on the 29th day of May, 2013, by Westport Homes, Inc., an Indiana corporation ("Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Hendricks County, Indiana, which is more particularly described in Exhibit "A" (hereafter "Real Estate") attached hereto and by this reference, made a part hereof, upon which Declarant intends to develop a residential subdivision comprised of attached patio homes.

WHEREAS, Declarant desires to subdivide and develop the Real Estate, as hereinafter provided.

WHEREAS, the term "Property" shall hereafter mean and refer to the Real Estate.

WHEREAS, the Property is zoned as part of a larger community and was originally intended to be part of a condominium, which condominium was partially constructed on real estate located adjacent to the Property and is now known as Grant Park Condominium pursuant to that certain Grant Park Condominium Declaration, dated August 1, 2006 and recorded in the Office of the Recorder of Hendricks County, Indiana as Instrument Number 200700008298 on April 3, 2007; as amended (such condominium shall hereinafter be referred to as the "Condominium").

NOW, THEREFORE, the Declarant hereby declares that all of the Lots (as defined in Article II below) in the Property, as they are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied, and improved, are subject to the following restrictions, all of which are declared to be in furtherance of a plan of the improvement and sale of the Property and each Lot situated therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and each of the Lots situated therein. The restrictions shall run with the Property and shall be binding upon the Declarant, its successors and assigns, and upon the parties having or acquiring any interest in the Property or any part or parts thereof subject to these restrictions. The restrictions shall inure to the benefit of the Declarant and its respective successors entitled to the Property or any part or parts thereof.

As of the date of execution hereof, the Property consists solely of the Real Estate. The Owner of any Lots subject to these restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot or (ii) the active occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy such Lot subject to each restriction and agreement herein contained.

By acceptance of such deed, execution of such contract, and/or actively occupying such Lot, each Owner acknowledges the rights and powers of Declarant and of the Association with respect to these restrictions and also for itself, its heirs, personal representatives, successors, and assigns covenants and agrees to keep, observe and comply with the terms and conditions hereof.

ARTICLE I

Name

The subdivision of the Property created by this Declaration shall be known and designated as Grant Park Patio Homes of Prestwick (hereinafter "Subdivision").

ARTICLE II

Definitions

The following terms, when used throughout this Declaration, shall have the following meanings and definitions:

Section 2.1 "Articles" means the Articles of Incorporation of the Association (as hereinafter defined) filed, or to be filed, with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time.

Section 2.2 "Association" means the GRANT PARK PATIO HOMES HOMEOWNERS ASSOCIATION, INC., a non-profit corporation, its successors and assigns.

Section 2.3 "Board of Directors" means the Board of Directors of the Association.

Section 2.4 "Builder" means a person or entity engaged in and responsible for the original construction of a residence on a Lot (as hereinafter defined).

Section 2.5 "Patio Home Common Area" means: (1) those portions of the Property, including improvements thereto, facilities and personal property owned, to-be-owned, leased or to-be-leased by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined), (2) Lake Area as defined below, and (3) items (if any) deemed Patio Home Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Patio Home Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereinafter defined) as a "Block", "Common Area", "C.A", or such other areas within the Property that are not otherwise identified on the Plat (as hereinafter defined) as a lot or street. The Patio Home Common Area to be conveyed to the Association at the time of conveyance of the first Lot (as hereinafter defined) to an Owner (as hereinafter defined) is described in the Plat (as hereinafter defined). Notwithstanding anything contained herein to the contrary, the term "Patio Home Common Area" does not mean Common Areas A through E on the Plat, which common areas are owned by the Condo Association in the Condominium. Such common areas owned by the Condo Association are referred to herein as "Condominium Common Areas."

Section 2.6 “Common Expenses” shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of all Patio Home Common Area and Condominium Common Areas (pursuant to the Maintenance Agreement defined below), and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses.

Section 2.7 “Declarant” means Westport Homes, Inc., an Indiana corporation, and its successors and assigns.

Section 2.8 “Development Period” means the period of time commencing with Declarant’s acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot (as hereinafter defined) or any other portion of the Property.

Section 2.9 “Dwelling Unit” means any improvement to the Property intended for any type of independent ownership for use and occupancy as a residence by a single household and shall, unless otherwise specified, include within its meaning (by way of illustration but not limitation) an attached home (one unit of a duplex) situated upon a Lot (as hereafter defined).

Section 2.10 “Lake Area(s)” means any Patio Home Common Area on which a lake now exists or is later constructed by Declarant, and “Lake” means a body of water, which now exists or is later constructed by Declarant in a Lake Area. The terms “Lake” and “Lake Area” do not include the body of water that exists on Common Area A, as such common area is owned by the Condo Association.

Section 2.11 “Lot” or “Lots” means, as the context requires, any parcel or parcels of land designated as such upon the Plat (as hereinafter defined) or, after construction, that parcel of land upon which there is constructed a Dwelling Unit that is conveyed to an Owner (as hereinafter defined) by the Declarant. Subject to any necessary approval of the appropriate governmental authority, a “Lot” may contain portions of real estate greater or lesser than its originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a Dwelling Unit.

Section 2.12 “Master Association” means the Parks at Prestwick Homeowners Association, Inc., an Indiana corporation organized under Indiana Code 23-17-1, *et seq.*, and referenced in the Master Declaration of the “Association.”

Section 2.13 “Master Committee” means the committee comprised of three (3) members appointed by the Association and two (2) members appointed by the Condo Association pursuant to that certain Common Area Maintenance Agreement, dated _____, by and between the Association and the Condo Association (the “Maintenance Agreement”).

Section 2.14 “Master Declaration” means the Declaration of Covenants and Restrictions of Parks at Prestwick recorded in the office of the Recorder of Hendricks County, Indiana on February 3, 2003, as Instrument No. 2003-00004751, as amended, including without limitation the Amendment to the Declaration of Covenants and Restrictions of the Parks at Prestwick Subdivision,

recorded on May 5, 2005, in the office of the Recorder of Hendricks County, Indiana as Instrument No. 200500012958; Second Supplement to the Declaration of Covenants and Restrictions of Parks at Prestwick Subdivision, recorded on May 5, 2005 in the office of the Recorder of Hendricks County, Indiana as Instrument No. 200500012957; Third Supplement to the Declaration of Covenants and Restrictions of the Parks at Prestwick Subdivision, recorded on August 24, 2005 in the office of the Recorder of Hendricks County, Indiana as Instrument No. 200500025766; Amendment to the Declaration of Covenants and Restrictions of the Parks at Prestwick Subdivision, recorded on April 30, 2012, in the office of the Recorder of Hendricks County, Indiana as Instrument No. 201210137; and Amendment to Declaration of Covenants and Restrictions of Parks at Prestwick, recorded on March 8, 2013, in the office of the Recorder of Hendricks County, Indiana as Instrument No. 201306751.

Section 2.15 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declarant.

Section 2.16 "Plat" means the subdivision plats of the Property, which are recorded with the Recorder of the county in which the Property is located, as the same may be hereafter amended or supplemented pursuant to this Declaration.

Section 2.17 "Provider" shall mean and refer to the entity or entities which provides Provider Services (as hereinafter defined).

Section 2.18 "Condo Association" shall mean and refer to the Grant Park Condominium Association, Inc., an Indiana non-profit corporation.

Section 2.19 "Condominium" shall mean the Grant Park Condominium as further defined in the recitals above.

Section 2.20 "Structure" shall mean any temporary or permanent improvement or building or portion thereof, including, without limitation, walls, decks, patios, stairs, windows, window boxes, doors, fences, play equipment, trampolines, greenhouses, skylights, address markers, mail boxes, name plates, flag poles, lawn ornaments, trees, hedges, shrubbery, solar panels, satellite dishes, antennae, shutters, awnings, fences, pools, hot tubs, pavement, walkways, driveways, garages and/or garage doors, or appurtenances to any of the aforementioned.

ARTICLE III

Property Rights, Easements and Encroachments

Section 3.1 Owners' Easements of Enjoyment of Patio Home Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to any Patio Home Common Area, which nonexclusive right and easement of enjoyment shall

be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities, if any, situated upon the Patio Home Common Area owned by the Association;

(b) The right of the Association to suspend the voting rights and right to use of any recreational facilities, if any, by any Owner (i) for any period during which any assessment remains unpaid and (ii) for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to promulgate reasonable rules and regulations governing the use of the Patio Home Common Area owned by the Association including, without limitation, parking, swimming, boating, fishing, (including the denial thereof of any such rights) and upon improvements, additions or alterations to the Lots and the Patio Home Common Area owned by the Association;

(d) The rights of Declarant as provided in this Declaration, as the same may be amended from time to time;

(e) The right of the Association to mortgage any or all of the Patio Home Common Area owned by the Association, upon the approval of two-thirds (2/3) of the membership of each class of members of the Association;

(f) The easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Patio Home Common Area owned by the Association for the benefit of its members;

(g) The right of the Association to dedicate or transfer all or any part of the Patio Home Common Area owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members or otherwise allowed pursuant to this Declaration, as amended. No such dedication or transfer, except as allowed pursuant to this Declaration, shall be effective unless there is recorded an instrument agreeing to such dedication or transfer signed by seventy five percent (75%) of the membership of each class of members of the Association;

(h) If ingress or egress to any Lot is through the Patio Home Common Area, any conveyance or encumbrance of such Patio Home Common Area is subject to such Lot Owner's easement for ingress and egress;

(i) The right of the Declarant to erect any signs (i) advertising the sale of the Property or any Lot and/or (ii) identifying the Subdivision;

(j) The right of the Association to enter into an agreement with the Condo Association that would grant a license to the Condo Association to use all or any portion of the Patio Home Common Areas by and for the nonexclusive benefit of the Condominium, which may include provisions for the sharing of certain expenses and the hiring of a common manager;

(k) The right of the Association to grant, with or without payment to the Association, licenses, rights-of-way and easements under, across, through or over any portion of the Patio Home Common Area; and

(l) All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

Section 3.2 Delegation of Use. In accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association, and subject to the rights of others as set forth in this Declaration, any owner may assign his or her right of enjoyment of the Patio Home Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.3 Certain Obligation and Access Rights to the Patio Home Common Area.

(a) Except as otherwise set forth in this Declaration, the Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners and the Condominium, as provided herein, of the Patio Home Common Area owned by the Association and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted a general right of access and easement to all of the Patio Home Common Area owned by the Association and across the Lots, at reasonable times and at any time in case of emergency as reasonably required by its officers, directors, employees and their agents and independent contractors, to the full extent necessary or appropriate to perform its obligations and duties as set forth in this Declaration. The easements and rights specified herein also are reserved for the benefit of Declarant so long as Declarant owns any portion of the Property and for so long as Declarant may be liable under any builder's warranty.

Section 3.4 General Drainage, Utility, Sewer and Other Development Easements. The following rights and easements reserved in this Section 3.4 shall not be exercised, after the conveyance of any Lot, in a manner that (i) unreasonably and adversely affects any Dwelling Unit or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section 3.4 shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1)

year after Declarant shall have conveyed the last Lot within the Property unless otherwise set forth herein.

(a) Declarant hereby reserves unto itself, and unto any public or private utility, a general easement (“General Drainage, Utility, and Sewer Easement”) for drainage, utility and sewer purposes in, on and over all of the Patio Home Common Area and any Lot, so as to permit Declarant to properly install and allow to be installed and maintained all electrical, telephone, water, gas and sanitary and storm sewer, to serve any Dwelling Unit constructed on the Property; provided, however, that only those Providers which receive the Declarant’s explicit written permission shall be permitted within the General Drainage, Utility, and Sewer Easement. This general Drainage, Utility, and Sewer Easement shall include all areas of the Property outside any Dwelling Units, with the exception of any areas covered by chimneys, or patios. Improvements or permanent structures installed within the Patio Home Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Patio Home Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Association, of any Patio Home Common Area. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an easement (“Lake Easement”) and right-of-way in and to any Lake Area(s) or areas now or hereafter shown on the Plat as a “Block”, “Common Area”, or “Lake” or any other Patio Home Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Declaration and/or establishing and maintaining proper surface water drainage throughout the Property, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Association deem necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(c) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an undefined sign and facilities easement (“Sign and Facilities Easement”) to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or

convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements, and all such facilities shall be maintained by the Association as a part of its Patio Home Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of the County in which the Property is located.

(e) During the period that Declarant owns any Lot, Declarant shall have an easement for access to Patio Home Common Areas for the purpose of constructing structures and other improvements in and to the Lots and for installing, maintaining, repairing, and replacing such other improvements to the Property (including any portions of the Patio Home Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing. In addition to the other rights and easements set forth herein and regardless of whether Declarant at that time retains ownership of a Lot, Declarant shall have an alienable, transferable, and perpetual right and easement to have access, ingress and egress to the Patio Home Common Areas and improvements thereon for such purposes as Declarant deems appropriate, provided that Declarant shall not exercise such right so as to unreasonably interfere with the rights of Owners in the Subdivision.

(f) The title of the Association (as to the Patio Home Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

Section 3.5 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars

and ambulances and emergency personnel, public and private, over and upon the Patio Home Common Area.

Section 3.6 Fee Title to Lot. The fee title to any Lot described as bounded by any street, lane, walkway, park, pond, lake, or any other common property which has not been dedicated or accepted by the public and the fee title to any Lot shown on any Plat as abutting upon any such common property shall not extend upon such common property and the fee title to such common property is reserved to the Declarant to be conveyed to the Association for the common enjoyment of all residents in the Subdivision.

Section 3.7 Designated Drainage, Utility, and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, utility easements, and/or sanitary or storm sewer easements, or any combination thereof (hereafter collectively "D&UE Easements"), which are hereby reserved for the non-exclusive use for such purposes by the appropriate governmental entities, public utilities, private utilities and Provider(s) for the installation and maintenance of swales, ditches, mains, ducts, poles, lines, wires, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities, the Community Network and Technology Infrastructure and for ingress and egress to accomplish such maintenance and installation; provided, however, that the only Providers which receive the Declarant's explicit written permission shall be permitted to be within the D&UE Easements. No permanent structure of any kind, including fences, patios, decks, driveways, walkways, landscaping, and trees, shall be built, erected or maintained on or within any such drainage easements, utility easements, and/or sanitary or storm sewer easements, except by the Declarant or its assigns. Purchasers of Lots in this Subdivision shall take title subject to all such easements hereby created and subject at all times to (i) the rights of proper authorities to service and maintain all such drainage, utility and sanitary or storm sewer facilities and easements and (ii) the rights of such governmental entities, public utilities, and private utilities of ingress and egress to access all said easements. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to all such easement areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. The drainage easements hereby created are reserved (i) for the use of Declarant during the Development Period, for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations for the Property and adjoining properties and (ii) for the non-exclusive use of the Association, including the right to license to the Condominium as provided herein, the Hendricks County Drainage Board or any other applicable governmental authority for access to and maintenance, repair and replacement of such drainage system. It shall be the responsibility of the Association and the Owners of the areas enclosed within drainage easements to maintain any drainage areas in such condition that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department of any private or public utility. It shall be the responsibility of the Association and the Owner of any Lot or parcel of land within the Plat to comply at all times with the provisions of the drainage plan as approved for the applicable Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the

Declarant, the developer, or their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners or other land contained within the Plat, upstream and downstream. It shall be the responsibility of the Association and the Owners of these natural valleys and channels to use their land and maintain said natural valleys and channels in such manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

Section 3.8 Designated Easements for Landscaping, Mounding, Screening and Signage. Within any strips of ground shown or designated on a Plat as a landscape easement, landscape maintenance easement, landscape maintenance access easement, or by any similar language indicating a landscaping purpose, Declarant hereby reserves unto itself during the Development Period and thereafter unto the Association, the exclusive and sole right to (i) erect signs which advertise the Property or availability of Lots, and/or identify the Subdivision and (ii) install landscaping, mounding, walls, and screening. Notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, signs, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period and thereafter by the Association. Furthermore, notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, signs, or other improvements shall be erected between (i) the area of any such easements and (ii) any perimeter roadway, public highway or right-of-way along the perimeter or boundary of the Property, except by the Declarant.

Section 3.9 Street Dedication. All streets now or hereafter located upon the Property shall be designated as either public right-of-way or a private drive on the final plat or development plan that is placed of record with the Recorder of Hendricks County. Private drives shall be maintained as provided herein.

Section 3.10 Easement Work. Notwithstanding any architectural approval under Section 6.2 below, during the course of any maintenance, service, repair or work upon any easement, the Declarant, the Association, any private utility, any public utility, and/or any governmental entity shall have the right and the authority, without any obligation or liability whatsoever to any owner, to remove, damage, or destroy any fence or other structure or landscaping built, erected, maintained or planted in any easement described in Section 3.8 and Section 3.9 above.

Section 3.11 No Access. There may be strips of ground designated on the Plat as “no access strips”, “no access”, “no access easement”, “no access esmt”, or by other similar language. Vehicular ingress, egress, and traveling and/or the construction of improvements for such ingress, egress and/or traveling, is prohibited on, over, or across any such strips or areas.

Section 3.12 Reservation of Right to Grant Easement. The Declarant hereby reserves the right, in its discretion, to (i) grant easements upon, under, over and across the Property for the benefit of land which is adjacent to the Property and/or (ii) to obtain, for the benefit of the Property, easements, upon, under, over and across the real estate which is adjacent to the Property.

Section 3.13 Encroachments. If any improvement on a Lot or the Patio Home Common Area now or hereafter encroaches on any other Lot or Patio Home Common Area, by reason of (a) the original construction thereof by Declarant or its assigns, which shall include, but not be limited to, any party wall or drive which encroaches over a Lot's boundary line and any drainage of stormwater from roofs and gutters, (b) deviations within normal construction tolerances in the maintenance, repair, replacement or reconstruction of any improvement, or (c) the settling or shifting of any land or improvement, an easement is hereby granted over the encroached-upon portion of such Lot or Patio Home Common Area in favor of the Owner of the encroaching improvements, solely to the extent of such encroachment and solely for the period of time the encroachment exists (including replacements thereof), for the limited purposes of use, repair, replacement and maintenance of the encroaching improvement.

Section 3.14 Reciprocal Cross-Easements for Adjoining Dwelling Units. Subject to Section below, there is hereby created in favor of the Owner of each Lot on which a patio home is constructed an easement and right of entry onto each adjoining Lot permitting such Owner to repair and maintain all encroaching party walls, roofs, roof overhangs, eaves, downspouts, gutters, and splash blocks at reasonable times; provided, however, that the Owner exercising this right of entry upon the adjoining Owner's Lot shall be solely responsible for preserving and restoring the adjoining Owner's Lot to the same condition such adjoining Lot was in prior to the exercise of the right of entry.

ARTICLE IV

Association Membership, Voting Rights, Board of Directors, and Professional Management

Section 4.1 Membership. Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

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

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be

assumed that Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B Membership shall cease and be converted to a Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) December 31, 2023; or

(ii) When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership; provided, however, that the Class B Membership shall recommence in the event that the Declarant subsequently records a plat of part of or all of the Property and, by virtue thereof, the total number of votes outstanding in the Class A Membership is no longer equal to or greater than the total number of votes outstanding in the Class B Membership.

Section 4.3 Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

Section 4.4 Professional Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have the exclusive right to manage or designate a Managing Agent for the Property and to perform all or any of the functions of the Association until the expiration of the Development Period. Declarant may, at its option, engage the services of a Managing Agent, including a Managing Agent affiliated with Declarant, to perform such functions, and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

Section 4.5 Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, such Owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

Section 4.6 Master Committee. In the event the Association enters into an agreement with the Condo Association that provides for the sharing of certain expenses and the hiring of a single management company, during the Development Period, the Declarant shall have the exclusive right to appoint all of the Association's respective members of a master committee that may be required or allowed under such an agreement. Notwithstanding anything to the contrary contained in this Declaration, such master committee may be given the right to negotiate the contract or agreement for professional management of the Association as contemplated in Section 4.4 above, which shall be executed by the Association upon request of such master committee.

ARTICLE V

Covenant for Maintenance Assessments

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore (except Declarant, as more specifically provided in Section 5.6 below), whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Regular Yearly Assessments (for maintenance, repairs and ordinary operating expenses, including Common Expenses); and
- (b) Special Assessments for capital improvements and operating deficits and for special maintenance or repairs as provided in this Declaration.

Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. All such assessments, together with prejudgment interest at eight percent (8%) per annum, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 5.2 Purpose of Regular Yearly Assessments. The Regular Yearly Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Property, for the improvement, maintenance and repair of the Patio Home Common Area and Condominium Common Areas, for the improvement, maintenance and repair of Lots (as hereinafter provided), for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein. As and if necessary, a portion of the Regular Yearly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Patio Home Common Area and Condominium Common Areas, and other capital improvements which the Association is required to maintain.

Section 5.3 Maximum Regular Yearly Assessments.

- (a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Yearly Assessment on any Lot shall be One Thousand Dollars (\$ 1,800) per Lot per year.
Eight Hundred
- (b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than twenty percent (20%) above the maximum Regular Yearly Assessment for the previous year, without a vote of the membership.

(c) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year by more than twenty percent (20%) above the maximum Regularly Yearly Assessment for the previous year, by a vote of two-thirds (2/3) of the votes entitled to be cast by members who cast votes in person or by proxy at a meeting duly called for this purpose.

(d) The Board of Directors from time to time may fix the Regular Yearly Assessment, without any vote of the membership, at any amount not in excess of the maximum.

Section 5.4 Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Yearly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes entitled to be cast by those Members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.5 Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast (Class A and Class B votes combined) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6 Uniform Rate of Assessment. Regular Yearly Assessments and Special Assessments for capital improvements and to recover operating deficits must be fixed at a uniform rate for all Lots. Declarant and any individual or entity purchasing a Lot or Lots solely for the purposes of construction of a for-sale Dwelling Unit thereon (a "Builder") shall not be obligated to pay any Regular Yearly Assessments and Special Assessments.

Section 5.7 Date of Commencement of Yearly Assessments: Due Dates. The Regular Yearly Assessment provided for herein shall commence as to each Lot within a recorded Plat on the first day of the first month following the conveyance of such Lot by the Declarant to an Owner (other than Builder), or by Builder to an Owner who is an end-user. The Board of Directors shall fix any increase in the amount of the yearly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Yearly Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form

signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 5.8 Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established therefor pursuant to this Declaration, then the entire unpaid assessment (together with interest thereon, costs and reasonable attorneys' fees as provided in this Declaration) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. In such event, there shall be added to the amount of such assessment the costs and attorney's fees of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Patio Home Common Area owned by the Association, nonuse of the Condominium Common Area or abandonment of his Lot.

Section 5.9 Subordination of the Lien to Mortgages; Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the lien of assessments becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding certificate from the Association, issued pursuant to this Declaration, as to whether or not such assessments have been paid.

ARTICLE VI

Use, Restrictions, and Architectural Control

Section 6.1 Lot Use and Conveyance. All Lots shall be used exclusively for single family paired patio home purposes, except that Declarant, during the Development Period, reserves (a) the rights provided in this Declaration respecting the Property generally, and (b) the right to subdivide, dedicate or otherwise convey or designate all or any portion of any one or more Lots which it may own from time to time for recreational or other common uses and benefit of all Owners and other members of the Association. Any Lot or portion thereof so designated for common use shall become part of the Patio Home Common Area owned by the Association, and reasonable rules and

regulations shall be promulgated and enforced with respect thereto so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed. Except as provided in the Declaration, no Lot shall be subdivided to form units of less area. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

Section 6.2 Architectural Control. No building, mailbox, satellite dish, wall or other structure, except original construction of Dwelling Units by or on behalf of the Declarant, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, other than by the Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Master Committee. After the Development Period, the Board of Directors may appoint three (3) representatives to the Master Committee. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefore as above provided. However, there shall be no such approval of the planting of hedges, the installation of walls, fences, structures and/or other improvements prohibited herein, and any such approval shall be null and void. In the event that written approval is not received as required hereunder within thirty (30) days after complete plans and specifications have been submitted, then the request for approval shall be deemed denied.

Declarant intends that the members of the Master Committee exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceeding challenging a determination by the Master Committee and in any action initiated to enforce this Declaration in which an abuse of discretion by the Master Committee is raised as a defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Master Committee, could only conclude that such determination constituted an abuse of discretion.

The Master Committee may inspect work being performed without the Owner's permission to assure compliance with these restrictions and applicable regulations.

Neither the Master Committee nor any agent thereof, nor the Declarant, or Association shall be liable in any way for costs, fees, damages, delays or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Master Committee, Association or Declarant be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further the Master Committee, Association and/or Declarant make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advice, engineering, surveying, and inspections on each Lot prior to proposing construction.

Section 6.3 Leasing. Any /Dwelling Unit may be leased by its Owner. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year. Leases shall provide that the lessee shall in all respects be subject to the terms and

conditions of this Declaration, the Articles and Bylaws of the Association, and rules and regulations promulgated by the Board and/or Master Committee. The owner shall provide a copy of each executed lease which identifies the lessee (but which may have the rental amount redacted) to the Master Committee within thirty (30) days after execution of the lease.

Section 6.4 Front Setback Lines. Front Building lines are hereby established as shown on the Plat. Between such Front Building lines and the right-of-ways lines there shall be erected, placed or altered no structure or part thereof. The building lines which are from public right-of-way lines are parallel to and measured perpendicularly from these public right-of-way lines.

Section 6.5 Side and Rear Setbacks. The minimum side yard and minimum rear yard requirements shall be those established by the applicable zoning and subdivision control ordinances, subject to variances granted to Declarant by applicable zoning authorities.

Section 6.6 Temporary Structures and Outbuildings. No structure of a temporary character, tent, shack, basement (other than as part of a Dwelling Unit constructed on a Lot), detached garage, barn, storage shed, mini-storage barn or other out-building shall be erected, placed, or constructed upon any Lot.

Section 6.7 Permitted Uses. No use shall be made of any Lot except as permitted by the applicable zoning and subdivision control ordinances under which this Property is developed.

Section 6.8 Drains and Vents. No house footing drain or roof water drain shall be discharged into the sanitary sewers. No equipment vents shall be allowed on the front of any Dwelling Unit.

Section 6.9 Residential Use and Architectural Requirements. Lots may be used only for residential purposes and only for paired patio homes and associated accessory uses that are usual and incidental to the use of residential lots and not otherwise prohibited hereunder. All Lots in this Subdivision shall be designated as residential Lots, and no Dwelling Unit shall exceed one and one-half (1.5) story. Each Dwelling Unit shall at a minimum meet and contain the following architectural features:

1. Full brick wrap on first floor, exclusive of doors and windows;
2. No vinyl siding;
3. Window grids on all windows;
4. Shutters, decorative wood trim or decorative headers on all front elevation windows;
5. 12" overhangs;
6. Change in the elevation/direction of roof ridge;
7. Decorative gable vents;
8. Soldier courses;
9. Covered front stoop or front porch;
10. Two car attached finished garage;
11. Dimensional shingles;
12. Garage coach lights;
13. Fully sodded yard.

Section 6.10 Size. Subject to any further restrictions imposed by any recorded commitment, every single-family dwelling erected, placed, altered or maintained on any Lot shall have a minimum living area, exclusive of open porches, unfinished basements and attached garages, of not less than what is required by the applicable zoning and subdivision control ordinances.

Section 6.11 Unsightly Objects. In order to maintain the standards of the Property, no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any portion of the Property. Failure to comply shall warrant the Declarant or the Association to clear the refuse from the Property at the expense of the Owner, and there shall be a lien against said Property for the expense thereof, which lien shall be due and payable immediately. If such lien is not promptly paid, the Association or the Declarant may file suit and recover such amount together with reasonable attorneys' fees and costs of collection.

Section 6.12 Site Visibility. No hedge or shrub planting which obstructs sight lines at elevations between three (3) feet and twelve (12) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and a line connecting points forty (40) feet from the intersection of said street lines, or in the case of a rounded property corner from the intersection of the street right-of-way lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.13 Lakes, Lake Area(s). Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Patio Home Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in this Declaration. No one shall do or permit any action or activity which could result in pollution of any Lake, diversion of water, elevation of any Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management, except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Areas may or may not exist on the Property, and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lakes and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Patio Home Common Area owned by the Association adjacent to a Lake.

Section 6.14 Rules and Regulations. The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots and the Patio Home Common Area owned by the Association. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of

all rules and regulations shall be furnished by the Board to all Owners, at the Owner's last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Articles and By-Laws, and other rules concerning the Property as well as its own books, records and financial statements available for inspection by Dwelling Unit Owners or by holders, insurers and guarantors of first mortgages, that are secured by Dwelling Units in the Property. These documents shall be available during normal business hours or under other reasonable circumstances.

Section 6.15 Development and Sale Period. Nothing contained in this Article 6 shall be construed or interpreted to restrict the activities of Declarant or a Builder in connection with the development of the Property and sale of Lots. During the Development Period, Declarant or a Builder shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Property at any time owned or leased by Declarant or a Builder, as in the sole opinion of Declarant or a Builder may be reasonably required, or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

Section 6.16 Outside Use of Lots. In-ground and above ground swimming pools are prohibited on the Property. No trampolines, playground equipment, playsets, clotheslines, permanent basketball goals or sandboxes shall be permitted. Portable basketball goals do not require approval, but must be stored inside the Dwelling Unit when not in use. Any portable basketball goals must not obstruct the right-of-way or sidewalks.

Section 6.17 Mailboxes. All mailboxes installed upon a Lot shall contain no more than two (2) mailboxes per post and all mailboxes and posts shall be uniform and of a type, color and manufacture approved by the Declarant during the Development Period and, thereafter, by the Master Committee. All mailboxes shall be of the same type, style, color and appearance of mailboxes existing in the Condominium development.

Section 6.18 Yard Lights. Declarant shall during the Development Period and, thereafter, the Board of Directors of the Association shall determine the uniform location of yard lights or coach lights. The yard light or coach light thereafter shall be maintained in proper working order by the Owner of each Lot.

Section 6.19 Notice of Zoning Commitments. Notice is hereby given that certain written commitments were made in connection with the zoning of all or part of the Property (hereafter "Commitments"). The Commitments pertain, without limitation, to Patio Home Common Areas, tree preservation areas, mounding, buffers, architectural commitments and landscape buffers. Unless and until such Commitments are vacated or released per their terms, the Association shall comply with the terms and conditions thereof. The Property shall be subject to the Commitments and all covenants, conditions, easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Property, all of which are incorporated herein by reference.

Section 6.20 Fences. No fence, wall or similar structure shall be constructed or placed on any Lot; except an owner may construct a divider fence between the back patios of a paired patio home. Said divider shall not exceed six feet in height and may not extend out further than twelve feet from the rear of the Dwelling Unit. Divider fences must be approved by the Master Committee prior to construction, unless the divider fence is being installed during the original construction of a Dwelling Unit by the Declarant. Divider fences are subject to any rules or regulations promulgated by the Master Committee.

Section 6.21 Animal Kennels. Animal kennels or quarters which are not completely contained inside a Dwelling Unit are prohibited.

Section 6.22 Driveways. All driveways shall be concrete. Any modifications (i.e. color changes, stamping) must be approved by the Master Committee.

Section 6.23 Master Declaration. All Lots are subject to, and are entitled to the benefits from, the Master Declaration, including without limitation, membership interest in the Master Association, and subject to the architectural standards, use restrictions/covenants and regulations and assessments.

Section 6.24 Additional Restrictions. The following additional Restrictions shall apply to all Lots and Dwelling Units:

(A) Dwelling Unit Uses. No garage sale, moving sale, rummage sale or similar activity shall be conducted by an Owner within the Subdivision without approval of the Master Committee. No trade or business may be conducted in or from any Dwelling Unit, except that an Owner or Occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the Dwelling Unit; (ii) the business activity conforms to all zoning requirements for the Subdivision; (iii) the business activity does not involve persons coming onto the Subdivision or door-to-door solicitation of residents of the Subdivision; and (iv) the business activity is consistent with the residential character for the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of safety of the other residents of the Subdivision; as may be determined in the sole discretion of the Board. 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 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 (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor. In no event shall the following similar activities be conducted: child care, barber shop, styling salon, animal hospital, kennel, any form of animal care or treatment such as dog training, or any similar activities. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this Section.

(B) Visible Areas. Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive drapes or curtains) or placed on the outside walls of a Dwelling Unit or otherwise outside of a Dwelling Unit, or any part thereof, and no sign (except those of the Declarant), awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, satellite dish or any other device or ornament shall be affixed to or placed upon the exterior walls or roof or any part thereof, or in or on a patio unless authorized by the Master Committee, and subject to such rules and regulations as the Master Committee may adopt from time to time.

(C) Nuisances. No portion of the Subdivision shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be visibly obnoxious; nor shall any substance, thing, or material be kept upon any portion of the Subdivision that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of other Dwelling Unit Owners. No noxious, illegal or offensive activity shall be carried on upon any portion of the Subdivision. There shall not be maintained any plants or animals or device or thing 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 Subdivision. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Subdivision. It shall be the responsibility of each Dwelling Unit Owner to prevent the development of any unclean, unhealthy, unsightly or unkept condition in his or her Lot. The pursuit of hobbies or other activities, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions shall not be pursued or undertaken on any part of the Subdivision.

(D) Vehicles. Commercial vehicles, vehicles with commercial writing on their exterior, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks weighing in excess of three-fourths of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have operating licenses shall not be permitted on the Subdivision except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with tarpaulin for seven (7) consecutive days without the prior written approval of the Master Committee. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Subdivision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Dwelling Unit. Any vehicles parked in violation of this Section or parking rules promulgated by the Master Committee may be towed. The driveway parking spaces may not be used unless the attached garage parking space is already being used for vehicle parking. The use of the attached garage for storage of anything which interferes with the storage of vehicles is prohibited.

(E) Signs. No sign of any kind shall be displayed to the public view on the Subdivision except: (a) on the Patio Home Common Areas, signs regarding and regulating the use of the Patio Home Common Areas provided they are approved by the Master

Committee; (b) on the interior side of the window of a Dwelling Unit, one professional prepared sign advertising the Dwelling Unit for sale or rent provided the use is approved by the Master Committee; and (c) on the Patio Home Common Areas and model Dwelling Units, signs advertising the sale of Dwelling Units by the Declarant during the Development Period, which shall continue until all Dwelling Units have been sold to parties unrelated to the Declarant.

(F) Animals. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot. Notwithstanding the foregoing household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Dwelling Unit, provided that: (i) no animals shall be permitted in any portion of the Subdivision except on a leash (not longer than six feet in length) maintained by a responsible person; (ii) the permitting of animals on the Subdivision shall be subject to such rules and regulations as the Board of Directors may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy fines and enforcement charges against persons who do not clean up after their pets; and (iii) the right of an Occupant to maintain an animal in a Dwelling Unit shall be subject to termination if the Master Committee, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Subdivision or other Dwelling Units or Occupants.

(G) Water Discharge. No clear water sources, including but not limited to foundation drains, sump pumps and road drains shall be permitted to the discharge into the sanitary sewers.

(H) Dusk-to-Dawn Lights. Each Owner shall operate the dusk-to-dawn lights installed on the exterior of the Dwelling Units to provide lighting from dusk-to-dawn, and each Owner shall replace the light bulbs as a part of the operation of the dusk-to-dawn lights.

(I) Refuse. All rubbish, trash or garbage shall be kept so as not to be seen from neighboring Dwelling Units and streets, and shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Garbage may not be burned on the Property. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out in any portion of the Property. The Association shall contract for the removal of refuse with a scavenger service for the Dwelling Unit Owners in the Subdivision.

(J) Occupants. All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which governs the conduct of Dwelling Unit Owners and which provided for sanctions against Dwelling Unit Owners shall also apply to all Occupants, guests and invitees of any Dwelling Unit. Every Dwelling Unit Owner shall cause all Occupants of his or her Dwelling Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Patio Home Common Areas caused by such Occupants, notwithstanding the fact that such Occupants of a Dwelling Unit are fully liable

and may be sanctioned for any violation of the Declaration, by-Laws and rules and regulations adopted pursuant thereto.

(K) Antenna and Satellite Dishes. Satellite dishes, radio, television and reception antenna may not be installed on a roof of a Dwelling Unit or the outside of a Dwelling Unit. All antennas must be installed within the attic above a Dwelling Unit unless prior written permission is granted by the Master Committee to install on the outside of a Dwelling Unit. Satellite dishes may not be installed on a Dwelling Unit. Satellite dishes that are less than one (1) meter in diameter may be installed in the rear patio area pursuant to plans approved in writing by the Master Committee or otherwise approved by the Board to comply with FCC regulations. Notwithstanding the foregoing, satellite dish installation is subject to the ordinance of the municipality, FCC regulations and the written approval of the Master Committee.

ARTICLE VII

Maintenance, Repairs and Replacements

Section 7.1 By Owners. Except as specifically provided in this Declaration, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. All fixtures and equipment installed within or as part of the Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his/her Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Patio Home Common Area owned by the Association. Such maintenance and repairs include, but are not limited to, all exterior surface, siding, roof, gutters, internal water lines, plumbing, electric lines, gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his/her Dwelling Unit or Lot.

Section 7.2 Common Properties and Lot Maintenance by the Association.

(a) The Association, as part of its duties, and as part of the Common Expenses, shall provide for:

(i) Maintenance of the Patio Home Common Area. Maintenance of the Patio Home Common Area shall include, but shall not be limited to, fertilizing, treating any Lakes, mowing and replanting when necessary of the grass and trees and maintenance of any other improvement within the Patio Home Common Area;

(ii) Maintenance of the entry signs, permanent subdivision identification signs, and landscaping installed by the Declarant in any Patio Home Common Area, or any Landscape Easement, Landscape Maintenance Easement, Landscape Maintenance Access Easement or similar easement;

(iii) The maintenance of any street lights which are installed by Declarant and which are not located upon any Lot; and

(iv) The maintenance of any brick surface installed by Declarant on any internal street or entryway.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Patio Home Common Area owned by the Association (or any items deemed Patio Home Common Area for purposes of maintenance only) as it deems necessary.

(b) The Association, as part of its duties, and as part of the Common Expenses, shall provide the following Lot maintenance services to the Owners:

(i) Lawn Care The Association shall be responsible for mowing on an approximately weekly basis, which mowing service will include trimming around obstacles, power edging of driveways, walks and curbs, and cleaning walks and streets of grass clippings and debris. Owners shall be responsible for mowing, trimming, power edging, cleaning and maintaining those portions of Lots that are obstructed by landscaping or other obstacles placed or installed by an Owner that unreasonably interferes with access (the "Obstructed Areas"). The mowing season shall commence no earlier than May 1 and shall end no later than October 20 of each year; provided, however, that these dates, as well as the frequency of mowings, are subject to such change as the Association shall reasonably deem necessary, in light of the weather conditions and seasonal changes for a particular mowing season. Lawns shall be mowed to a height of 3". The Association will provide pre- and post-emergent weed and grass control for mulch beds, to include weeding of mulch beds located within Un-Obstructed Areas. The Association will, in addition, provide broadleaf weed control for turf areas, turf fertilization, and insect control for Un-Obstructed Areas. Owners shall be responsible for providing such controls and fertilization for Obstructed Areas. The Association will also be responsible for the maintenance of any sprinkler systems or irrigation systems installed by the Declarant within the Un-Obstructed Areas.

(ii) Leaf Removal. The Association shall be responsible for the removal of leaves and other trimmings from the Lots. Owners shall be responsible for the removal of leaves and other trimmings from the Obstructed Areas.

(iii) Snow Removal. For snows 2” or greater, the Association will remove snow from driveways and sidewalks leading from the driveway on a Lot to the front door of the residence on such Lot.

(c) Notwithstanding any obligation or duty of the Association to repair or maintain any of the Patio Home Common Area owned by the Association (or those portions of the Lots as provided in subparagraph (b) above), or to contribute towards the repair or maintenance of the Condominium Common Areas, if, due to the willful, intentional or negligent acts or omissions of an Owner or a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Area owned by the Association (or those portions of the Lots as provided in subparagraph (b) above) or Condominium Common Areas, or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association and/or Master Committee, unless such loss is covered by the Association’s insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which the Owner’s Lot is subject.

(d) The authorized representatives of the Association, the Board of Directors, the Master Committee and the Managing Agent for the Association (if any) are hereby granted an easement for access upon and to any Lot as may be required in connection with maintenance only, repairs or replacements of or to the Patio Home Common Area owned by the Association or those portions of the Lots as provided in subparagraph (b) above, including, but not limited to, access to any easements reserved by any Plat of any portion of the Property for such purposes.

ARTICLE VIII

Insurance

Section 8.1 Liability Insurance. The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board of Directors, any committee or organization of the Association or Board of Directors, all persons acting or who may come to act as agents, or employees of any of the foregoing with respect to the Association. It shall also cover all Patio Home Common Area owned by the Association, public ways and any other areas under the Association’s control or supervision. The premiums for all such liability policies shall be a Common Expense.

Section 8.2 Fidelity Bonds. The Association shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Association bonds shall name the Association as the obligee and the premium shall be paid as a Common Expense by the Association. Any

Management Agent that handles funds for the Association shall be covered by its own fidelity bond, which must provide the same coverage required of the Association. The Association shall be named as an additional obligee in the Management Agent's bond. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its Management Agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal one (1) years' assessments on all Dwelling Units in the Property, plus the Association's reserve funds. If available, the fidelity bonds must include a provision that calls for ten (10) days' written notice to the Association or insurance trustee before the bond can be cancelled or substantially modified for any reason.

Section 8.3 Miscellaneous Insurance Provisions. The Association shall obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of the Association, its Board of Directors and any Management Agent acting on behalf of the Association. The premiums for all such insurance coverage shall be a Common Expense.

Section 8.4 Casualty and Restoration. Damage to or destruction of any Patio Home Common Area actually owned by the Association due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose. The same obligation shall apply to an Owner, and not the Association, for damage or destruction to the Owner's Dwelling Unit. For purposes of this Section, repair, reconstruction and restoration shall mean construction or rebuilding of the damaged property to as near as possible the same condition as it existed immediately prior to the damage or destruction, with the same or a similar type of architecture.

Section 8.5 Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Patio Home Common Area actually owned by the Association or any improvements damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a Special Assessment against all Lots for such deficiency.

Section 8.6 Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Property. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any right against any Owner for committing willful or malicious damage.

Section 8.7 Common Insurance. The Master Committee shall have the right to purchase such insurance as the Master Committee deems appropriate for Patio Home Common Areas and Condominium Common Areas, the cost of which shall be borne by the Association and Condo Association in accordance with the Maintenance Agreement.

ARTICLE IX

Mortgages

Section 9.1 Mortgagee Rights. In addition to any other rights provided elsewhere in this Declaration to mortgagees, any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Patio Home Common Area owned by the Association or any other property owned by the Association; and may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this Section shall be entitled to immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 9.2 Notice to Mortgagees. The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge may be made by the Association for the issuance of any such certificate or notice, and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided in this Declaration.

Section 9.3 Condemnation and Insurance Awards. No provisions of this Declaration, or any amendment thereto, shall give any Owner, or any other party, priority over any rights of the first mortgagee of a Lot pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Patio Home Common Area property.

Section 9.4 Right of First Refusal. The Association DOES NOT have the "right of first refusal" to purchase any Dwelling Unit. Any "right of first refusal" subsequently granted to the Association through amendment of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Lots must receive the prior written approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development. Any "right of first refusal" subsequently added in the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Lots must not impair the rights of a first mortgagee to:

- (a) Foreclose or take title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage;
- (b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor; or
- (c) Sell or lease a unit acquired by the mortgagee.

Section 9.5 Unpaid Dues or Charges. Any first mortgagee who obtains title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage or through foreclosure, will not be liable for the Dwelling Unit's unpaid dues or charges accrued before the acquisition of the title to the Dwelling Unit by the mortgagee.

ARTICLE X

Party Walls

Section 10.1 General Rules of Law to Apply. Each wall built as part of the original construction of a Dwelling Unit and situated upon the dividing line between two Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article X, the general rules of law regarding party walls and liability of Owners for property damage due to negligence or willful acts or omissions in connection with party walls shall apply thereto.

Section 10.2 Sharing of Repair and Maintenance and Destruction. If any party wall is damaged or destroyed by (i) fire or other casualty, or (ii) ordinary wear and tear and deterioration from lapse of time, or (iii) or by some cause other than the act of one of the adjoining Owners, its agents, family, household or guests, then both adjoining Owners shall proceed forthwith to rebuild or repair the structural components of such party wall, sharing equally the cost thereof, and each individual Owner shall proceed forthwith to rebuild or repair the non-structural components of such wall in proportion to their respective uses of the party wall. Any and all such reconstruction and/or repairs shall be completed immediately to the extent that the failure to commence and/or complete such reconstruction and/or repairs would result in an immediate risk to human health and/or safety. All other reconstruction and/or repairs shall be completed within three (3) months following the casualty or other event that damaged or destroyed such party wall, unless a longer period of time is approved in writing by the Association. If a party wall is in a condition that is of such a nature that it has or will (if left uncorrected) result in further damage or destruction of such party wall, the reconstruction and/or repairs shall be completed within a reasonable time, not exceeding six (6) months following the initial discovery of the condition. Any and all such reconstruction and/or repair shall be made in a good and workmanlike manner, in compliance with all requirements of applicable state and local governing authorities and otherwise in compliance with all applicable laws, ordinances, rules and regulations, to the same or better condition as existed prior to such condition, damage or destruction. However, in the event of substantial destruction to the party wall and adjoining Dwelling Units (i.e. where eighty percent (80%) or more of the party wall and the adjoining Dwelling Units are destroyed by fire or otherwise), neither Owner shall be obligated to repair or restore the party wall. Each Owner shall have an easement over that part of the other Owner's Lot that is necessary or desirable in order to repair, restore or replace the party wall.

Section 10.3 Repairs for Damage Caused by One Owner. If any such party wall is damaged or destroyed through the act of one or more adjoining Owners, or their respective agents, families, households or guests (collectively the "Offending Parties"), whether or not such act is negligent or otherwise culpable, so as to deprive another adjoining Owner of the use and enjoyment of the party wall, then the Owner(s) of the Dwelling Unit(s) from whence the Offending Parties committed the act that caused the damage or destruction, shall forthwith proceed to rebuild and

repair the same, in the manner required under Section 10.2 above, without cost to the adjoining Owner.

Section 10.4 Use; Other Changes. Either Owner shall have the right to use the side of the party wall facing the Owner's Dwelling Unit in any lawful manner, including attaching structural or finishing materials to it; however, in addition to meeting the other requirements of this Declaration and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild its Dwelling Unit in any manner which involves the alteration of any party wall shall first obtain the written consent of the adjoining Owner, whose consent shall not be unreasonably withheld, conditioned or delayed. If the adjoining Owner has not responded in writing to the requesting Owner within twenty-one (21) days of its receipt of any such written request, given by registered or certified mail, return receipt requested, such consent of the adjoining Owner shall be deemed to have been given.

Section 10.5 Right to Contribution Runs with the Land; Failure to Contribute. The right of any Owner to contribution from any other Owner under this Article XI shall be appurtenant to the land and shall pass to such Owner's successors in title. If either Owner shall neglect or refuse to pay the Owner's share under this Article XI, or all of the cost in case of the negligence or willful misconduct of such Owner, the other Owner may have the party wall repaired or restored and shall be entitled to have a mechanic's lien on the property of the Owner failing to pay for the amount of its share of the repair or replacement cost.

Section 10.6 Dispute. In the event of a dispute between or among Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors, who shall decide the dispute and whose decision shall be final.

ARTICLE XI

General Provisions

Section 11.1 Right of Enforcement. In event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association, the Master Committee, the Condo Association, or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 11.2 Severability and Waiver. The Declaration shall be enforceable to the fullest extent permitted at law or in equity. Invalidation of any one of the covenants, restrictions or provisions contained in this Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a

violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

Section 11.3 Assignment. Declarant may at any time assign some or all of its rights and obligations under this Declaration. Such assignment shall be effective after it is executed and recorded by Declarant with the Recorder of the County in which the Property is located. After such assignment is recorded with the Recorder of the County in which the Property is located, Declarant shall have no further obligations or liabilities under the Declaration with respect to the rights or obligations assigned.

Section 11.4 Amendment. This Declaration and the covenants, conditions and restrictions set forth in this Declaration, as from time to time amended in the manner hereafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties closing under them. This Declaration may be amended or modified at any time by an instrument recorded in the Office of the Recorder of the County in which the Property is located, approved and signed by the then Owners of at least seventy-five percent (75%) of the Lots (including Declarant or Builder). Provided, however, that none of the easements, rights, or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. . Except as prohibited in the paragraph immediately below, this Declaration may also be amended by Declarant, if it then has any ownership interest in the Property, at any time within six (6) years after the recordation hereof. Any amendment must be recorded.

Neither the Association, the Owners or Declarant shall effect any of the following changes without the prior written approval of the then Owners of seventy five percent (75%) of the Lots (including Declarant or Builder):

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Patio Home Common Area owned directly or indirectly by the Association for the benefit of the Owners of the Dwelling Units. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area owned by the Association by the Dwelling Unit Owners is not a transfer in the meaning of this clause;

(b) Fail to maintain fire and extended coverage on insurable Common Area owned by the Association on a current replacement cost basis in an amount at least one hundred percent (100%) of the insurable value (based on current replacement costs);

(c) Use hazard insurance proceeds for losses to any Patio Home Common Area owned by the Association for other than the repair, replacement, or reconstruction of the Patio Home Common Area owned by the Association.

Notwithstanding anything contained herein to the contrary, the restrictions, prohibitions and provisions contained in Article VI and the Right of Enforcement in Section 11.1 shall not be amended without the prior written consent of the Master Committee. Any amendment without such prior written consent shall be null and void.

Section 11.5 HUD Amendment Approval. All other provisions of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property notwithstanding, so long as there is a Class B membership, if required by applicable law, the Federal Housing Administration or Secretary of the Department of Housing and Urban Development shall have the right to review and approve amendments or changes to the Declaration and related documents relating to the following:

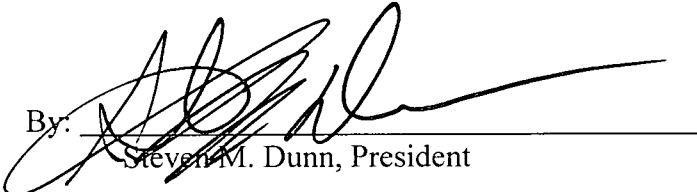
- (a) Annexation of real estate;
- (b) Dedication or mortgaging of Patio Home Common Area;
- (c) Mergers and consolidation of any Property, Patio Home Common Area or the Association; and
- (d) Amendment of the Declaration of Covenants, Conditions and Restrictions.

Section 11.6 Assignment. Declarant may assign or otherwise transfer any and all of its rights as Declarant in whole or in part.

Section 11.7 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Patio Home Common Area owned by the Association, or from the termination of the development. Each Dwelling Unit Owner, by his acceptance of a deed, appoints the Association as his attorney-in-fact for this purpose. Proceeds from the settlement will be payable to the Association for the benefit of the Dwelling Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of this development shall be made on a reasonable and an equitable basis.

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

Westport Homes, Inc.,
an Indiana corporation

By: 
Steven M. Dunn, President

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Steven M. Dunn, as President of Westport Homes, Inc., an Indiana corporation, and having been duly sworn, acknowledged execution of this Declaration of Covenants, Conditions and Restrictions for Grant Park Patio Homes of Prestwick.

Witness my hand and Notarial Seal this 29th day of May, 2013.

My Commission Expires:

May 21, 2017



[Signature]
Notary Public

Residing at Madison County

Shirley J. White
Printed Name

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in the document, unless required by law. Steven M. Dunn.

This instrument was prepared by and after recording return to Steven M. Dunn, President, Westport Homes, Inc., 9210 N. Meridian Street, Indianapolis, Indiana 46260, (317) 844-0433.

G30:D30066jm

EXHIBIT A

GRANT PARK – BLOCK A1

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Instrument No. 200600022332 in Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E and Plat Amendment Certificate of Correction, recorded as Instrument No. 200600028367, all in the Office of the Recorder, Hendricks County, Indiana more particularly described as follows:

Commencing at the southeast corner of said Block "A"; thence North 09 degrees 19 minutes 21 seconds East along the east line thereof a distance of 20.02 feet; thence North 11 degrees 48 minutes 36 seconds East along the east line thereof a distance of 110.59 feet to the northeast corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 20 in Block A of Grant Park recorded as Instrument Number 201207019 in the Office of the Recorder, Hendricks County Indiana; thence North 83 degrees 09 minutes 13 seconds West along the north line of said Common Area in Exhibit "A" for Building 20 and the north line of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 19 in Block A of Grant Park recorded as Instrument Number 201207017 in the Office of the Recorder, Hendricks County Indiana a distance of 279.17 feet to the Point of Beginning; thence continue North 83 degrees 09 minutes 13 seconds West a distance of 7.45 feet; thence North 08 degrees 50 minutes 19 seconds West along the west line of Common Area "A" a distance of 110.72 feet to the southeast corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 16 in Block A of Grant Park recorded as Instrument Number 200700025399 in the Office of the Recorder, Hendricks County Indiana; thence along the southerly line of said Common Area in Exhibit "A" the following two courses: (1) thence South 88 degrees 56 minutes 39 seconds West a distance of 148.63 feet; (2) thence South 60 degrees 05 minutes 10 seconds West a distance of 10.48 feet to the easterly right of way line of Galena Drive; thence southerly along the said easterly right of way line and a non-tangent curve to the right having a radius of 175.00 feet, the radius point of which bears South 60 degrees 05 minutes 10 seconds West an arc distance of 88.11 feet to a point which bears North 88 degrees 55 minutes 56 seconds East from said radius point; thence South 01 degrees 04 minutes 10 seconds East along the easterly right of way line of Galena Drive a distance of 128.25 feet to a tangent curve to the left having a radius of 15.00 feet, the radius point of which bears North 88 degrees 55 minutes 56 seconds East; thence southerly and easterly along said curve an arc distance of 23.56 feet to a point which bears South 01 degrees 04 minutes 04 seconds East from said radius point; thence North 88 degrees 55 minutes 56 seconds East along the northerly right of way line of Cairo Way a distance of 143.45 feet to the southwest corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 19 in Block A of Grant Park recorded as Instrument Number 201207017 in the Office of the Recorder, Hendricks County Indiana; thence North 01 degrees 04 minutes 04 seconds West along the west line of said Common Area in Exhibit "A" a distance of 121.97 feet to the Point of Beginning, containing 0.824 acres, more or less.

GRANT PARK – BLOCK A2

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Instrument No. 200600022332 in Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E and Plat Amendment Certificate of Correction, recorded as Instrument No. 200600028367, all in the Office of the Recorder, Hendricks County, Indiana more particularly described as follows:

Commencing at the northeast corner of said Block "A" also being the northwest corner of Common Area "A" of said Grant Park; thence South 88 degrees 09 minutes 43 seconds West along the north line of said Block "A" a distance of 110.75 feet to the Point of Beginning; thence continue South 88 degrees 09 minutes 43 seconds West along the north line of said Block "A" a distance of 153.60 feet; thence South 00 degrees 15 minutes 32 seconds East along the west line of said Block "A" a distance of 71.62 feet to the southeast corner of Common Area "E"; thence South 88 degrees 55 minutes 56 seconds West along the south line of said Common Area "E" a distance of 54.06 feet to the northeast corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 12 in Block A of Grant Park recorded as Instrument Number 200700008300 in the Office of the Recorder, Hendricks County Indiana; thence South 01 degrees 04 minutes 08 seconds East along the east line of said Common Area in Exhibit "A" a distance of 140.00 feet to the southeast corner of said Common Area in Exhibit "A" and the north right of way line of Galena Drive; thence North 88 degrees 55 minutes 56 seconds East along said north right of way line a distance of 22.19 feet to a tangent curve to the right having a radius of 175.00 feet, the radius point of which bears South 01 degree 04 minutes 04 seconds East; thence easterly along said curve an arc distance of 53.70 feet to a point which bears North 16 degrees 30 minutes 45 seconds East from said radius point and the northwest corner of Common Area "C" and the point of reverse curvature of a tangent curve to the left having a radius of 25.00 feet, the radius point of which bears North 16 degrees 30 minutes 45 seconds East; thence easterly along northerly line of Common Area "C" and said curve an arc distance of 26.18 feet to a point which bears South 43 degrees 29 minutes 15 seconds East from said radius point and the point of reverse curvature of a tangent curve to the right having a radius of 50.00 feet, the radius point of which bears South 43 degrees 29 minutes 15 seconds East; thence easterly along the northerly line of Common Area "C" and said curve an arc distance of 71.93 feet to a point which bears North 38 degrees 56 minutes 23 seconds East from said radius point and the southwest corner of the Limited Common Area in Exhibit "A" of the Horizontal Property Regime for Building 15 in Block A of Grant Park recorded as Instrument Number 200817487 in the Office of the Recorder, Hendricks County Indiana; thence North 33 degrees 25 minutes 32 seconds East along the west line of said Limited Common Area in Exhibit "A" a distance of 34.44 feet; thence North 06 degrees 12 minutes 08 seconds East along the west line of said Limited Common Area and Common Area in Exhibit "A" a distance of 188.22 feet to the Point of Beginning, containing 0.854 acres, more or less.

GRANT PARK - BLOCK A3

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Instrument No. 200600022332 in Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E and Plat Amendment Certificate of Correction, recorded as Instrument No. 200600028367, all in the Office of the Recorder, Hendricks County, Indiana more particularly described as follows::

Beginning at the northwest corner of said Block "A"; thence North 88 degrees 55 minutes 56 seconds East along the north line of said Block "A" a distance of 746.05 feet to the northwest corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 8 in Block A of Grant Park recorded as Instrument Number 200821895 in the Office of the Recorder, Hendricks County Indiana; thence South 01 degree 04 minutes 04 seconds East along the west line of said Common Area in Exhibit "A" a distance of 140.00 feet to the southwest corner of said Common Area in Exhibit "A" and the south line of said Block "A"; thence South 88 degrees 55 minutes 56 seconds West along the south line of said Block "A" a distance of 371.29 feet to a tangent curve to the left having a radius of 225.00 feet, the radius point of which bears South 01 degree 04 minutes 04 seconds East; thence southwesterly along said curve an arc distance of 115.56 feet to a point which bears North 30 degrees 29 minutes 38 seconds West from said radius point; thence South 59 degrees 30 minutes 22 seconds West along the south line of said Block "A" a distance of 101.47 feet to a tangent curve to the right having a radius of 175.00 feet, the radius point of which bears North 30 degrees 29 minutes 38 seconds West; thence southwesterly along said curve an arc distance of 89.88 feet to a point which bears South 01 degree 04 minutes 04 seconds East from said radius point; thence South 88 degrees 55 minutes 56 seconds West along the south line of said Block "A" a distance of 73.47 feet; thence North 45 degrees 38 minutes 25 seconds West along the southwesterly line of said Block "A" a distance of 28.07 feet to the west line of said Block "A"; thence North 00 degrees 12 minutes 47 seconds West along the west line of said Block "A" a distance of 221.48 feet to the Point of Beginning, containing 2.932 acres, more or less.

GRANT PARK - BLOCK B1

A part of Block "B" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Instrument No. 200600022332 in Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana more particularly described as follows:

Beginning at the southwest corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 49 in Block B of Grant Park recorded as Instrument Number 200806953 in the Office of the Recorder, Hendricks County Indiana; thence South 88 degrees 55 minutes 56 seconds West along the south line of said Block B a distance of 890.28 feet to a tangent curve to the right having a radius of 125.00 feet, the radius point of which bears North 01 degree 04 minutes 04 seconds West; thence northwesterly along said curve and along the southwesterly line of said Block B an arc distance of 136.25 feet to a point which bears South 61 degrees 23 minutes 06 seconds West from said radius point; thence North 28 degrees 36 minutes 54 seconds West along the southwesterly line of said Block "B" a distance of 140.33 feet to a tangent curve to the right having a radius of 15.00 feet, the radius point of which bears North 61 degrees 23 minutes 06 seconds East; thence northerly along said curve an arc distance of 23.07 feet to a point which bears North 30 degrees 29 minutes 38 seconds West from said radius point; thence North 59 degrees 30 minutes 22 seconds East along the northwesterly line of said Block "B" a distance of 69.32 feet to a tangent curve to the right having a radius of 175.00 feet, the radius point of which bears South 30 degrees 29 minutes 38 seconds East; thence easterly along said curve an arc distance of 89.88 feet to a point which bears North 01 degree 04 minutes 04 seconds West from said radius point; thence North 88 degrees 55 minutes 56 seconds East along the north line of said Block "B" a distance of 891.01 feet to the northwest corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 48 in Block B of Grant Park recorded as Instrument Number 200700098297 in the Office of the Recorder, Hendricks County Indiana; thence South 01 degree 04 minutes 23 seconds East along the west line of said Common Area in Exhibit "A" a distance of 141.86 feet to the southwest corner of said Common Area in Exhibit "A"; thence thence North 88 degrees 55 minutes 14 seconds East along the south line of said Common Area in Exhibit "A" a distance of 22.71 feet the northwest corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 49 in Block B of Grant Park recorded as Instrument Number 200806953 in the Office of the Recorder, Hendricks County Indiana; thence South 01 degree 04 minutes 04 seconds East along the west line of said Common Area in Exhibit "A" a distance of 126.39 feet to the Point of Beginning, containing 6.172 acres, more or less.

GRANT PARK - BLOCK C1

A part of Block "C" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Instrument No. 200600022332 in Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana more particularly described as follows:

Beginning at the southwest corner of Common Area "B" of said Final Plat of Grant Park; thence South 88 degrees 55 minutes 56 seconds West along the south line of Block "C" a distance of 418.69 feet to the southeast corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 25 in Block "C" of Grant Park recorded as Instrument Number 200809284 in the Office of the Recorder, Hendricks County Indiana; thence North 01 degree 04 minutes 04 seconds West along the east line of said Common Area in Exhibit "A" a distance of 140.00 feet to the northeast corner of said Common Area in Exhibit "A" and the north line of said Block "C"; thence North 88 degrees 55 minutes 56 seconds East along the north line of Block "C" a distance of 348.44 feet to a tangent curve to the right having a radius of 340.00 feet, the radius point of which bears South 01 degree 04 minutes 04 seconds East; thence easterly along said curve an arc distance of 70.76 feet to a point which bears North 10 degrees 51 minutes 22 seconds East from said radius point and the northwest corner of Common Area "B" of said Final Plat of Grant Park; thence South 01 degree 04 minutes 04 seconds East along the west line of Common Area "B" of said Final Plat of Grant Park a distance of 132.66 feet to the Point of Beginning, containing 1.342 acres, more or less.

GRANT PARK - BLOCK C2

A part of Block "C" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Instrument No. 200600022332 in Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana more particularly described as follows:

Beginning at the southwest corner of said Block "C" of the Final Plat of Grant Park; thence North 00 degrees 12 minutes 47 seconds West along the west line of Block "C" a distance of 336.83 feet; thence North 44 degrees 21 minutes 35 seconds East along the northwest line of Block "C" a distance of 28.49 feet; thence North 88 degrees 55 minutes 56 seconds East along the north line of Block "C" a distance of 74.21 feet to a tangent curve to the left having a radius of 225.00 feet, the radius point of which bears North 01 degree 04 minutes 04 seconds West; thence easterly along said curve an arc distance of 70.50 feet to a point which bears South 19 degrees 01 minute 16 seconds East from said radius point and the point of reverse curvature of a tangent curve to the right having a radius of 15.00 feet, the radius point of which bears South 19 degrees 01 minute 16 seconds East; thence southeasterly along the northerly line of Block "C" and said curve an arc distance of 21.05 feet to a point which bears North 61 degrees 23 minutes 06 seconds East from said radius point; thence South 28 degrees 36 minutes 54 seconds East along the northeasterly line of Block "C" a distance of 75.52 feet to a tangent curve to the right having a radius of 50.00 feet, the radius point of which bears South 61 degrees 23 minutes 06 seconds West; thence southerly along said curve an arc distance of 58.37 feet to a point which bears South 51 degrees 43 minutes 51 seconds East from said radius point and the point of reverse curvature of a tangent curve to the left having a radius of 60.00 feet, the radius point of which bears South 51 degrees 43 minutes 51 seconds East; thence southerly and easterly along northerly line of Block "C" and said curvature of a tangent curve to the right having a radius of 50.00 feet, the radius point of which bears South 33 degrees 11 minutes 50 seconds East; thence easterly along northerly line of Block "C" and said curve an arc distance of 47.86 feet to a point which bears North 21 degrees 39 minutes 00 seconds East from said radius point and the point of reverse curvature of a tangent curve to the left having a radius of 175.00 feet, the radius point of which bears North 21 degrees 39 minutes 00 seconds East from said radius point and the point of reverse curvature of a tangent curve to the left having a radius of 47.86 feet, the radius point of which bears North 21 degree 04 minutes 04 seconds East; thence easterly along northerly line of Block "C" and said curve an arc distance of 69.39 feet to a point which bears South distance of 661.02 feet to the northwest corner of the Common Area in Exhibit "A" of the Horizontal Property Regime for Building 26 in Block "C" of Grant Park recorded as Instrument Number 200700024939 in the Office of the Recorder, Hendricks County Indiana; thence South 01 degree 04 minutes 46 seconds East along the west line of said Common Area in Exhibit "A" a distance of 140.00 feet to the southwest corner of said Common Area in Exhibit "A"; thence South 88 degrees 55 minutes 56 seconds West along the south line of said Block "C" a distance of 1068.93 feet to the Point of Beginning, containing 4.507 acres, more or less.

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

PARKS AT PRESTWICK



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**DECLARATION OF COVENANTS AND RESTRICTIONS
OF
PARKS AT PRESTWICK**

This Declaration of Covenants and Restrictions of the Parks at Prestwick ("Declaration") is made this 28th day of January, 2003 by Prestwick Development, LLC (the "Declarant"),

WITNESSETH:

WHEREAS, Declarant is the Owner of real estate in Hendricks County, State of Indiana, which is more particularly described in Exhibit "A" attached hereto and hereby incorporated herein by reference (hereinafter sometimes referred to as the "Real Estate" or the "Development"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with public streets, lakes, landscaped areas, open spaces, walls, fences and other common areas and amenities for the benefit of such residential community, to be known as the "Parks at Prestwick"; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas therein contained, and, to this end, Declarant desires to subject the Real Estate and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each Owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of supervising, maintaining and administering any common areas located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the Owners of the Real Estate, and all parts thereof;

WHEREAS, Declarant has caused, or will cause, to be incorporated under the Indiana Code 23-17-1, et seq., under the name "Parks at Prestwick Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions; and

WHEREAS, Declarant contemplates that in addition to the covenants, conditions, easements and restrictions imposed hereby and the amenities, improvements and services of common benefit to all residents, such communities within the Real Estate may be subject to further covenants, conditions, easements and restrictions and provided with further amenities, improvements and services of benefit only to the residents of a particular community or

communities, and in furtherance thereof, Declarant intends that a Supplemental Declaration (as defined herein) will be recorded making reference to this Declaration and setting forth the various terms and provisions relating to such communities' specific amenities, improvements, services and other matters and Declarant contemplates that each Community (as defined herein) may form a separate Community Association (as herein defined) and as set forth in the Supplemental Declaration for that Community.

NOW, THEREFORE, Declarant, as owner of the Real Estate or with the consent of the owners of the Real Estate and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots situated therein.

ARTICLE I

Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

"Act" shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended;

"Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;

"Association" shall mean and refer to Parks at Prestwick Homeowners Association, Inc., an Indiana corporation organized under Indiana Code 23-17-1, et seq., which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns;

"Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;

"Board" or "Board of Directors" shall mean and refer to the governing body of the Association elected, selected or appointed as provided for in the Articles, Bylaws and this Declaration;

Bylaws" shall mean and refer to the Code of Bylaws of the Association, as the same may be amended from time to time;

"Committee" shall mean and refer to the "Parks at Prestwick Architectural Control Committee", the same being the committee or entity established pursuant to Article VIII, Section 1, of this Declaration for the purposes herein stated;

"Common Areas" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not dedicated to the public, which are not Lakes and which are not identified as Lots on any such plat, whether such plat is heretofore or hereafter recorded, (ii) such portions of the Real Estate as are herein declared to be Common Areas on the plat of the Real Estate even though located on or constituting part of one or more such Lots shown on any such plat, (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Areas whether located, installed or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both;

"Common Expenses" shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses;

"Community" shall mean and refer to separately designated and developed residential areas. In the absence of specific designation of separate Community status, all Real Estate made subject to this Declaration shall be considered a part of the same Community; provided, however, the Declarant may designate in any Supplemental Declaration adding property to the terms and conditions of this Declaration that such property shall constitute a separate Community or Communities; provided further that after the Applicable Date, upon approval of two-thirds (2/3) of the Board of Directors, the Board of Directors may also designate Community status to any area of the Real Estate so requesting.

"Community Assessments" shall mean assessments for such expenses as may be provided for herein or in any Supplemental Declaration which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Lots in a given Community against which the specific Community Assessment is levied and for the purposes of maintaining the properties or providing services for the Owners within a given Community, as will be more particularly described in the Supplemental Declaration creating the same. The Community Assessments shall be levied equally against Owners of Lots in a Community, provided that in the event assessments are levied for exterior maintenance of dwellings, or insurance on dwellings, or replacement reserves which pertain to particular dwellings within a given Community (pursuant to a Supplemental Declaration), such assessments (that are for the use and benefit of particular Lots) shall be levied upon a pro rata basis among the benefited Owners.

"Declarant" shall mean and refer to Prestwick Development, LLC and any successors and assigns of Prestwick Development, LLC whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited

to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

"Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family;

"Forest Preserve Area" shall mean those common areas set aside for forest preservation.

"Government Assisted Financing" shall mean financing that is provided by the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which provides (or may in the future provide) financing similar to the financing currently by such entities.

"Guidelines" means the guidelines adopted by the Committee pursuant to Section 2 of Article IX.

"Lakes" shall mean and refer to the Lakes located on the Real Estate;

"Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Areas) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a Lot on such subdivision plat or any condominium unit identified in a Horizontal Property Regime, (ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Notwithstanding the foregoing, if after the initial conveyance of a portion of the Real Estate by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such purpose. Any part of a "Lot" reconveyed to Declarant shall, upon

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such re-conveyance, lose its character as part of a "Lot" and may thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason;

"Mortgages" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;

"Owner" shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;

"Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof;

"Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter made subject to this Declaration by Supplemental Declaration;

The "Real Estate" or "Development" shall mean and refer to the parcel of real estate in Hendricks County, Indiana, described in Exhibit "A" attached to this Declaration, as referred to in the first recital clause of this Declaration, and defined therein as the Real Estate;

"Regulations" shall mean the additional rules and regulations with respect to the use, occupation, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) adopted by the Board pursuant to Section 7(g) of Article V.

"Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;

"Supplemental Declaration" shall mean any amendment to this Declaration which adds additional property to that covered by this Declaration or otherwise imposes additional covenants, conditions, easements or restrictions on all or any portion of the Development. Such Supplemental Declaration may, but is not required to impose, expressly or by reference, additional restrictions and obligations on the land subject to that Supplemental Declaration to the provisions of this Declaration and shall set forth the specific development standards, services to be provided by the Community Association to Owners in the Community being created thereby, the initial level of assessments for Community Assessments associated therewith and such other matters as the Declarant may determine to include therein.

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

ARTICLE II
Declaration; Common Areas and Rights Therein

Section 1. Declaration. Declarant hereby expressly declares that the Properties shall be held, transferred and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Committee and of the Association with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Committee, the Association, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions hereof, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots) subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

ARTICLE III
Common Areas; Easements

Section 1. Agreement to Construct and Convey Other Common Areas. Declarant has constructed or provided for, or will prior to the Applicable Date construct or provide for, Common Areas consisting of the following items:

- (a) a storm drainage system for the Real Estate, which may include lakes, inlet pipes, open ditches, swales, pipes and other structures and drainage courses;
- (b) the installation, in common areas or landscape easements of landscaping and other screening materials which may include parks, trails and other amenity areas;
- (c) the installation of entrance and retaining walls and other masonry fences in common areas or landscape easements (regardless of whether the same are in an area designated in a plat as Common Area or in an area subject to an easement reserved by Declarant);
- (d) the installation, within the street rights-of-way, of street lighting, street directories and street signs in common areas or in landscape easements.

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Upon final construction or provision of the Common Areas described in this Section 1, but in no event later than the Applicable Date, Declarant covenants to convey by quitclaim deed all of its right, title and interest in and to said Common Areas to the Association and all such right, title and interest in and to said items (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the Association and shall be accepted by the Association. As to any of such items of and constituting the Common Areas located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein as described in Article II, Section 2, of this Declaration.

Section 2. Additional Common Areas at Declarant's Option. Declarant may, at its option but without obligation to do so, convey other portions of the Real Estate to the Association for, or construct, install or provide for other items for or on, or services to serve, the Real Estate as amenities for, the mutual benefit, use or enjoyment of the Owners. Included as examples of the foregoing, but not limited therein, might be a community television antenna or receiving device to serve all of the Dwelling Units, storage buildings for storage of articles by Owners or provisions of portions of the Real Estate for recreational or other common uses or purposes for the Owners, including without limitation, a swimming pool, tennis courts, bath house or other recreational facilities or additional entrances, forest preserve area, landscaped areas and walls. Any such portions of the Real Estate, or other items, or services, which Declarant, at its sole option, elects to convey, construct, install or provide as Common Areas shall become a part of the Common Areas only when so designated by Declarant in a written instrument executed by Declarant and delivered to the Association. Upon any such designation by Declarant, Declarant shall convey by quitclaim deed all of its right, title and interest in and to the Common Areas so designated to the Association and all such right, title and interest in and to the Common Areas so designated and conveyed shall then and thereupon be and become the property of the Association, whether or not the same constitutes, or may be located entirely or partially on, any one or more of the Lots or any Lot shown upon any recorded subdivision plat of the Real Estate, or parts thereof. As to any of such Common Areas so designated and conveyed pursuant to the foregoing provisions of this Section 3 which are located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein or thereto, as described in Article II, Section 2, of this Declaration.

Section 3. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of ingress and egress in and to, and, use and enjoyment of the Common Area and the Community Facilities of the Community within which the Owner's Lot is located, which shall be appurtenant to and shall pass with the title to every Lot, subject to:

- (i) the right of the Association or appropriate Community Association to charge reasonable admission and other fees for the use of any Common Area or Community Facilities and to impose reasonable limits on the number of guests who may use such facilities and/or open membership to use of portions of Common Areas to the public in return for membership fees or other charges;

(ii) the right of the Association or appropriate Community Association to suspend or terminate a Member's voting rights in accordance with law and the Articles of Incorporation and Bylaws;

(iii) the right to suspend use of any such facilities for any period during which any assessment for Common Expenses or Community Assessments against that Owner's Lot remains unpaid, and for any violation by an Owner of the Association's or appropriate Community Association's rules and regulations, for the duration of the violation and for an additional period thereafter not to exceed thirty (30) days;

(iv) the Declarant's reserved easements as described herein and the right of the Declarant to grant easements in and to the Common Area and Community Facilities to any conservancy district, public agency, authority, or utility for such purposes as benefit only the Development or portions thereof and Owners or Lots contained therein;

(v) the right of the Association and of Community Association to borrow money for the purpose of improving the Common Area and Community Facilities, or any portion thereof, for acquiring additional Common Area or Community Facilities, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan, a mortgage conveying all or any portion of the Common Area or Community Facilities, provided two-thirds (2/3) of the Class A members, and, until the Applicable Date, all of the Class B members, must approve any mortgage of Common Area or Common Facilities; provided, however, the lien and encumbrance of any such mortgage given by the Association or Community Association shall be subject and subordinate to any and all rights, interests, options, easements and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner encumbering any Lot or other property located within the Development; and

(vi) the right of the Association and Community Association to dedicate or transfer all or any portion of the Common Area or Community Facilities to any conservancy district, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association or Community Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the Declarant prior to the Applicable Date and by at least two-thirds (2/3) of the Class A members.

Section 4. Declarant's Reserved Easement. Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any property in the Development, for the benefit of Declarant and its successors and assigns over, under, in, and on the Development, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use and enjoyment and otherwise dealing with the Development and any other property now owned or which may in the future be owned by Declarant. The reserved easement

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shall constitute a burden on the title to all or any portion of the Development and specifically includes, but is not limited to:

(i) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, and in all or any portion of the Development; and the right to tie into any portion of the Development with driveways, parking areas, streets, the drainage system and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including without limitation, electrical, telephone, cable, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over all or any portion of the Development;

(ii) the right to construct, install, replace, relocate, maintain, repair, use and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient or incidental to the construction and sale by Declarant of residences in all or any portion of the Development; and

(iii) the right to maintain a sales and marketing office for the Development within the Common Area and/or Community Facilities without cost to Declarant until the Applicable Date.

No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property within the Development, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from Declarant releasing such right, privilege, or easement by express reference thereto with respect to all or any portion of the Development. Declarant may grant to a home builder within the Development similar rights as granted to Declarant under (ii) and (iii) above.

Section 5. Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Development for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Development or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, cable television, internet service provider and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Development. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or serve request a specific license or easement by separate recordable document, the Board or Declarant shall have the right to grant such easement.

Section 6. Construction and Sale. Notwithstanding any provision contained in the Declaration to the contrary, until the Applicable Date, it shall be expressly permissible for Declarant, free of any and all charges therefore, to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant as models and sales offices.

**ARTICLE IV
Association; Membership; Voting; Functions**

Section 1. Membership in Association. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a member of the Association.

Section 2. Voting Rights. The Association shall have the following classes of membership, with the following voting rights:

(a) Class A. Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Association, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(b) Class B. Class B members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled to ten (10) votes for each Lot of which it is the Owner and ten (10) votes for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Association. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association, or (ii) the date Declarant has sold in excess of seventy-five percent (75%) of the total Lots and proposed Lots, including any portion of any single numbered parcel of land shown

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upon, and identified as a Lot on, any recorded subdivision plat of the Properties or any plan prescribed by Declarant for any property within or adjacent to the Properties intended to become a future section of the Parks at Prestwick (the applicable date being herein referred to as the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Properties of which it is then the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein. Prior to the termination of Class B membership, any merger or dissolution of the Association, any mortgaging of Common Areas, or any annexation of additional real estate as provided in Article XV of this Declaration or any amendment of the Declaration as provided in Section 1 of Article XVI of this Declaration which materially affects in an adverse manner any portion of the Properties which are eligible for Government Assisted Financing (and thus subject to its requirements) shall require the approval of the agency regulating such Government Assisted Financing, if such approval is required to maintain such eligibility.

Section 3. Functions. The Association has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration. Notwithstanding the foregoing, the Developer shall have the right, but not the obligation, to form a conservancy district or districts for the purpose of maintaining utilities or Common Areas, or portions thereof.

ARTICLE V

Board of Directors

Section 1. Management. The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, or a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. Until otherwise determined by the Declarant, the initial Board of Directors shall be composed of the persons designated or to be designated, in the Articles, to-wit: Andrew D. Pritchard, David R. Helm and Jerome R. Schafer (herein referred to as the "Initial Board"), who has been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provision of, this Declaration, the Articles, the Bylaws or the Act (a) the Initial Board shall hold office until the first annual meeting of the members of the Association occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first annual meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a

Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members of the Association are entitled to vote under the Declaration, the Articles, the Bylaws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Special member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a member of the Association nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Association).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one (1) year. Prior to the Applicable Date Developer shall have the right to determine a larger number of directors and stagger the terms thereof. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. The Board may employ a Managing Agent upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) procuring of utilities used in connection with the Lots, Dwelling Units and Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies);
- (c) landscaping, painting, decorating, furnishing, and maintenance and upkeep of, the Common Areas;
- (d) assessment and collection from the Owners of the Owners' respective shares of the Common Expenses;
- (e) preparation of the proposed annual budget, a copy of which will be made available to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- (f) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (g) procuring and maintaining for the benefit of the Association, the Owners, any Managing Agent and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (h) paying taxes and assessments assessed against and payable with respect to the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and
- (i) all duties and obligations imposed upon the Association or the Board under this Declaration, the Articles, the Bylaws or the Act.

No contract or agreement for professional management of the Association by Declaration nor any other contract between the Association and Declarant shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

Section 7. Powers of the Board of Directors and Association. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, snow removal, security, lawn and landscaping service and other common services to each lot. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These power include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas, and to perform all other maintenance, upkeep, repair and replacement duties of the Association and the Board;
- (e) to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Association;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations ("Regulations") with respect to use, occupancy, operation, construction activities and enjoyment of the Lots, the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional Regulations so adopted by the Board shall be promptly delivered to all Owners. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, cancelled, or modified by the Declarant prior to the Applicable Date and thereafter by Board of Directors of the Association by two-thirds (2/3) vote. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and

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monetary fines may be collected by lien and foreclosure, as provided in Article XI. In addition, the Association, through its Board, may, by contract or other agreement, enforce county ordinances or permit Hendricks County to enforce ordinances affecting the Development for the benefit of the Association and its Members; and

(h) to grant to such public or private companies, entities or bodies as the Board may approve, such easements as may be necessary to provide the Lots, Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television and internet service provider facilities and service; provided that such easements are located within or are co-extensive with any one or more utility easements, maintenance and access easement, landscape and maintenance easements, or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 9. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful, intentional, fraudulent or reckless misconduct. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

Section 10. Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for willful, intentional, fraudulent or reckless misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners

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that such Director was not guilty of willful, intentional, fraudulent or reckless misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for willful, intentional, fraudulent or reckless misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for willful, intentional, fraudulent or reckless misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 11. Bond. The Board of Directors may provide at the expense of the Association surety bonds and may require the Managing Agent (if any), the treasurer of the Association, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful, abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 12. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Association, until the Applicable Date. Declarant may, at its option, engage a Managing Agent affiliated with it to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services.

ARTICLE VI Real Estate Taxes; Utilities

Section 1. Real Estate Taxes. Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Association and treated as a Common Expense.

Section 2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Association.

Section 3. Conservancy District. Each Owner shall be required to pay to the West Central Conservancy District, its successors or assigns or applicable utility, the monthly availability fee for such utility's sewage collection system (currently \$15.00 per Lot) which shall

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commence as to a particular Lot on the first day of the month following the conveyance of such Lot by the Declarant to an Owner and continue until the Lot is connected to such sewage collection system. Such monthly fees shall be paid in compliance with the utility's billing requirements, currently fifteen (15) days from the date of invoice. If any Owner fails to pay the monthly fee when due, the amount of the fee shall be considered a lien against the Owner's Lot to which the fee applies. Fees due to such utility shall be considered charge of a Conservancy District and may be collected in accordance with Indiana Code §14-33-1, *et seq.*

ARTICLE VII Maintenance and Repair

Section 1. By the Owner. Each Owner shall be responsible for, if the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances and other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 2. By the Association. Maintenance, repairs, replacements and upkeep of the Common Areas shall (except to the extent provided herein as the obligation of Owners) be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

In addition to the maintenance of the Common Areas, the Association, as part of its duties, and as a part of the Common Expenses, shall provide for maintenance for the following items, which shall be considered part of the Common Areas for purposes of maintenance only:

(a) those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or the responsibility of a public authority; provided, however, that the Association shall have no obligation to maintain any public street, road or highway located within any public right-of-way on or abutting the Real Estate. For purposes of this subparagraph (a), "outside any perimeter fencing" means the areas between such fencing and the nearest property line of the Real Estate;

(b) any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate; and

(c) any equipment, such as water wells or fountains, installed by Declarant to serve the entire project to be developed on the Real Estate, whether or not located on Lots.

(d) the storm water drainage system for the Real Estate, including but not limited to, the maintenance of all lakes, inlets, open ditches, pipes, swales, manholes and detention ponds. The costs and expenses of such maintenance of the storm water drainage system shall be assessed as part of the general assessment against the Owners as provided in the Declaration and shall be secured by a lien against all lots in this subdivision. Sump pumps, gravity drains and other drains serving individual residences on Lots shall outfall only into drainage swales included in the storm water drainage system for Parks at Prestwick.

(e) all fences, walls, landscaping, screening material, street directories and signs, water wells and irrigation systems and other improvements within landscape easements.

(f) all trails, stairs, steps, bridges, rails and sidewalks not part of any public street.

The Board of Directors may adopt such other Regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration.

Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Areas (or items deemed Common Areas for purposes of maintenance), if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

In recognition of the fact that the costs of snow removal and landscaping maintenance for the Development may substantially exceed amounts budgeted therefor by the Association due to inordinate snow fall, an inordinate number of snow falls during any season, general weather conditions, agricultural conditions and amount of use, the cost of snow removal (if done by Association) and landscaping maintenance in excess of amounts budgeted therefor shall be paid by the Owners (on the same basis as assessments for Common Expenses are allocated to the Owners in accordance with Article XI) by a Special Assessment. Nothing contained herein shall be construed to require that the Association provide snow removal service for the Development. In the event snow removal service is to be provided for the Development an amount therefor shall be included in the annual budget and collected as a Common Expense with the



understanding that a Special Assessment may be necessary in the event the amount budgeted therefor is insufficient to defray the actual snow removal costs.

The authorized representatives of the Association, the Board and the Managing Agent for the Association (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any subdivision plat of any portion of the Real Estate for such purposes. Notwithstanding the foregoing, the Developer shall have the right, but not the obligation, to form a conservancy district or districts for the purpose of maintaining utilities or Common Areas, or portions thereof.

ARTICLE VIII Lake Covenants

Section 1. Ownership of Lakes. Each Lake area, if any, as shown on Declarant's plats of the subdivision shall be owned and controlled as tenants in common by the Owners of Lots proposed to abut the Lake subject to the restrictions set forth herein and on the Site Plan or Plat applicable to the Real Estate.

Section 2. Rights To Use Lakes. Subject to the easement rights with respect to the Lakes described in the Plat or Site Plan applicable to the Real Estate, the Owners of said Lake Lots together with guests in their presence, shall have the exclusive rights to use and enjoyment of such Lake provided that they may not interfere with the drainage system of the subdivision of which the Lakes are a part.

Section 3. Temporary Maintenance by Declarant. Until all Lots abutting the Lakes are sold, it shall be the responsibility of the Declarant, its successors and assigns, for the maintenance, repair and upkeep of said Lakes.

Section 4. Limitations on Use of Lakes. No person shall do or permit to be done any action or activity which could result in pollution of the Lakes, diversion of water, elevation of Lake levels, earth disturbance resulting in silting or any conduct which could result in an adverse affect upon water quality, drainage of the subdivision or proper Lake management.

The Lakes are and will be an integral part of the storm water drainage system serving the Real Estate and are intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of any of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system.

The Lakes shall be kept free and clean of rubbish, debris and other unsightly materials. No structure of any kind shall be placed in the Lakes or on the Lake property without the prior written approval of the Committee.

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No boating, swimming, diving, skiing or ice skating shall be permitted in or on said Lakes except as permitted by the Board of Directors.

No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said lakes, except the Board of Directors may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same.

Fishing from the shores of such lakes adjacent to an Owner's Lot by the Owner thereof and his invited guests and family shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, rules and regulations.

Section 5. Costs of Maintenance. Estimated costs of maintenance and repair of the Lake property related to the storm water drainage system shall be included in the Common Expenses. Any other expenses for maintenance, upkeep and repair of the Lake property including the easement adjacent thereto shall be shared pro rata by each Lake Lot Owner based on the frontage owned by each respective Lake Lot Owner.

ARTICLE IX Architectural Standards

Nothing, including any fence, deck, recreational equipment (including basketball goals), or any structure, doghouse or other improvements, shall be erected on any Lot, and no construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Committee has been obtained pursuant to Section 1 below.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration.

Section 1. Architectural Control Committee. There shall be, and hereby is, created and established the "Parks at Prestwick Architectural Control Committee" ("Committee") which shall have exclusive jurisdiction over all construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant, or not more than five, nor less than three, persons designated by it, shall constitute the Committee and shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in

recordable form executed by the Declarant. After the sale of 100% of the Properties, the Committee shall be a standing committee of the Association, consisting of not more than five, nor less than three, persons as may, from time to time, be provided in the Bylaws. If the Bylaws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Approval Process. The Committee shall have the right to unilaterally promulgate, modify, and amend at any time and from time to time, on behalf of the Board of Directors and the Association, architectural, development, design and site planning guidelines and standards, and application and approval procedures, which shall be binding on all Owners of Lots within the Development, as determined in the reasonable discretion of the Committee (the "Guidelines"). Copies are on file in the office of the Declarant (or the Association, as the case may be) which are incorporated into this Declaration by reference. The Guidelines shall be those of the Association, and the Committee shall have sole and full authority to prepare and to amend them. It shall make the Guidelines available to Owners, builders, and developers who seek to engage in development of or construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of the Properties and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. The Committee, or its designee, must give written approval for any building contractor selected by the Lot Owner for construction.

Prior to any construction on any Lot, the approval of the Committee must be obtained after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee in its guidelines and procedures which will contain requirements to promote the standard of quality of workmanship and design and harmony of external design with existing structures, location in relation to surrounding structures, topography and finish grade elevation as determined by the Committee, and shall include a tree preservation plan for any wooded lot.

Section 3. Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

- (a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Declarations, the plat restrictions or any rules, regulations or Guidelines adopted by the Committee;
- (b) the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or
- (c) the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or part of other Owners.

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Section 4. Duties of Committee. The Committee shall approve or disapprove proposed improvements within twenty-one (21) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor. In the event that the Committee fails to approve or disapprove such plans or to request additional information reasonably required within 45 days after submission of all required or requested information, the plans shall be deemed approved.

Section 5. No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 6. Variance. The Committee may authorize variances from compliance with any of its Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and applicable zoning laws, ordinances and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) modify zoning or governmental requirements, (b) be effective unless in writing, (c) be contrary to the restrictions set forth in the body of this Declaration, or (d) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.

Section 7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Guidelines promulgated by the Committee may be excluded by the Board from the Properties without liability to any person, subject to the notice and hearing procedures contained in the Bylaws. Further, if any approval required by this Declaration is not granted in writing with respect to any item prior to its installation, the respective Owner thereof shall remove promptly the unapproved item or structure, upon request by Declarant or the Association.

Section 8. Non-Liability of Declarant, Committee. Neither the Declarant nor the Committee shall be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee or the Declarant does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing the Real Estate or any applicable code, regulation or law.

Section 9. Inspection. The Committee and the Declarant may, but shall not be obligated to, inspect work being performed to assure compliance with these Restrictions, the plat restrictions and applicable regulations. However, neither the Committee, nor any member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Committee or the Declarant, shall be liable or responsible for defects, nonconformity or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 10. No Compensation. Neither the Committee nor any of its members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

Section 11. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit; **provided, however,** that any dues, fees or other charges shall be assessed against each Lot individually.

Section 12. Declarant Improvements. The Committee shall have no powers with respect to any construction, improvements, or modifications undertaken by the Declarant (or any assignee of Declarant if the Declarant has approved the plans therefor) or any improvements approved by Declarant at any time.

ARTICLE X Use Restrictions/Covenants and Regulations

Section 1. Residential Use. Except for those Communities which provide for multi-family housing, the Properties shall be used only for single family residential purposes; provided, however, that such restriction shall not apply to any Lot or part thereof or any other part of the Properties at any time owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located.

Section 2. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed and by required Certificate of Occupancy issued.

Section 3. Signs. Except as hereinafter provided for Declarant, no signs of any type whatsoever, billboards, unsightly objects, or nuisances shall be erected placed or permitted to remain on the Development other than signage provided by Declarant or by the Association and approved by the Committee and signs that are approved by the Committee and are erected by a

builder of multiple Lots in the Development, except that one sign of not more than six (6) square feet may be displayed for the purpose of advertising a Lot for sale. Violation of this sign restriction will result in Fifty Dollars (\$50.00) per day liquidated damages payable to the Declarant until such time as the Association owns and is responsible for the maintenance of the Common Areas, at which time such liquidated damages shall be payable to the Association.

Section 4. Parking and Prohibited Vehicles.

(a) **Parking.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Lots. Parking (of automobiles only) is allowed on dedicated streets only when an Owner has a social function and the invited guests will not be able to park on such Owner's Lot. No overnight parking shall be permitted on any dedicated street.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks weighing in excess of three-quarters of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Bylaws.

(c) **Garages and Driveways.** No dwelling shall have less than a full size 2-car or more than a 4-car attached garage, unless otherwise approved by the Committee. All driveways and vehicle parking areas shall be hard surfaced with either concrete, or an acceptable alternate approved by the Committee and shall be so surfaced from their point of connection with the abutting street to their point of connection with the garage apron. No gravel or stone driveways will be permitted.

Section 5. Sidewalks. Sidewalks shall be constructed as required by the sidewalk plan approved by the Hendricks County Plan Commission, which construction shall be the responsibility of the lot owner upon whose lot the sidewalk is to be constructed, provided, however, that any Common Area sidewalks shall be constructed by the Developer as designated on the final development-sidewalk plan. All sidewalks to be constructed by lot owners shall be completed at such times as the driveway on the lot is constructed. All sidewalks shall be poured concrete, with expansion joints, such construction to be perpetual and continuous along the street frontages and across the driveway of each Lot. Maintenance of sidewalks shall be the responsibility of individual lot owners.

Section 6. Occupants Bound. All provisions of the Declaration, Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct

of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Owner. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws and rules and regulations adopted pursuant thereto.

Section 7. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats or other usual and common household pets may be permitted on a Lot. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties shall be removed from the Properties upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person, except as permitted by Guidelines.

Section 8. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage or any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Owners or allow any such noise or disturbance to be made on his or her Lot, including any noise by the use of musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other machines or equipment. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 9. Prohibition of Used Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 10. Maintenance of Lots and Improvements. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkept condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the forgoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. No waste shall be committed in any Dwelling or on any Lot. Each Owner shall:

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- (i) Mow the Lot at such times as may be reasonably required in order to keep the grass no longer than five inches and prevent the unsightly growth of vegetation and noxious weeds;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;
- (iv) Cut down and remove dead trees (live trees on wooded lots may only be removed in accordance with the tree preservation plan approved by the Committee);
- (v) Where applicable, prevent debris and foreign material from entering drainage areas; and
- (vi) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

Section 11. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Lot, without the prior written consent of the Board or its designee. Notwithstanding the foregoing, the Declarant, its nominees, successors or assigns shall have the right, without obligation, to erect an aerial or satellite dish, or install other apparatus for a master antenna or cable system for the benefit of all or a portion of the Properties and satellite dishes no greater in size than 18" in diameter are permitted on the Properties so long as they are on the side or rear of a Dwelling Unit or screened from street view.

Section 12. Clothesline, Garbage Cans, Tanks, Etc. All clothes, sheets, blankets, rugs, laundry clotheslines, garbage cans, mechanical equipment, and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All fuel storage tanks outside a Dwelling Unit shall be installed below the surface of the ground. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Committee hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garage or other refuse.

Section 13. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes bows and arrows, slingshots "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

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Section 14. Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant or the Committee during initial construction within the Properties, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours unless otherwise consented to by the Board of Directors of the Declarant.

Section 15. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 16. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes. No utility services will be installed under any paved areas in the Development, except by jacking, drilling or boring, unless specifically approved by the Committee.

Section 17. Provisions Respecting Disposal of Sanitary Waste.

A. **Nuisances.** No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

B. **Construction of Sanitary Sewage Lines.** All sanitary sewage lines on the Lots shall be designed, constructed and installed in accordance with the provisions and requirements of West Central Conservancy District and these Restrictions.

C. **Connection Requirements for Sanitary Sewers.** All homes shall have sewers directly connected by way of gravity except by the use of lift pumps and/or check valves or connections shall be one foot above the lowest manhole in the Subdivision.

Section 18. Lighting. Except for seasonal winter holiday decorative lights, which may be displayed between November 15 and January 10 only, all exterior lights must be approved in accordance with Article IX of this Declaration.

Section 19. Private Water Systems. No private, or semi-private, water supply may be located upon any Lot which is not in compliance with regulations or procedures as provided by the applicable public health agencies, or other civil authority having jurisdiction, approved by the Committee and restricted to use in connection with a sprinkler system or geothermal heating and cooling system.

Section 20. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior

sculpture, fountains, flags, and similar items must be approved in accordance with Article IX of this Declaration.

Section 21. Landscaping. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board. Each Lot Owner shall provide reasonable landscaping on his Lot including, at a minimum, suitable foundation landscaping. All landscaping plans are subject to Committee approval in accordance with the Guidelines promulgated by the Committee. The Committee may, in its discretion, modify such plans to promote the integrity and the aesthetic appearances of this subdivision. Finished grading of all yards must be completed within 15 days after the dwelling is constructed, weather permitting, and all yards must be seeded or sodded with grass within ten days after the completion of finish grading, weather permitting. Trees provided by Declarant, if any, will be protected by Owner during construction and replaced within 30 days if damaged or if a tree dies on Owner Lot.

Section 22. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Committee pursuant to Article IX of this Declaration.

Section 23. Insurance Impact. Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

Section 24. Ground Elevations and Erosion Control. It shall be the Lot Owner's responsibility to maintain and comply with all building and site finish ground elevations and erosion control as finally required and approved by the Hendricks County Drainage Board and the Department of Planning and Zoning as evidenced upon the final construction plans for the development of this subdivision.

Section 25. Swimming Pools. Swimming pools must have the approval of the Committee before any work is undertaken. No above ground swimming pools shall be allowed, provided nothing herein shall preclude installation and use of hot tubs, spas, jacuzzis or similar apparatus with prior approval of the Committee. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool in neighboring properties. An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence or other safety protection and landscape design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Use of plantings in the vicinity of the proposed pool may be required to soften the effect of sound and required pool fencing on adjacent properties.

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Section 26. Tennis Courts, Racquetball Courts, Paddle Ball Courts, Basketball Goals, Etc. Tennis courts, racquetball courts, paddle ball courts, squash courts, and other recreational or sporting facilities may be approved by the Committee only after thorough consideration of the potential effect of such a structure or use in neighboring properties. The Committee will not approve non-baffled lighted courts or facilities. An application for the construction of any such facility will not be considered unless the application is accompanied by an application for an acceptable fence and landscape design approval. It is recommended by the Committee that any such fencing be of an open composition in order to blend in with the surrounding properties and soften the effect on adjacent properties.

All basketball backboards or any other fixed games and play structures shall be located behind the Lot set-back lines unless otherwise approved by the Committee. The Committee reserves the right to approve or disapprove the location and type of basketball goals.

Section 27. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof. No playground equipment, tree houses, or similar structures shall be erected on any Lot without prior approval pursuant to Article IX hereof; provided, however, children's play equipment such as sandboxes, swing and slide, and tents shall not require approval by the Committee provided such equipment is not more than six (6) feet high, maintained by the lot owner in good repair (including painting) and every reasonable effort has been made by the lot owner to screen or shield such equipment from view of adjacent lot owners. Equipment higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee.

Section 28. Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Lot except as approved in accordance with Article IX of this Declaration.

Section 29. Heating Plant. Every Dwelling Unit must contain a heating plant installed in compliance with the applicable codes and capable of providing adequate heat for year-round human habitation of the Dwelling Unit.

Section 30. Air Cooling Units. Air cooling units or other like utilities that are outside of the residential structure must be located at the side or rear of the home and except as may be permitted by the Committee. No window air conditioning units may be installed on any Lot.

Section 31. Model Homes. No Owner of any Lot shall build or permit the building upon his Lot or any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Declarant.

Section 32. Ditches and Swales and Erosion Control. It shall be the duty of the Owner of any Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements and plant material) and in good repair, and to provide for the installation of such

culverts upon said Lot as may be reasonably necessary. It shall be the duty of the Owner of any Lot to establish as needed and to maintain all erosion control on his or her respective Lot.

Section 33. Business Use. Except as permitted in the Regulations, no garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot.

Section 34. Sales Office. To the extent deemed necessary or desirable by Developer, Developer or Builders approved by Declarant shall be permitted to place sales offices and construction and storage facilities for uses attributable to the construction, development, marketing and maintenance of the subdivision on any unsold lot or on any Common Area in the subdivision until 180 days following the sale, closing and deed transfer to a lot owner other than Developer of the last lot in the subdivision.

Section 35. Drilling. No oil or water drillings, oil development operations, oil refining, quarries or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted on any Lot.

Section 36. Non-applicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in this Article X shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of its duties, obligations and responsibilities as to the Common Areas.

Section 37. Diligence in Construction. Every building whose construction on any Lot is begun shall be completed within one year after the beginning of such construction unless circumstances beyond the reasonable control of the builder and/or Owner prevent such completion. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage. The Declarant and/or Homeowners Association shall have standing and authority to seek an injunction or order for the removal of any materials and partially completed structures in violation of this covenant.

Section 38. Declarant's and the Association's Right to Perform Certain Maintenance and Removal. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements, or remove any unauthorized item or structure, situated thereon in accordance with the provisions of these Restrictions, the Guidelines, the Regulations and the provisions of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Association through its agents and employees or contractors, should have the right to enter upon said Lot and repair, mow, clean, remove or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost

thereof to the Declarant or the Association shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of Common Expenses. Neither the Declarant nor the Association, nor any of its agents, employees or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 39. Regulations. The foregoing restrictions in this Article X may be modified, limited and clarified in the Regulations or Guidelines with the Declarant's consent being required prior to the Applicable Date. Any conduct, use or structure expressly permitted in such Regulations or Guidelines shall be permitted notwithstanding a general restriction herein to the contrary.

ARTICLE XI Assessments

Section 1. Purpose of Assessment. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors. The word 'assessments' as used herein shall mean all assessments referred to herein for Common Expenses, including Special Assessments.

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Section 2. Creation of Assessments.

(a) There are hereby created assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors. Assessments for Common Expenses shall be allocated among all Owners within the Association as described in Section 3 hereof and shall be for expenses determined by the Board to be for the benefit of the Association as a whole. Each Owner, by acceptance of his or her deed, is deemed to covenant and agree to pay all assessments created or referenced herein. All such assessments, together with interest, not to exceed the maximum legal rate, and all late charges from the date first due and payable, all costs of collection, reasonable attorneys fees and paraprofessional fees actually incurred, and any other amounts provided or permitted by law, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

(b) Each such assessment, together with interest, costs, and reasonable attorney's fees and paraprofessional fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, monthly, quarterly, semi-annually or annually and acceleration of the annual assessment for delinquents. Unless the Board otherwise provides, all assessments shall be paid annually.

Section 3. Computation of Assessment.

(a) It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall list Common Expenses. Each Owner of any Lot in the Development hereby covenants and agrees to pay to the Association its allocated share (the "Allocated Share") of the annual assessments for Common Expenses for the Development, as fixed, established and determined from time to time as herein provided. The Allocated Share of each Owner in the Development shall be determined by the Declarant and shall be based upon a combination of the following factors: (i) the projected number of Lots in the Development; (ii) the actual or projected purchase price and/or value of each Lot and any residence thereon; (iii) the square footage of each Lot; (iv) the number of Lots owned by Owners other than the Declarant; and (v) any other factor which the Declarant may determine, from time to time, is in the best interest of Declarant and the Development. The method by which the Declarant allocates the Common Expenses among Owners may be changed from time to time prior to the Applicable Date as changes occur in the five- (5) factors set forth above. The method of computing each Owner's Allocated Share that is used by the Declarant on the Applicable Date shall be the method used by the Board subsequent to the Applicable Date unless a change in method is approved by two-thirds (2/3) of votes of the Members. The Board

shall cause a copy of the budget, the amount of the assessments to be levied against each Lot for the following year and a description of the method used in determining the assessments to be delivered to each Owner at least fifteen (15) days prior to the meeting. Each segment of the budget including, without limitation, the assessments for Common Expenses shall become effective unless disapproved at the meeting by a vote of at least two-thirds (2/3) of a Quorum of the Members.

(b) Notwithstanding the foregoing, however, in the event that (i) the proposed budget or the assessments for Common Expenses are disapproved in accordance with Section 3(a), or (ii) the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget (or such portion thereof or assessments as shall have been disapproved in accordance with the foregoing) shall have been determined as provided herein, the budget (or applicable portion thereof or assessments) in effect for the then current year shall continue for the succeeding year.

(c) In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for assessments for the following fiscal year, except that so long as the Declarant controls the Association, Declarant may, but shall be under no obligation, to fund such deficit; provided, however, that Declarant shall be reimbursed by the Association for any deficits so funded, together with interest at ten percent (10%) per annum until so reimbursed, from available surpluses in later years or through Special Assessments. Thereafter, such deficit may be recouped either by inclusion in the budget for annual assessments or by the making of one or more Special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, an allocable share of such excess (based on the amounts originally levied as assessments) shall be a credit against the assessments due from each Owner for the next fiscal year(s); provided, that Declarant shall first be reimbursed for deficits previously paid, with interest, as required above before such excess shall be so credited to Owners.

(d) During the first year following the date of recordation of this Declaration, the total assessments per Lot per year for Common Expenses shall not exceed \$500.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy Special Assessments in any year. Special Assessments shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.

Section 5. Lien for Assessments.

(a) All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees and paraprofessional fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association.

Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens of ad valorem taxes; or (ii) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the land records of Hendricks County, Indiana, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

(b) All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association.

(a) Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any Member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorneys fees and paraprofessional fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot. No Owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot.

(b) All payments shall be applied first to costs and attorney and paraprofessional fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or Special Assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or Special Assessments which are the subject matter of suit in the order of their coming due.

Section 7. Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget that shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost for the Common Area. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association as shown on the capital budget,

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with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment for Common Expenses as provided in Section 3. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

Section 8. Subordination of the Lien to First Deeds of Trust and First Mortgages.

The lien of the assessments, including interest, late charges, costs (including attorney's' fees and paraprofessional fees) provided for herein, shall be subordinate to the lien of any first mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first mortgage shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer (subject to the right of the Association to payment out of available foreclosure sale proceeds). No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the mortgagee of a first mortgage of record or other purchaser of a Lot obtains title, his or her successors and assigns shall not be liable for the share of the Common Expenses by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses shall be deemed to be Common Expenses collectible from all the Lots, including such acquirer, his or her successors and assigns.

Section 9. Capitalization of Association. Upon acquisition of record title to a Lot from Declarant, each Owner shall contribute to the capital of the Association an amount equal to \$100. All such amounts shall be set aside as capital replacement/working capital reserve, and shall not be utilized by Declarant or the Association until after the Applicable Date.

Section 10. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to a particular Lot on the first day of the month following the conveyance of such Lot by the Declarant to an Owner (who is not a commercial builder), or by an Owner who is a commercial builder to an Owner who is an end-user and shall be due and payable in a manner and on a schedule as the Board of Directors may provide. Unimproved Lots owned by commercial builders shall be assessed at a rate of \$200 per year. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. The date any Lot becomes subject to assessment hereunder shall be the date on which such Lot is transferred by Declarant to an Owner; provided, however, that Declarant may, in its sole and absolute discretion delay the starting date for assessments for as long as Declarant shall deem appropriate in its sole and absolute discretion but assessments shall in all events be payable commencing on the first day of the first month following the date the Lot is occupied for the residential purposes or is suitable for such occupancy as evidenced, for example, by the appropriate official of Hendricks County, Indiana, or an architect issuing a certificate of occupancy or its equivalent stating that the residential structure on such Lot is substantially complete and available for occupancy.

Section 11. Assessments by Declarant.

(a) Declarant covenants and agrees to pay the full amount of the annual assessment for each Lot occupied for residential purposes that it owns; notwithstanding anything contained herein to the contrary, the Declarant shall not be required to pay any assessments for any Lots not occupied for residential purposes that it owns, including but not limited to model homes.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

Section 12. Ownership of Multiple Continuous Lots for One Single-Family Residence. Any Owner of contiguous Lots in the Development, including one Lot and a portion of another Lot, who desires to use more than one of such Lots as the site for one single-family residence, must apply for approval of the same in writing to the Committee, which approval shall be given or withheld by the Committee in the Committee's sole discretion. If the Committee approves such request (a "Multiple Lot Approval"), the multiple Lots constituting the site for such single-family residence shall, for so long as the multiple Lots remain improved with only one single-family residence, be treated as a single Lot for purposes of this Declaration, including without limitation, for purposes of the voting rights set forth in Section 3.2 of this Declaration. In connection with the Owner's desire to use multiple contiguous Lots for one single-family residence, each such Owner shall be responsible for obtaining, at its sole expense, all required government approvals, including any required platting or re-platting of the affected property. In addition, each Owner shall comply with all applicable laws, regulations and zoning ordinances, including without limitation, all yard setback requirements, in connection with the use of multiple contiguous Lots for one single-family residence.

**ARTICLE XII
Mortgages**

Section 1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, may notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the

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Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the Bylaws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement except as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IV hereof.

ARTICLE XIII Insurance

Section 1. Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consonant with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Association as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will

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come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty on the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or distributed by the Association or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Association does not elect to restore.

Section 2. Public Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of \$1,000,000.00 per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Association, the Board of Directors, any committee or organ of the Association or Board, any Managing Agent appointed or employed by the Association, the Declarant all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

Section 3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Association as part of the Common Expenses. Upon request of any Owner or Mortgagee whose interest may be affected thereby, the Association shall provide such Owner or mortgagee with a description of the insurance coverage maintained by the Association.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Association to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association.

ARTICLE XIV Casualty and Restoration

In the event of damage to or destruction of any of the Common Areas due to fire or any other casualty or disaster, the Association shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Association, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Association against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Areas to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same architecture and materials.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Association has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Areas shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Areas were originally constructed.

ARTICLE XV

Annexation

Subject to Section 2(b) of Article IV hereof, Declarant hereby reserves the right, from time to time and at any time, to annex any portion of adjacent real estate into Parks at Prestwick. As of the date on which Declarant annexes any portion of adjacent real estate into the subdivision (the "Annexed Real Estate"), the Annexed Real Estate shall be deemed to be (for all purposes) included within Parks at Prestwick; all references in these covenants and restrictions or in the Declaration to the "subdivision" or to the "Parks at Prestwick" shall be deemed to include the Annexed Real Estate; all references in these covenants and restrictions or in the Declaration to "Real Estate" shall be deemed to include all parcels of land within the Annexed Real Estate; all references in these covenants and restrictions or in the Declaration to "Lots" shall be deemed to include all Lots or parcels within the Annexed Real Estate; and all easements created by these covenants and restrictions or in the Declaration shall bind, benefit, burden and run with the Annexed Real Estate. As of the date on which Declarant annexes any portion of the adjacent real estate into the subdivision, the owners of the Annexed Real Estate shall be deemed to be (for all purposes) owners of lots within the Parks at Prestwick; all references in these covenants and restrictions or the Declaration to "Owner(s)" shall be deemed to include all owners of Lots within the annexed Real Estate; and all easements created herein shall bind, benefit and burden the owners of Lots within the Annexed Real Estate and the mortgages, grantees, heirs, assigns and successors of such owners, as provided herein. Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of said real property to be so annexed and that such transfer is memorialized in a written, recorded instrument. The rights reserved unto Declarant to subject additional real estate to the Declaration shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such additional real estate to this Declaration or to

the jurisdiction of the Association nor any obligation, if subjected, to build housing of the same type, design or materials. If such additional real estate is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose covenants and restrictions similar to those contained herein upon such additional real estate, nor shall such rights in any manner limit or restrict the use to which such additional real estate may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

**ARTICLE XVI
Amendment of Declaration**

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) **Notice.** Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(b) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(c) **Meeting.** The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.

(d) **Adoption.** Subject to Section 2(b) of Article IV hereof, any proposed amendment to this Declaration must be (i) approved by a vote of not less than seventy-five percent (75%) of the Class A voting rights set forth in Article IV, Section 2(a), and (ii) approved by the Declarant until the Applicable Date.

(e) **Special Amendments.** No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Article XI of this Declaration with respect to casualty insurance to be maintained by the Association, or (3) the provisions of Article XII of this Declaration with respect to reconstruction or repair of the Common Areas in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Committee and providing for its functions, without, in each or any of such circumstances, the unanimous approval of all Owners.

(f) **Recording.** Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything else contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if Declarant records the modification in the Office of the Recorder of Hendricks County, Indiana, and if such amendment or supplement is made (a) to comply with requirements of Government Assisted Financing, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any governmental requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) function similar to those performed by such agencies or entities, (e) to subject additional property to these restrictions, (f) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (g) to clarify, further define or limit any easement, or otherwise exercise any rights reserved herein, or (h) change the substance of one or more covenants, conditions, terms or provisions hereof but (A) does not materially increase the obligation(s) of any owner under any covenant, condition, term or provision without such owner's consent or (B) is necessary to comply with a bona fide governmental requirement, including applicable laws, ordinances, regulations or orders of any municipality or court having jurisdiction. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 or behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

ARTICLE XVII
Acceptance and Ratification

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the Bylaws and the rules, regulations and guidelines as adopted by the Board of Directors and (to the extent of its jurisdiction) the Committee, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance of the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the Bylaws and rules, regulations and guidelines, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in an Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All

Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the Bylaws, and the rules, regulations and guidelines applicable thereto as each may be amended or supplemented from time to time.

**ARTICLE XVIII
Negligence**

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or tenants.

**ARTICLE XIX
Benefit and Enforcement**

Section 1. Covenants Appurtenant to Land. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time after fifteen (15) years a majority of the then owners of the lots in this subdivision agree to change (or terminate) said covenants in whole or in part and on the condition that an instrument to that effect signed by the lot owners voting in favor of such change has been recorded; provided, however, that no change or termination of said covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

Section 2. Prosecution of Violations. It shall be lawful for the Declarant, the Association, the Committee (as to matters for which it has responsibility) or any Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant, conditions, provisions or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these covenants and restrictions shall be the financial responsibility of the Lot Owner or Owners found to be in violation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. Failure to enforce any specific requirement of the covenant shall not be considered as a waiver of the right to enforce any covenant herein, thereafter. Notwithstanding the foregoing, any violation of these covenants or the Declaration may be waived by a majority of the then owners of the Lots in this subdivision.

**ARTICLE XX
Non-Liability**

Section 1. Drainage Board. The Hendricks County Drainage Board shall not be responsible in any way for, and disclaims any liability for, any defect in any plans, specifications or other materials approved by it in connection with the storm drainage system for the subdivision, or for any defects in the construction thereof.

Section 2. Limitation on Declarant's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner acknowledges and agrees that neither Declarant (including without limitation any assignee of the interest of Declarant hereunder) nor any director, officer or shareholder of Declarant (or any partner, officer, director or shareholder in any such assignee) shall have any personal liability to the Association, or any Owner, Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration or the Association. If any judgment is ever levied against Declarant (or its assignee), the same is hereby agreed to be limited to the extent of Declarant's (or such assignee's) interest in the Development; and, in the event of a judgment no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon any other assets of Declarant (or its assignee).

**ARTICLE XXI
Miscellaneous**

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the Bylaws, or to comply with any provision of this Declaration, the Articles, the Bylaws, or the rules, regulations and guidelines adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 2. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot or Dwelling Unit.

Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the Bylaws and each shall be enforceable to the greatest extent permitted by law.

Section 4. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all

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genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 5. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

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"EXHIBIT A"

A part of the West Half of the Northwest Quarter of Section 16, also a part of the Northeast Quarter of the Northeast Quarter of Section 17, also a part of the Southeast Quarter of Section 8 and a part of the West Half of the Southwest Quarter of Section 9, all in Township 15 North, Range 1 East in Washington Township, Hendricks County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of the West Half of the Northwest Quarter of said Section 16; thence South 00 degrees 16 minutes 23 seconds East on and along the East line of said Half Quarter Section 703.40 feet; thence South 88 degrees 51 minutes 51 seconds West parallel with the North line of said Half Quarter Section 136.97 feet; thence North 44 degrees 56 minutes 29 seconds West 442.15 feet to a point on a curve concave Northwesterly having a central angle of 38 degrees 37 minutes 41 seconds and a radius of 530.00 feet; thence Southwesterly on and along said curve an arc distance of 357.32 feet (said arc being subtended by a chord having a bearing of South 64 degrees 22 minutes 17 seconds West and a length of 350.59 feet); thence South 83 degrees 41 minutes 07 seconds West 77.75 feet to the point of curvature of a curve concave Northeasterly having a central angle of 48 degrees 23 minutes 21 seconds and a radius of 430.00 feet; thence Northwesterly on and along said curve an arc distance of 363.16 feet (said arc being subtended by a chord having a bearing of North 72 degrees 07 minutes 13 seconds West and a length of 352.46 feet); thence South 62 degrees 24 minutes 12 seconds West 188.98 feet; thence North 00 degrees 14 minutes 49 seconds West 82.36 feet; thence North 42 degrees 45 minutes 34 seconds West 344.85 feet; thence North 72 degrees 13 minutes 26 seconds West 271.85 feet; thence North 00 degrees 00 minutes 00 seconds West 79.13 feet; thence North 42 degrees 45 minutes 34 seconds West 317.09 feet; thence North 49 degrees 24 minutes 08 seconds West 79.89 feet; thence North 61 degrees 59 minutes 37 seconds West 80.28 feet; thence North 74 degrees 17 minutes 51 seconds West 78.69 feet; thence North 82 degrees 52 minutes 47 seconds West 567.38 feet; thence North 52 degrees 44 minutes 29 seconds West 357.74 feet; thence North 37 degrees 15 minutes 31 seconds East 205.00 feet; thence North 52 degrees 44 minutes 29 seconds West 34.40 feet; thence North 46 degrees 54 minutes 26 seconds East 325.44 feet; thence South 40 degrees 33 minutes 06 seconds East 87.26 feet; thence South 64 degrees 22 minutes 35 seconds East 295.47 feet; thence North 66 degrees 56 minutes 35 seconds East 263.56 feet; thence South 61 degrees 45 minutes 36 seconds East 518.18 feet; thence South 30 degrees 18 minutes 54 seconds East 802.36 feet to a concrete post found representing the Southeast corner of the Southeast Quarter of said Section 8; thence North 88 degrees 51 minutes 51 seconds East on and along the North line of the West Half of the Northwest Quarter of said Section 16 a distance of 817.54 feet; thence North 63 degrees 29 minutes 59 seconds East 397.60 feet; thence North 80 degrees 28 minutes 01 second East 172.34 feet to a point on the East line of the West Half of the Southwest Quarter of said Section 9; thence South 00 degrees 20 minutes 31 seconds East 195.51 feet to the Point of Beginning and containing 39.89 acres, more or less. Subject to all restrictions, rights-of-way and easements of record.

**AMENDMENT TO THE DECLARATION OF COVENANTS AND
RESTRICTIONS OF THE PARKS AT PRESTWICK SUBDIVISION**

Prestwick Development, LLC is the Declarant with respect to a certain Declaration of Covenants and Restrictions of the Parks at Prestwick Subdivision dated February 3, 2003, and recorded in the Office of the Recorder of Hendricks County, Indiana, on February 3, 2003, as Instrument No. 2003-00004751 in the Public Record Volume 394, Page 2822 (the "Declaration").

WHEREAS, the Declaration pertains to certain "Real Estate" comprising the Development described in Exhibit "A" attached thereto; and

WHEREAS, Declarant is developing additional property (the "Annexed Real Estate") adjacent to the original Real Estate as part of the Parks at Prestwick and incorporated the same into the Declaration by plat reference; and

WHEREAS, Declarant desires to formally confirm the annexation of the Annexed Real Estate, as hereinafter provided;

NOW, THEREFORE, pursuant to Section 2(e) of Article XVI of the Declaration, Declarant hereby amends the Declaration to add the property described on Exhibit "A" attached hereto and incorporated herein by reference, as Annexed Real Estate as defined in Article XV of the Declaration to be subject to all terms and provisions of the Declaration.

IN WITNESS WHEREOF, Declarant has executed this Amendment to the Declaration of Covenants and Restrictions of Parks at Prestwick this 29 day of APRIL, 2005.

PRESTWICK DEVELOPMENT, LLC

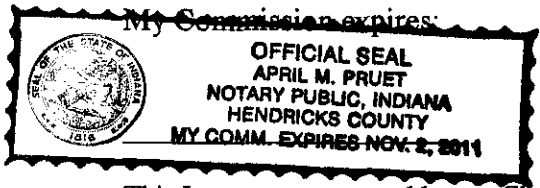
By: David R. Helm
David R. Helm, Manager

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STATE OF INDIANA)
COUNTY OF Hendricks) SS:

Before me, a Notary Public in and for said County and State, personally appeared David R. Helm, the Manager of Prestwick Development, LLC, who acknowledged the execution of the foregoing First Supplement, for and on behalf of said Company, and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 29th day of April, 2005.



April M. Pruet
Notary Public
Printed: _____
Resident of _____ County

This Instrument prepared by Christopher D. Long
KRIEG DEVAULT, LLP
2800 One Indiana Square
Indianapolis, Indiana 46204
(317) 639-4121

EXHIBIT "A"
[Legal Description]

A part of the Northwest Quarter of Section 8, Township 15 North, Range 1 East in Hendricks County, Indiana, described as follows:

Commencing at the Southeast corner of the Southwest quarter of said section 8; THENCE South 89 degrees 03 minutes 19 seconds West (bearings are based off this assumed bearing) along the South line thereof 606.33 feet; THENCE North 03 degrees 14 minutes 23 seconds West, 323.22 feet; THENCE South 89 degrees 03 minutes 19 seconds West, 119.27 feet; THENCE North 64 degrees 09 minutes 15 seconds West, 94.83 feet; THENCE South 88 degrees 45 minutes 10 seconds West, 515.67 feet; THENCE North 00 degrees 18 minutes 04 seconds West, 2312.59 feet to the South line of the Northwest quarter of Section 8 and the POINT OF BEGINNING of this description; THENCE North 88 degrees 55 minutes 56 seconds East along said South line, 531.12 feet to a point on the West line of Lot 86 in Phase IV of The Parks of Prestwick; THENCE North 08 degrees 31 minutes 46 seconds East along said West line, 22.69 feet; THENCE continuing on and along said West line North 09 degrees 19 minutes 21 seconds East, 20.08 feet to the Northwest corner of said Lot 86; THENCE South 85 degrees 45 minutes 51 seconds East on and along the North line of said Lot 86 a distance of 198.60 feet to the Northeast corner of said Lot 86, and the point-of-curvature of a non-tangent curve concave Easterly having a central angle of 05 degrees 23 minutes 27 seconds and a radius of 525.00 feet; THENCE continuing Northerly on and along said curve an arc distance of 49.40 feet (said arc being subtended by a chord having a bearing of North 09 degrees 06 minutes 52 seconds East and a length of 49.38 feet); THENCE North 11 degrees 48 minutes 36 seconds East, 30.05 feet to the Southeast corner of Lot 88 in said subdivision; THENCE North 78 degrees 11 minutes 24 seconds West on and along the South line of said Lot 88 to the Southwest corner of said Lot 88 a distance of 199.13; THENCE North 09 degrees 19 minutes 21 seconds East on and along the West line of said Lot 88 a distance of 20.02 feet; THENCE North 11 degrees 48 minutes 36 seconds East along said West line 120.00 feet to the Northwest corner of said Lot 88; THENCE continuing North 11 degrees 48 minutes 36 seconds East along the West line of Lot 89 in said subdivision, 77.62 feet to a point on said West line; THENCE North 01 degrees 50 minutes 17 seconds West along the West lot line of said Lot 89, 43.61 feet to the Northwest corner of said Lot 89; THENCE continuing North 01 degrees 50 minutes 17 seconds West, 325.86 feet to the South right-of-way line of the Cleveland, Cincinnati, Chicago and Saint Louis Railway; THENCE South 88 degrees 09 minutes 43 seconds West, 591.55 feet to the West line of the Southeast quarter of the Northwest quarter of said section; THENCE South 00 degrees 15 minutes 32 seconds East along said West line, 71.62 feet; THENCE South 88 degrees 55 minutes 56 seconds West, 1343.67 feet to the West line of the Northwest quarter of section 8; THENCE South 00 degrees 12 minutes 47 seconds East along said West line, 648.32 feet to the Southwest corner of said Northwest Quarter Section; THENCE North 88 degrees 55 minutes 56 seconds East along said South line, 1345.58 feet to the POINT OF BEGINNING.

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EXHIBIT

The East half of the Southwest quarter of Section 8, Township 15 North, Range 1 East, Hendricks County, Indiana, containing 80 acres, more or less. Subject to all highways, rights of way and easements.

EXCEPTING THEREFROM the following described tract: Beginning at the south west corner of said east half quarter and running thence north 363 feet; thence east 240 feet; thence south 363 feet; thence west 240 feet to the place of beginning, estimated to contain 2 acres, more or less and containing in the tract herein described 78 acres, more or less. Subject to all highways, rights of way and easements.

ALSO EXCEPTING THEREFROM: A part of the southwest quarter of Section 8, Township 15 North, Range 1 East of the Second Principal Meridian in Hendricks County, Indiana and being more particularly described as follows, to-wit: Commencing at a stone at the southeast corner of said quarter section; thence south 89 degrees 24 minutes 44 seconds west (assumed bearing) on and along the south line of said quarter section 886.55 feet to a 5/8" rebar in a bridge above the centerline of a creek as located October 12, 1992 at the point of beginning of this description; thence continue south 89 degrees 24 minutes 44 seconds west on and along south line of said quarter section 216.45 feet to a 5/8" rebar at the southeast corner of that certain 2.0 acre parcel of land conveyed to Adrian P. & Mary D. McClain in Book 147 page 32 in the office of the Recorder of Hendricks County, Indiana (said southeast corner of 2.0 acre McClain tract being 1583.00 feet north 89 degrees 24 minutes 44 seconds east of a stone at the southwest corner of said quarter section); thence north 00 degrees 03 minutes 27 seconds east on and along the east line of said McClain parcel 363.00 feet to a 5/8" rebar at the northeast corner of said McClain parcel in the centerline of a ditch as located October 12, 1992; thence north 89 degrees 50 minutes 46 seconds east on and along the centerline of said ditch 275.73 feet to a 5/8" rebar; thence south 63 degrees 48 minutes 37 seconds east 94.82 feet to a 5/8" rebar on the southwest water's edge of the intersection of said ditch and said creek; thence south 31 degrees 07 minutes 56 seconds west 90.57 feet to the centerline of said creek (the next six (6) calls run on and along the centerline of said creek); thence south 01 degree 35 minutes 18 seconds west 58.06 feet; thence south 40 degrees 35 minutes 46 seconds west 39.86 feet; thence north 72 degrees 58 minutes 40 seconds west 47.18 feet; thence south 51 degrees 00 minutes 45 seconds west 43.09 feet; thence south 23 degrees 30 minutes 58 seconds east 65.39 feet; thence south 11 degrees 46 minutes 31 seconds west, 87.22 feet (end of said six (6) calls) to the point of beginning of this description. Containing 2.32 acres, more or less. Subject to all highways, rights of way and easements.

ALSO EXCEPTING THEREFROM: A part of the Southwest quarter of Section 8, Township 15 North, Range 1 East, Hendricks County, Indiana, more particularly described as follows: Commencing at a stone at the southeast corner of said quarter section; thence south 89 degrees 24 minutes 44 seconds west (assumed bearing) on the south line of said quarter a distance of 606.33 feet to an 1/2" iron pin and the point of beginning; thence north 02 degrees 52 minutes 58 seconds west a distance of 323.22 feet to an 1/2" iron pin; thence south 89 degrees 22 minutes 44 seconds west a distance of 119.27 feet to an 5/8" iron pin found at the northeast corner of Minor Plat 514 as recorded in Plat Cabinet 2, Slide 33, pages 1 and 2 in the office of the Recorder of said county (said point being on the southwest waters edge of unnamed creek); thence south 31 degrees 07 minutes 56 seconds west a distance of 90.57 feet to the centerline of said creek (the next six (6) calls run on and along said centerline); thence south 01 degrees 35 minutes 18 seconds west 58.05 feet; thence south 40 degrees 35 minutes 46 seconds west 39.86 feet; thence north 72 degrees 58 minutes 40 seconds west, 47.18 feet; thence south 51 degrees 00 minutes 45 seconds west 43.09 feet; thence south 23 degrees 30 minutes 58 seconds east, 65.39 feet; thence south 11 degrees 46 minutes 31 seconds west, 87.22 feet to a point on the south line of said quarter section and the southeast corner of said Minor Plat 514; thence north 89 degrees 24 minutes 44 seconds east along said south line, 280.22 feet to the point of beginning. Containing 1.60 acres, more or less. Subject to all highways, rights of way and easements.

CONTINUED

ALSO EXCEPTING THEREFROM: A part of the Southwest quarter of Section 8, Township 15 North, Range 1 East, Hendricks County, Indiana, more particularly described as follows: Beginning at the southeast corner of the said quarter section; thence west on and along the south line of the said quarter section, a distance of 100.0 feet; thence north, parallel with the east line of said quarter section, a distance of 53.00 feet; thence east, parallel with the south line of said quarter section, a distance of 80.00 feet; thence north, parallel with the east line of said quarter section, a distance of 309.50 feet; thence deflecting 90 degrees to the left a distance of 180.00 feet; thence north, parallel with the east line of said quarter section, a distance of 200.00 feet; thence deflecting 90 degrees to the right, a distance of 200.00 feet to a point on the east line of the said quarter section; thence south on and along the said east line a distance of 562.50 feet to the place of beginning, containing 1.18 acres, more or less. Subject to all highways, rights of way and easements.

ALSO: Twenty (20) acres off of and across the entire south side of the southwest quarter of the northwest quarter of Section 8, Township 15 North of Range 1 East, Hendricks County, Indiana. Subject to all highways, rights of way and easements.

ALSO: A part of the southeast quarter of the northwest quarter of Section 8, Township 15 North of Range 1 East, Hendricks County, Indiana, and bounded as follows, to-wit: Beginning at the southeast corner of said quarter quarter and running thence west with the south line thereof 81.56 rods to the southwest corner of said quarter quarter; thence north with the west line thereof to the south line of the right of way of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company; thence east along said south line of said right of way to the east line of said quarter quarter and thence south on said east line of said quarter quarter to the place of beginning, except a tract containing 23/100 of an acre conveyed by H.J. Coultis and wife to said Cleveland, Cincinnati, Chicago and St. Louis Railway Company as described in deed recorded in Deed Record 104 page 475 of the records of Hendricks County, Indiana. Said whole tract less said exception containing 42.23 acres, more or less. Subject to all highways, rights of way and easements.

EXCEPT: A part of the northwest quarter of Section 8, Township 15 North, Range 1 East in Hendricks County, Indiana, more particularly described as follows, to-wit: Beginning at the southwest corner of said quarter section run thence north 00 degrees 00 minutes 00 seconds west on and along the west line of said quarter section 529.60 feet; thence run north 89 degrees 17 minutes 00 seconds east 500.00 feet; thence run south 00 degrees 00 minutes 00 seconds east parallel to the west line of said quarter section 529.60 feet; thence south 89 degrees 17 minutes 00 seconds west to the west line of said quarter section 500.00 feet to the point of beginning, containing 6.08 acres, more or less and subject to all legal highways, rights of way and easements.

MODERNIZED LEGAL DESCRIPTION:

A part of the East Half of Section 8, Township 15 North, Range 1 East in Hendricks County, Indiana, described as follows:

Beginning at the southeast corner of the southwest corner of said Section 8; thence South 89 degrees 03 minutes 19 seconds West (bearings are based off this assumed bearing) along the south line thereof 606.33 feet; thence North 03 degrees 14 minutes 23 seconds West, 323.22 feet; thence South 89 degrees 03 minutes 19 seconds West 119.27 feet; thence North 64 degrees 09 minutes 15 seconds West, 94.83 feet; thence South 88 degrees 29 minutes 21 seconds West, 275.73 feet; thence South 89 degrees 03 minutes 21 seconds West, 239.95 feet; thence North 00 degrees 18 minutes 04 seconds West, 2312.59 feet to the south line of the northwest quarter of Section 8; thence South 88 degrees 55 minutes 56 seconds along said south line 845.58 feet; thence North 00 degrees 12 minutes 47 seconds

CONTINUED

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West parallel with the west line of said quarter section 529.60 feet; thence South 88 degrees 55 minutes 56 seconds West parallel with said south line, 500.00 feet to the west line of said quarter section; thence North 00 degrees 12 minutes 47 seconds West along said west line, 118.72 feet; thence North 88 degrees 55 minutes 56 seconds East parallel with the aforementioned south line, 1343.67 feet to the west line of the southeast quarter of said northwest quarter section; thence North 00 degrees 15 minutes 32 seconds West along said west line, 71.62 feet to the south right-of-way line of the Cleveland, Cincinnati, Chicago and Saint Louis Railway (the next 3 courses being along said south right-of-way line); thence North 88 degrees 09 minutes 43 seconds East, 1026.18 feet; thence South 79 degrees 20 minutes 17 seconds East, 222.00 feet; thence North 88 degrees 07 minutes 25 seconds East, 99.78 feet to the east line of the west half of said Section 8; thence South 00 degrees 18 minutes 17 seconds East along said east line, 3368.47 feet to the Point of Beginning, containing 112.776 acres, more or less. Subject to all legal highways, rights of way and easements.

DM

~~EXCERPT. A part of the Southwest Quarter of Section 8, Township 15 North, Range 1 East, Hendricks County, Indiana, more particularly described as follows:~~

~~Beginning at the Southeast corner of the said quarter section; thence west on and along the south line of the said quarter section, a distance of 100.0 feet; thence north parallel with the east line of said quarter section, a distance of 53.00 feet; thence east, parallel with the south line of said quarter section, a distance of 80.00 feet; thence north, parallel with the east line of said quarter section, a distance of 309.50 feet; thence deflecting 90 degrees to the left a distance of 180.00 feet; thence north, parallel with the east line of said quarter section, a distance of 200.00 feet; thence deflecting 90 degrees to the right, a distance of 200.00 feet to a point on the east line of the said quarter section; thence south on and along the said east line a distance of 562.50 feet to the place of beginning, containing 1.18 acres, more or less. Subject to all highways, rights of way and easements.~~

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A part of the West Half of the Northwest Quarter of Section 16, Township 15 North, Range 1 East, Hendricks County, Indiana, described as follows:

Beginning at a monument at the Northeast corner of said Half-Quarter Section; thence South 0 degrees 02 minutes 15 seconds East along the East line of said Half-Quarter Section 1,625.37 feet; thence South 89 degrees 05 minutes 58 seconds West parallel with the North line of said Half-Quarter Section 1,345.94 feet to the West line of said Section; thence North 0 degrees 00 minutes 00 seconds East along said West line 1,625.39 feet to a cross cut into the top of a concrete corner post at the Northwest corner of said Section; thence North 89 degrees 05 minutes 58 seconds East along the North line of said Section 1,344.87 feet to the point of beginning; containing 50.196 acres, more or less. Subject to all legal highways, rights of way and easements.

~~A part of the Northeast Quarter of the Northeast Quarter of Section 17, Township 15 North, Range 1 East, Hendricks County, Indiana, being more particularly described as follows:~~

~~Beginning at a concrete post found marking the Northeast corner of said Quarter Quarter Section, thence South 00 degrees 14 minutes 26 seconds East on and along the East line of said Quarter Quarter Section 423.66 feet; thence North 42 degrees 45 minutes 34 seconds West 344.85 feet; thence North 72 degrees 13 minutes 26 seconds West 367.28 feet; thence North 65 degrees 34 minutes 30 seconds West 112.94 feet to a point on the North line of said Quarter Quarter Section; thence North 89 degrees 01 minutes 38 seconds East on and along said North line 685.03 feet to the POINT-OF-BEGINNING of this description, containing 2.498 acres, more or less.~~

No IMPROVEMENTS

EXHIBIT A

LEGAL DESCRIPTION

TRACT A:

Part of the Southeast Quarter of Section 8 and the North Half of Section 17, Township 15 North, Range 1 East of the Second Principal Meridian, in Washington Township, Hendricks County, Indiana, described as follows:

Beginning at a stone marking the southwest corner of the Southeast Quarter of said Section 8 (bearings are based on the south line of the Southwest Quarter of said Southeast Quarter Section bearing South 88 degrees 40 minutes 40 seconds West); thence North 00 degrees 18 minutes 17 seconds West along the west line of said Quarter Section a distance of 2532.29 feet to the southwesterly corner of the real estate described as Tract 5 in a deed to Prestwick Golf Course, Inc. recorded as Instrument Number 2001-4850 in the Office of the Recorder of Hendricks County, Indiana, (the next 10 courses being along the southwesterly boundary thereof); 1) thence North 73 degrees 14 minutes 31 seconds East 216.51 feet; 2) thence South 63 degrees 52 minutes 35 seconds East 195.43 feet; 3) thence South 38 degrees 04 minutes 13 seconds East 566.67 feet; 4) thence South 69 degrees 58 minutes 29 seconds East 292.45 feet; 5) thence North 89 degrees 06 minutes 20 seconds East 382.00 feet; 6) thence South 12 degrees 19 minutes 43 seconds East 389.76 feet; 7) thence South 31 degrees 40 minutes 16 seconds East 268.11 feet; 8) thence South 30 degrees 14 minutes 01 seconds East 425.88 feet; 9) thence South 61 degrees 45 minutes 36 seconds East 518.18 feet; 10) thence South 30 degrees 18 minutes 56 seconds East 802.36 feet to a concrete post marking the southeast corner of said Southeast Quarter; thence South 89 degrees 01 minutes 38 seconds West along the south line of the Southeast Quarter of said Southeast Quarter a distance of 1335.02 feet to a stone marking the southeast corner of the Southwest Quarter of said Southeast Quarter; thence South 00 degrees 14 minutes 26 seconds East along the east line of the Northwest Quarter of the Northeast quarter of said Section 17 a distance of 588.71 feet; thence South 88 degrees 37 minutes 10 seconds West 1013.52 feet to the southeast corner of the real estate described in a deed to Ronald and Alison Wingerter, recorded in Deed Book 299 page 609 (the next two courses being along the boundary thereof); thence North 00 degrees 52 minutes 40 seconds West 221.83 feet; thence South 88 degrees 37 minutes 00 seconds West 324.17 feet to the east line of the Northwest Quarter of said Section 17; thence South 88 degrees 37 minutes 37 seconds West 32.95 feet to the centerline of County Road 450 East; thence North 00 degrees 52 minutes 44 seconds West along said centerline 368.44 feet to the north line of said Northwest Quarter; thence North 89 degrees 03 minutes 19 seconds East along said north line 36.26 feet to the point of beginning. Containing 112.113 acres, more or less. Subject to all highways, rights of way and easements.

ALSO:

Part of the Southwest Quarter of Section 9, Township 15 North, Range 1 East, Washington Township, Hendricks County, Indiana, described as follows:

Beginning at the Southeast corner of the West Half of said Quarter Section; thence North 00 degrees 20 minutes 31 seconds West (assumed bearing herein) along the East line of said Half Quarter Section, 195.51 feet; thence South 80 degrees 28 minutes 01 seconds West 172.34 feet; thence South 63 degrees 29 minutes 59 seconds West, 397.60 feet to the South line of said Quarter Section; thence North 88 degrees 51 minutes 51 seconds East along said Quarter Section line, 527.06 feet to the POINT OF BEGINNING, containing 1.40 acres, more or less. Subject to all highways, rights of way and easements.

SECOND SUPPLEMENT TO THE DECLARATION
OF COVENANTS AND RESTRICTIONS OF
PARKS AT PARKS AT PRESTWICK SUBDIVISION

PRESTWICK DEVELOPMENT, LLC, is the Declarant with respect to a certain Declaration of Covenants and Restrictions of Parks at Prestwick Subdivision dated February 3, 2003, and recorded in the Office of the Recorder of Hendricks County, Indiana on February 3, 2003, as Instrument No. 2003-00004751 ("Master Declaration").

Recitals

A. The Master Declaration provides for the establishment of Communities, including multi-family Communities, within the Properties which may be subject to Community Assessments in addition to the overall assessments for Common Expenses.

B. Declarant has transferred certain property to Novogroder/Prestwick, LLC, an Indiana limited liability company (the "Community Developer"), which real estate is more specifically described on Exhibit "A" attached hereto and made a part hereof, to be known as Grant Park Condominiums ("Grant Park").

C. Declarant desires to designate Grant Park as a Community subject to the Declaration, as hereinafter provided. All terms used herein with their initial letters capitalized shall have the meanings ascribed to them in the Master Declaration, except to the extent otherwise defined herein.

Declaration

NOW, THEREFORE, pursuant to Section 1 of Article X of the Master Declaration, Grant Park is hereby designated as a Community which provides for multi-family housing, subject to the following terms and provisions:

1. In addition to the assessments for Common Expenses, Grant Park shall be subject to Community Assessments as set forth in that certain Grant Park Condominium Declaration created by the Community Developer to be recorded in the Office of the Recorder of Hendricks County, Indiana, (the "Community Declaration").

2. Grant Park shall be subject to a separate Community Association, as provided or contemplated in the Community Declaration.

3. Grant Park shall remain subject to, and entitled to the benefits from, the Master Declaration, including without limitation, membership interest in the Association and subject to architectural standards, use restrictions/covenants and regulations and assessments. Notwithstanding the foregoing, the common areas and facilities established by the Community Developer under the Community Declaration or any plat thereunder, including, but not limited to, mailboxes, master television antenna, private walks, private roads and streets, water distribution systems, sanitary sewer systems and storm water systems, if any, shall not be part of

the Common Area or Common Expenses under the Master Declaration to be maintained and controlled by the Association, but instead shall be maintained under the control of the Community Association or other entity as provided in the Community Declaration.

4. The Community Developer shall not be considered an "Owner" for purposes of Article VI, Section 3, of the Master Declaration so that the monthly availability fee for the sewage collection system shall not commence until the conveyance of a Lot or unit by the Community Developer to an Owner, except as may be otherwise provided in any contract between the applicable utility and Community Developer. Further, the Community Developer shall not be treated as an Owner for purposes of Article XI, Section 9, and the \$100 initial Lot capitalization shall be due from each Owner upon his or her acquisition of record title to a unit from the Community Developer. In addition, the Community Developer shall not be treated as an Owner for purposes of Article XI, Section 10, but instead shall be treated as a commercial builder to be assessed at the rate of \$200 per unit on the applicable phase per year commencing with the date of substantial completion of the infrastructure improvements for each phase and continuing until each conveyance to an Owner.

IN WITNESS WHEREOF, Declarant has executed this Second Supplement this 29th day of April, 2005.

PRESTWICK DEVELOPMENT, LLC

By: *David R. Helm*
David R. Helm, Manager

STATE OF INDIANA)
) SS:
COUNTY OF Hendricks)

Before me, a Notary Public in and for said County and State, personally appeared David R. Helm, the Manager of Prestwick Development, LLC, who acknowledged the execution of the foregoing First Supplement, for and on behalf of said Company, and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 29 day of April, 2005.

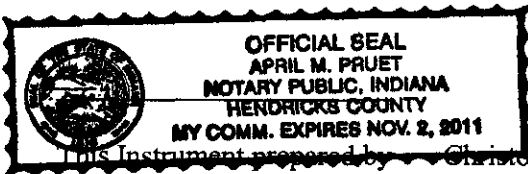
My Commission expires:

April M. Pruet

Notary Public

Printed: _____

Resident of _____ County



This instrument prepared by Christopher D. Long
KRIEG DEVAULT, LLP
2800 One Indiana Square
Indianapolis, Indiana 46204
(317) 639-4121

EXHIBIT A

A part of the Northwest Quarter of Section 8, Township 15 North, Range 1 East in Hendricks County, Indiana, described as follows:

Commencing at the Southeast corner of the Southwest quarter of said section 8; THENCE South 89 degrees 03 minutes 19 seconds West (bearings are based off this assumed bearing) along the South line thereof 606.33 feet; THENCE North 03 degrees 14 minutes 23 seconds West, 323.22 feet; THENCE South 89 degrees 03 minutes 19 seconds West, 119.27 feet; THENCE North 64 degrees 09 minutes 15 seconds West, 94.83 feet; THENCE South 88 degrees 45 minutes 10 seconds West, 515.67 feet; THENCE North 00 degrees 18 minutes 04 seconds West, 2312.59 feet to the South line of the Northwest quarter of Section 8 and the POINT OF BEGINNING of this description; THENCE North 88 degrees 55 minutes 56 seconds East along said South line, 531.12 feet to a point on the West line of Lot 86 in Phase IV of The Parks of Prestwick; THENCE North 08 degrees 31 minutes 46 seconds East along said West line, 22.69 feet; THENCE continuing on and along said West line North 09 degrees 19 minutes 21 seconds East, 20.08 feet to the Northwest corner of said Lot 86; THENCE South 85 degrees 45 minutes 51 seconds East on and along the North line of said Lot 86 a distance of 198.60 feet to the Northeast corner of said Lot 86, and the point-of-curvature of a non-tangent curve concave Easterly having a central angle of 05 degrees 23 minutes 27 seconds and a radius of 525.00 feet; THENCE continuing Northerly on and along said curve an arc distance of 49.40 feet (said arc being subtended by a chord having a bearing of North 09 degrees 06 minutes 52 seconds East and a length of 49.38 feet); THENCE North 11 degrees 48 minutes 36 seconds East, 30.05 feet to the Southeast corner of Lot 88 in said subdivision; THENCE North 78 degrees 11 minutes 24 seconds West on and along the South line of said Lot 88 to the Southwest corner of said Lot 88 a distance of 199.13; THENCE North 09 degrees 19 minutes 21 seconds East on and along the West line of said Lot 88 a distance of 20.02 feet; THENCE North 11 degrees 48 minutes 36 seconds East along said West line 120.00 feet to the Northwest corner of said Lot 88; THENCE continuing North 11 degrees 48 minutes 36 seconds East along the West line of Lot 89 in said subdivision, 77.62 feet to a point on said West line; THENCE North 01 degrees 50 minutes 17 seconds West along the West lot line of said Lot 89, 43.61 feet to the Northwest corner of said Lot 89; THENCE continuing North 01 degrees 50 minutes 17 seconds West, 325.86 feet to the South right-of-way line of the Cleveland, Cincinnati, Chicago and Saint Louis Railway; THENCE South 88 degrees 09 minutes 43 seconds West, 591.55 feet to the West line of the Southeast quarter of the Northwest quarter said section; THENCE South 00 degrees 15 minutes 32 seconds East along said West line, 71.62 feet; THENCE South 88 degrees 55 minutes 56 seconds West, 1343.67 feet to the West line of the Northwest quarter of section 8; THENCE South 00 degrees 12 minutes 47 seconds East along said West line, 648.32 feet to the Southwest corner of said Northwest Quarter Section; THENCE North 88 degrees 55 minutes 56 seconds East along said South line, 1345.58 feet to the POINT OF BEGINNING. Containing 30.07 acres, more or less.

NOTE: This policy does not insure the accuracy of the quantity of land appearing on the legal description in Schedule A, hereof.

200700008298
Filed for Record in
HENDRICKS COUNTY IN
PAUL T HARDIN
04-03-2007 At 10:45 am.
DECLARATION 143.00

GRANT PARK CONDOMINIUM DECLARATION

This is the Declaration of Grant Park Condominium made on or as of the 1st day of August, 2006, pursuant to the provisions of the Indiana Horizontal Property Law, (I.C. 32-25-1-4 as amended, the "Condominium Act").

Recitals

2007-8297 PC6/190/1ABC
2007-8299 PC6/190/2ABC
2007-8300 PC6/191/1ABC

A. Portrait Homes-Grant Park LLC, an Illinois limited liability company qualified to do business in the State of Indiana, "Declarant", is the owner in fee simple of all of the real property described in Exhibit "A" attached hereto and the improvements thereon and appurtenances thereto (the "Property").

B. The Declarant desires to create of the Property a site of individually owned Units, and commonly owned areas and facilities, and to these ends to submit the Property to Condominium ownership under the provisions of the Condominium Act.

C. The Property is subject to the Declaration of Covenants and Restrictions of Parks of Prestwick ("Master Declaration"), which Master Declaration is an addition to this Declaration.

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for Condominium ownership of the Property under and pursuant to the Condominium Act:

Definitions

The terms used in this document shall have these meanings, unless the context requires otherwise:

1. "Articles" and "Articles of Incorporation" mean the Articles, filed with the Secretary of State of Indiana, incorporating the Grant Park Condominium Association, Inc. as a non-profit corporation under the provisions of Indiana Code, as the same may be lawfully amended from time to time.

2. "Association" and "Grant Park Condominium Association, Inc." means the non-profit corporation created by the filing of the Articles and is also one and the same as the Association created for the Condominium pursuant to the provisions of the Condominium Act.

64+6

3. "Board" and "Board of Directors" mean those persons who, as a group, serve as the Board of Directors of the Association and are also one and the same as the Board of Directors of the Condominium established for the Condominium pursuant to the provisions of the Condominium Act.

4. "Building" means a structure containing two (2) or less Units and having a garage facility appurtenant to each Unit, and which may be shown on Exhibit "A", as constructed from time to time.

5. "By-Laws" means the By-Laws of the Association, as the same may be lawfully amended from time to time, created under and pursuant to the provisions of the Condominium Act for the Condominium. A true copy of the By-Laws is attached hereto as Exhibit "C" and made a part hereof.

6. "Common Areas" means all of the Condominium Property, except that portion thereof described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "Common Areas and facilities" of the Condominium under the provisions of the Condominium Act, including, but not limited to, mailboxes, master television antenna, if any, private walks, perimeter fencing, private roads and streets shown on the Plans, private utilities and recreational facilities, if any, constructed by Declarant on the Property for the benefit of all Unit Owners. Roads, streets, water distribution system, sanitary sewer system and storm water system may be dedicated to public entities in which case such shall not be Common Areas and shall not be considered private to the extent they are dedicated to public entities.

7. "Common Expenses" means the proposed or actual expenses affecting the Condominium Property, including reserves, if any, lawfully assessed by the Board, including, without limitation, the items described in Section 3 (A) (1) of Article XV.

8. "Condominium" and "Grant Park Condominium" mean the Condominium regime for the Condominium Property created under and pursuant to the provisions of the Condominium Act.

9. "Condominium Act" means the statutory law of the State of Indiana regulating the creation and operations of Condominiums and is presently the Indiana Horizontal Property Law, (I.C. 32-25-1-1 as amended).

10. "Condominium Organizational Documents" means the Articles, the By-Laws, the Plans, and this Declaration, as the same may lawfully be amended from time to time.

11. "Condominium Property" or "Property" means the tract of land hereinafter described as being submitted to the Condominium Act, all Buildings, structures and improvements situated thereon, and all easements, rights and appurtenances belonging thereto.

12. "Declarant" means Portrait Homes-Grant Park LLC, a limited liability company formed under the laws of the State of Illinois, and its successors and assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall

accrue to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

13. "Declaration" means this instrument by which Condominium Property is submitted to the Condominium Act, as this instrument may be lawfully amended from time to time.

14. "Director" and "Directors" means that Person or those persons serving, at the time pertinent, as a trustee or trustees of the Association, and mean that same Person or those persons serving in the capacity of a member of the Board of Directors of the Association, as defined in the Condominium Act.

15. "Eligible Holder of the First Mortgage Lien" means the holder of a valid recorded first mortgage on a Unit, which holder has given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of Eligible Holders of First Mortgage Liens.

16. "Limited Common Areas" means those Common Areas serving exclusively one Unit or more than one but less than all Units, the enjoyment, benefit or use of which are reserved to the Occupants of that Unit or Units either in this Declaration, or by the Board, and is that portion of the Condominium Property constituting "Limited Common Areas and facilities" of the Condominium under the provisions of the Condominium Act.

17. "Master Association" shall mean and refer to Parks at Prestwick Homeowners Association, Inc., an Indiana corporation organized under Indiana Code 23-17-1 *et seq.*, pursuant to the Master Declaration.

18. "Occupant" means a Person lawfully residing in a Unit, regardless of whether that Person is a Unit Owner.

19. "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

20. "Plans" means the floor plans and other information of the Units as filed in the Office of the Recorder of Hendricks County, Indiana in Horizontal Property Plan File, Book 6, Pages 1A through 1E, which Plans are incorporated herein by this reference, as the same may be lawfully amended from time to time.

21. "Plat" means that Plat recorded in the Office of the Recorder of Hendricks County, Indiana as Instrument No. 20060007233 as the same may be lawfully amended from time to time.

22. "Unit" and "Units" means that portion or portions of the Condominium Property described as a Unit or Units in this Declaration, and is that portion of the Condominium constituting a "Unit" or "Units" of the Condominium under the provisions of the Condominium Act, provided that no structural components of the Building in which such Unit is located, and no pipes, wires, conduits, ducts, flues, shafts or public utility lines situated within such Unit and

forming part of any system serving one or more other Units or the Common Areas, shall be deemed to be a part of such Units.

23. "Unit Owner" and "Unit Owners" mean that Person or those persons owning a fee-simple interest in a Unit or Units, each of whom is also a "member" of the Association, as defined in Indiana's non-profit corporation statutory act.

ARTICLE I.

THE LAND

A legal description and a site plan of the land constituting a part of the Condominium Property, located in Hendricks County, Indiana, is attached hereto and marked "Exhibit A".

ARTICLE II.

NAME

The name by which the Condominium shall be known is "Grant Park Condominium."

ARTICLE III.

PURPOSE; RESTRICTIONS

Section 1. Purposes. This Declaration is being made to establish separate individual parcels from the Condominium Property, to which fee simple interests may be conveyed; to establish a Unit Owners' Association to administer the Condominium; to provide for the preservation of the values of Units and the Common Areas; to provide for and promote the benefit, enjoyment and well being of Unit Owners and Occupants; to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth; and to raise funds through assessments to accomplish these purposes.

Section 2. Restrictions. The Condominium Property shall be subject to the following restrictions:

(A) **Unit Uses.** No garage sale, moving sale, rummage sale or similar activity shall be conducted by an Owner within the Condominium Property without approval of the Association. No trade or business may be conducted in or from any Unit, 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 the Unit; (ii) the business activity conforms to all zoning requirements for the Condominium Property; (iii) the business activity does not involve persons coming onto the Condominium Property or door-to-door solicitation of residents of the Condominium Property; and (iv) the business activity is consistent with the residential character for the Condominium Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of safety of the other residents of the Condominium Property, as may be determined in the sole discretion of the Board. 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 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 (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Condominium Property or its use of any Units which it owns within the Condominium Property. Declarant has the right to use any Unit it owns for sales office, model, and/or construction/business purposes and the Unit shall be a part of the Condominium. Declarant may have up to four models, which may be relocated from time to time within the Condominium, whose size and floor plan is reflected in the Plans.

(B) **Common Areas Uses.** The Common Areas (except the Limited Common Areas) shall be used in common by Unit Owners and Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purpose for which they are intended, and as may be required for the purpose of access, ingress to, egress from, use, occupancy and enjoyment of Units, provided, however, that unless expressly provided otherwise herein, no Common Areas shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation or enjoyment of Unit Owners and Occupants, subject to such rules and regulations as may from time to time be promulgated by the Board.

(C) **Limited Common Areas Uses.** Except as specifically provided otherwise herein, those portions of the Common Areas described herein and shown on the Plans as Limited Common Areas shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, subject to the restrictions on use of Common Areas and Limited Common Areas set forth in this Declaration and such rules and regulations as may from time to time be promulgated by the Board.

(D) **Visible Areas.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive drapes or curtains) or placed on the outside walls of a Building or otherwise outside of a Unit, or any part thereof, and no sign (except those of the Declarant), awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter, satellite dish or any other device or ornament shall be affixed to or placed upon the exterior walls or roof or any part thereof, or in or on a patio unless authorized by the Board, and subject to such rules and regulations as the Board may adopt from time to time.

(E) **Nuisances.** No portion of the Condominium Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be visibly obnoxious; nor shall any substance, thing, or material be kept upon any portion of the Condominium Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of other Unit Owners. No noxious, illegal or offensive activity shall be carried on upon any portion of the Condominium Property. There shall not be maintained any plants or animals or device or

thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as many diminish or destroy the enjoyment of the Condominium Property. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Condominium Property. It shall be the responsibility of each Unit Owner to prevent the development of any unclean, unhealthy, unsightly or unkept condition in his or her Limited Common Areas. The pursuit of hobbies or other activities, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions shall not be pursued or undertaken on any part of the Condominium Property.

(F) **Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks weighing in excess of three-fourths of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have operating licenses shall not be permitted on the Condominium Property except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with tarpaulin for seven (7) consecutive days without the prior written approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Condominium Property during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicles parked in violation of this Section or parking rules promulgated by the Board may be towed. The driveway parking spaces may not be used unless the attached garage parking space is already being used for vehicle parking. The use of the attached garage for storage of anything which interferes with the storage of vehicles is prohibited.

(G) **Signs.** No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Areas, signs regarding and regulating the use of the Common Areas, provided they are approved by the Board; (b) on the interior side of the window of a Unit, one professionally prepared sign advertising the Unit for sale or rent provided the use is approved by the Board; and (c) on the Common Areas and model Units, signs advertising the sale of Units by the Declarant during the initial sales/rental period, which shall continue until all Units have been sold to parties unrelated to the Declarant.

(H) **Structural Integrity.** Nothing shall be done in any Unit, or in, on or to the Common Areas, which may impair the structural integrity of any improvement.

(I) **Building on Easements.** Within the easements for the installation and maintenance of utilities and drainage facilities, no structure, planting or other material (except such as exist at the time of this Declaration) shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utility lines or which may change the direction of the flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easement areas. The utility facilities within the easement areas shall be subject to the

right of the Association to maintain the same, and its right to delegate that right to a public authority or utility.

(J) **Animals**. Except as hereinafter provided, no animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Areas. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) no animals shall be permitted in any portion of the Common Areas except on a leash (not longer than six feet in length) maintained by a responsible Person, (ii) the permitting of animals on the Common Areas shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy fines and enforcement charges against persons who do not clean up after their pets; and (iii) the right of an Occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium or other Units or Occupants.

(K) **Conveyances**. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof. The legal description of each Unit shall consist of the identifying number or symbol of such Units as shown on the Plat. The undivided interest of a Unit in the Common Areas shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage or other instrument of conveyance or encumbrance. The right of a Unit Owner to sell, transfer or otherwise convey that owner's Unit is not subject to any right of first refusal or similar restriction, and any Unit Owner may transfer that owner's Unit free of any such limitation. To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five days after an interest in that Unit owner's Unit has been transferred to another Person. In addition, each Unit Owner agrees to provide to a purchaser of that owner's Unit a copy of the Condominium Organizational Documents and all effective rules and regulations.

(L) **Architectural Control**. Except as hereinafter specifically provided, no fence, wall, sign or other structure shall be commenced, erected or maintained upon the Condominium Property, or any part thereof, nor shall any exterior addition to or change or alteration therein be made, until the Plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Board or its designated representative, as to lawfulness and appropriateness, and as to harmony of external design, color and location in relation to surrounding structures and topography.

(M) **Decorating**. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit and Limited Common Areas serving his Unit, as may be required from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorating. Each Unit Owner, at his own expense, shall also furnish and be responsible for an exterior light on each Unit, in such location as the

Board shall approve, which light shall include a photocell causing such light to be illuminated from dusk to dawn. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, doors, floor and ceilings, and such Unit Owner shall maintain said interior surfaces in good condition at his sole expense. Decorating of the Common Areas (other than interior surfaces within the Units as above provided and other than interior surfaces of Limited Common Areas), and expressly including without limitation, the exterior surfaces of all outside doors (including garage doors) to each of the Buildings shall be furnished by the Association as part of the Common Expenses. The interiors and exteriors of all windows forming part of the perimeter wall of a Unit shall be cleaned and washed at the expense of the Unit Owner of that Unit.

(N) **Flooring**. Each Unit Owner shall maintain a floor covering upon all floor areas within his Unit with the exception of those floor areas utilized as a kitchen, bathroom or closet so as to provide an insulation from sound transmission in accordance with standards set forth by the Board.

(O) **Water Discharge**. No clear water sources, including but not limited to foundation drains, sump pumps and road drains shall be permitted to the discharge into the sanitary sewers.

(P) **Dusk-to-Dawn Lights**. Each Owner shall operate the dusk-to-dawn lights installed on the exterior of the Unit to provide lighting from dusk-to-dawn, and each Owner shall replace the light bulbs as a part of the operation of the dusk-to-dawn lights.

(Q) **Refuse**. All rubbish, trash or garbage shall be kept so as not to be seen from neighboring units and streets, and shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Garbage may not be burned on the Property. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out in any portion of the Property. The Association shall contract for the removal of refuse with a scavenger service for the Unit Owners in the Property.

(R) **Occupants**. All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Unit Owners and which provided for sanctions against Unit Owners shall also apply to all Occupants, guests and invitees of any Unit. Every Unit Owner shall cause all Occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such Occupants, notwithstanding the fact that such Occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws and rules and regulations adopted pursuant thereto.

(S) **Arbitration**. In the event of any dispute between Unit Owners as to the application of these restrictions or any rule or regulation promulgated by the Board, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time, date and place for a hearing thereon within sixty (60) days thereafter, and give written notice to each party thereof no less than three days in advance. The Board shall thereupon hear such evidence on the dispute as the Board

deems proper and render a written decision on the matter to each party within thirty (30) days thereafter.

(T) **Antenna and Satellite Dishes.** Satellite dishes, radio, television and reception antenna may not be installed on a roof of a Unit or the outside of a Building. All antenna must be installed within the attic above a Unit unless prior written permission is granted by the Board to install on the outside of a Building. Satellite dishes may not be installed on a Building. Satellite dishes that are less than one (1) meter in diameter may be installed in the rear patio area pursuant to plans approved in writing by the Board or otherwise approved by the Board to comply with FCC regulations. Notwithstanding the foregoing, satellite dish installation is subject to the ordinances of the municipality, FCC regulations and the written approval of the Board.

ARTICLE IV.

IMPROVEMENT DESCRIPTIONS

The residential Buildings of the Condominium contain up to two (2) Units, and the principal material of which these Buildings are constructed are wood frame, siding, partial brick veneer, shingle roofs, on a slab on grade or poured basement foundation. The Buildings are tentatively located as shown on the Plans, and the Buildings and Plans are subject to amendment by Declarant.

ARTICLE V.

UNITS

Section 1. Unit Designations. Each of the Units is designated on the Plans by a number, the first two digits indicate the Building number and the last two digits indicate the Unit number within a Building. Information concerning the Units, with a listing of proper Unit designations, is shown on Exhibit "B" attached hereto.

Section 2. Composition of Units.

(A) **Unit Composition.** Each Unit consists of the space in the Building designated by that Unit's designation on the Plans that is bounded by the undecorated interior surfaces of the vertical, perimeter walls; the unfinished surface of the floor or garage floor, and the unfinished interior surface of the ceiling, all projected, if necessary by reason of structural divisions such as interior walls and partitions, to constitute a complete enclosure of space, and all improvements within that space. Without limiting the generality of the foregoing, each Unit shall include:

- (1) the decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material applied to floors, ceilings, and interior surfaces of the perimeter walls and carpets, paneling and other finishing material attached to the interior surfaces of the perimeter walls;

(2) all windows, screens and doors, including storm doors and windows, if any, and including the frames, sashes and jambs and the space occupied thereby, and the hardware therefor;

(3) all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the Building and from utility pipes, lines or systems serving the entire Building or more than one Unit thereof, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal Units, refrigerators, stoves and hoods, televisions antennas and cables, furnaces, hot water heaters, and air-conditioning Units, and components thereof, if any (even if located outside of the bounds of the Unit), serving only that Unit;

(4) all control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and roof decks which service either the Unit or the fixtures located therein, together with the space occupied thereby;

(5) all interior walls, that are not necessary for support of the structure, and all components thereof and all space encompassed thereby;

(6) all plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts or conduits which serve either the Unit or the fixtures located therein, and which are located within the bounds of the Unit, or within the exterior walls of that Unit; excluding therefrom, however, all of the following items located within the bounds of that Unit:

(a) any structural element of the Building contained in interior walls; and

(b) all plumbing, electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve any other Unit.

(B) **Unit Sizes: Locations and Components.** The location of each part of each Unit, the approximate size of each Unit's interior, and the number of rooms in each Unit are shown on the Plans.

ARTICLE VI.

COMMON AND LIMITED COMMON AREAS

Section 1. Common Areas - Description. All of the Condominium Property, including all of the land and all improvements thereon and appurtenances thereto, including the private streets and roadways, private water distribution system, private storm water system and private sanitary sewer system, except (i) those portions labeled or described herein or in the Plans as a part of a Unit and (ii) those roads, streets, water distribution system, sanitary sewer system and storm water system to the extent they are dedicated to public entities, are Common Areas.

Section 2. Limited Common Areas - Description. Those portions of the Common Areas that are labeled or designated "LCA" or "Limited Common Areas" on the Plans, are Limited Common Areas. In the case of each Unit, the Limited Common Areas appurtenant to that Unit consist of patios on the main level of a Unit, driveway, service walks from driveway to front door stoop and front door stoop, if any. All such Limited Common Area is reserved for the exclusive use of the owners and Occupants of the Unit(s) designated to be served by the same.

Section 3. Undivided Interest. The initial undivided interest in the Common Areas of each Unit is based upon the size of the Unit as described on Exhibit "B". The minimum and maximum undivided interest in the Common Areas is described in Exhibit "F" attached hereto. The Common Areas shall be owned by the Unit Owners as tenants in common, and ownership thereof shall remain undivided. No Unit Owner may waive or release any rights in the Common Areas. Further, the undivided interest in the Common Areas of a Unit shall not be separated from the Unit to which it appertains. Any attempted conveyance, encumbrance, judicial sale or other transfer of a Unit Owner's fee interest in Common Areas will be void unless the Unit to which such interest is allocated is also transferred.

If at a later time the Condominium is expanded, as hereinafter provided, the undivided interests of Units in the Common Areas shall be uniformly reallocated so that all Units, whether originally in the Condominium or added at a later date, have undivided percentage interests in the Common Areas based upon the size of the Unit.

Section 4. Dedication Rights Reserved. In addition to all easements and rights previously granted by recorded documents against the Property, Declarant hereby reserves the right at its sole discretion to dedicate or otherwise convey portions of the Property (but not those portions on which a Unit is situated) to any public agency or governmental authority or quasi-public utility for purposes of streets, roads, roadways, utilities, recreation areas, storm detention basins, storm outfall, storm trunk piping, water, sidewalks and other benefits and improvements, and rights-of-way and easements therefor. Such right to make such dedications or conveyances shall not require the consent, approval or signatures of either the Board or any Unit Owner, and such dedication or conveyance shall be considered fully accomplished and conclusively binding upon each of said Unit Owners and upon the Association when set forth in writing or in a Plat of Dedication executed by the Declarant which has been recorded in the Office of the Recorder of Hendricks County, Indiana, provided, however, that nothing in this paragraph shall be construed to in any manner require or obligate Declarant to make any such conveyance or dedication.

In further of the foregoing, an irrevocable power coupled with an interest is hereby granted to the Declarant and the Board as agent and attorney-in-fact, to grant such easements or make such dedications or conveyances. Each deed, mortgage, trust deed or other instrument with respect to a Unit and the acceptance thereof shall be deemed a grant and acknowledgment of the consent to such power to each of said attorney-in-fact and shall be deemed to reserve to Declarant and the Board the foregoing powers and rights.

ARTICLE VII.

UNIT OWNERS' ASSOCIATION

Section 1. Establishment of Association. The Association has been formed to be and to serve as the Unit Owners' Association of the Condominium. The Declarant is presently the sole member of the Association. The Association shall be managed in accordance with the By-Laws.

Section 2. Membership. Membership in the Association shall be limited to the Unit Owners, and every Person or entity who is or becomes a record owner of a fee or undivided fee-simple interest in a Unit is a Unit Owner and shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and transfer of a Unit shall automatically transfer membership to the transferee.

Section 3. Voting Rights. Each Unit Owner shall be entitled to vote its undivided interest in the Common Areas for each Unit owned in fee simple, and a proportionate part of a vote for ownership of an undivided fee simple interest in a Unit, provided, that unless timely challenged by an owner of a fee simple interest in a Unit, any owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit and a trustee of a voting trust and an officer of a corporation owning a Unit shall have the right to vote with respect to a Unit.

Section 4. Board of Directors. The Board initially shall be those five (5) persons named as the initial Directors pursuant to the provisions of the Articles, or such other Person or persons as may from time to time be substituted by Declarant. The Board shall serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. Notwithstanding the foregoing, Declarant shall have the right to any time to waive its right to select one or more Directors or to vote in an election of Directors.

Section 5. Authority. The Board shall have all authority to manage, maintain, repair, replace, alter and improve the Common Areas, negotiate agreements and contracts with public or private utilities, including cable companies, and assess and collect funds for the payment thereof, and do all things, and exercise all rights provided by the Condominium Organizational Documents, or the Condominium Act, that are not specifically reserved to Unit Owners.

In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of the Declaration or By-Laws, the determination thereof by the Board shall be final and binding on each Unit Owner.

Section 6. Delegation of Authority; Professional Management. The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a part of Common Expenses, provided, however, that any agreement for professional management shall not exceed two years unless renewed by agreement of the parties

for successive two-year periods; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing. Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board, if there is no managing agent, shall have the authority to enter into contracts with Declarant, for goods, services, or for any other thing, including without limiting the generality of the foregoing, contracts for the providing of management, maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners at the time entered into under the circumstances then prevailing and are terminable by the Association, without cause and without penalty, on sixty (60) days' written notice. Initially, the management of the Association shall be performed by Encore Real Estate Co., at a monthly rate of the greater of \$400.00 or \$14.00 per Unit for each Unit which has been subjected to the Declaration.

The decision by the Board not to have professional management, or to terminate professional management and assume self management, shall not be made without the consent of Eligible Holders of the First Mortgage Liens on Units to which at least fifty-one percent (51%) of votes of Units subject to such mortgages appertain.

Section 7. Membership in Master Association. Every Person or entity who is or becomes a record owner of a fee or undivided fee simple interest in a Unit shall be a Member of the Master Association, pursuant to the terms of the Master Declaration.

ARTICLE VIII.

AGENT FOR SERVICE

The name of the Person to receive service of process for the Association, and that person's residence or place of business, is:

Greg A. Bouwer, Esq.
Koransky & Bouwer, P.C.
425 Joliet Street, Suite 425
Dyer, Indiana 46311

In the event this individual for any reason ceases to be registered with the Secretary of State of Indiana as Statutory Agent for the Association, the Person so registered shall be the Person to receive service of process for the Association.

ARTICLE IX.**MAINTENANCE AND REPAIR**

Section 1. Association Responsibility. The Association shall maintain and repair the Common Areas, including and not limited to the private water distribution system, private utility facilities serving more than one Unit, private utility lines in the Common Areas, laterals serving one or more Units to the connection into the sanitary sewer system, including any requirements of instruments of record, private streets including cul-de-sac necks, lawns, shrubs, trees, private walkways, and all Buildings which are a part of the Common Area and which may be located within a sanitary sewer or utility easement, and, provided, however, that the Association shall not be required to provide routine maintenance or cleaning or snow removal with respect to the driveways and sidewalks, nor shall it repair or maintain any improvements within such Limited Common Areas. If the Association provides snow removal, in no event shall the Association be required to perform any snow removal if the accumulation is two inches (2") or less.

Section 2. Individual Responsibility. Each Unit Owner shall repair and maintain the Unit or Units, and all components thereof, owned by that Unit Owner; and shall provide routine maintenance and cleaning and snow removal with respect to the driveways (unless responsibility is undertaken by the Association through the Board), sidewalks and patios, appurtenant to that Owner's Unit. Without limiting the generality of the foregoing, the repair and maintenance responsibility shall include repair and maintenance of all windows, screens and doors, including the frames, sashes and jambs, and the hardware therefor; and repair and maintenance of the interior of the garages facilities, patios, porches, and any improvements therein, including but not limited to outside lights and fences, if any. The Board shall have the right and authority at its discretion to assess the costs for the repair, maintenance or replacement of Limited Common Areas, in whole or in part to the Unit or Units within the Building where so located or assigned or to require the Unit Owners to pay for, or cause the repair, maintenance and replacement to be performed by the Unit Owners. In the event a Unit Owner shall fail to make any such repair or perform such maintenance, or in the event the need for maintenance or repair of any part of the Common Areas or Limited Common Areas is caused by the negligent or intentional act of any Unit Owner or Occupant, or its agent, invitee, licensee or pet, or is as a result of the failure of any Unit Owner or his, her or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, and the cost of repair is not covered by insurance, the cost of such maintenance and repair shall constitute a special individual Unit assessment, as hereinafter defined, on the Unit Owner by such Unit Owner. The determination that such maintenance or repair is necessary, or has been so caused, shall be made by the Board.

ARTICLE X.

UTILITY SERVICES

Each Unit Owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit. In the event any utility service is not separately metered the cost thereof shall be a part of Common Expense and paid by the Association, except that, with respect to any meters measuring the use of light or heat or water on the basis of the consumption thereof for one or more Units in a Building or the entire Condominium Property, at the option of the Board and its sole discretion, the expenses therefor may be allocated to and assessed against the Unit or Units located within that Building or the entire Condominium Property. In such an event, all of the Units in each said Building or the entire Condominium Property shall be responsible for the total cost of said metered expense for said Building or the entire Condominium Property, and among themselves each of said Units shall be responsible for that proportion of said cost equal to the proportion which the Percentage Ownership of Common Areas of said Unit bears to the total Percentage Ownership of Common Areas of all of the Units in the Building or the entire Condominium Property.

ARTICLE XI.

INSURANCE; LOSSES BONDS

Section 1. Fire and Extended Coverage Insurance. The Board shall have the authority to and shall obtain insurance for all Buildings, structures, supplies, machinery, fixtures and equipment and common personal property and supplies now or at any time hereafter constituting a part of the Common Areas or common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available, policies issued in the locale of the Condominium Property, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable co-insurance clause or provision and not less than one hundred percent (100%) of the current replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), as determined from time to time by the insurer, with a deductible not greater than the less of \$10,000 or 1% of the face amount of the policy. The deductible expense shall be shared among the Unit Owners who incurred a loss on an equitable basis. This insurance:

(A) shall provide coverage for improvements, alterations, fixtures and equipment located within Units; interior walls, windows and doors and the frames, sashes, jambs and hardware therefor, even through these improvements may be parts of Units but shall not include additions or improvements to the Units and interior decorating of the Units by the Unit Owners; and any other items of personal property for which coverage is required by The Mortgage Corporation, Federal National Mortgage Association, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium;

(B) shall provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage;

(C) shall be obtained from a insurance company authorized to write such insurance in the State of Indiana which has a current rating of Class B/111, or better, or, if such company has a financial rating of Class 11, then such company must have a general policy holder's rating of at least A, all as determined by the then latest edition of Best's Insurance Reports, or its successor guide, or such higher rating as may, from time to time, be required by The Mortgage Corporation, Federal National Mortgage Association, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium; or, if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has a B/111 or better rating;

(D) shall provide that its coverage is primary, and be written in the name of Association for the use and benefit of the individual Unit Owners and their mortgage holders, or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor to such trustee, for the use and benefit of the individual Unit Owners and their mortgage holders.

(E) shall contain or have attached the standard mortgage clause commonly accepted by institutional mortgage investors in the area in which the Condominium Property is located, naming the holder, insurer, guarantor or servicer of first mortgages on Units, which must provide that the insurance carrier shall notify all holders of first mortgages named at lease ten (10) days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy, and which standard mortgagee clause must further be endorsed to provide that any loss shall be paid to the Association (or its insurance trustee), as a trustee for each Unit Owner and each such Unit owner's mortgagee;

(F) shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers and Directors, and all Unit Owners, and the rights of the various parties to collect pursuant to such insurance shall not be prejudiced by the acts or failure to act of any Unit Owner or Person under the control of the Association; and

(G) shall contain such other endorsements and meet such other requirements as are, from time to time, required by The Mortgage Corporation, Federal National Mortgage Association, or any similar holder, insurer or guarantor of first mortgage loans upon Units in the Condominium.

The cost of this insurance and all insurance described in this Article XI (excluding Section 6) shall be a Common Expense, payable by the Association; however, if there is a cost of insurance which is applicable to some but not all of the Units, the Board, in its discretion, may charge an additional assessment to each Unit Owner the amount of the additional insurance premium charged.

Section 2. Liability Insurance. The Association shall obtain and maintain a comprehensive policy of general liability insurance covering all of the Common Areas, insuring the Association, the Board, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, and (b) one million dollars (\$1,000,000), for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, or other Unit Owners and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas, legal liability arising out of lawsuits related to employment contracts of the Association, and additional coverages as are ordinarily obtained with respect to projects similar in construction, location and use. Each such policy must provide that it may not be canceled or substantially modified by any party, without at least 10 days' prior written notice to the Association and to each Eligible Holder of a First Mortgage Lien upon any Unit.

Section 3. Fidelity Coverage. The Board shall obtain and maintain, or cause to be obtained and maintained, fidelity coverage for the Association against dishonest or fraudulent acts on the part of the Board, managers, employees, agents, or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance shall name the Association as the named obligee or insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of: (i) 150% of the estimated annual operating expense of the Association, including reserves; (ii) the maximum funds that will be in the custody of the Association or its agent at any time; or (iii) the sum of three months worth of assessments plus the Association's reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association, any insurance trustee, and any holder, insurer, guarantor or servicer on behalf of any holder of any mortgage on a Unit who requires such rights. Any managing agent that handles funds for the Association shall be required to obtain its own fidelity bond providing similar coverage.

Section 4. Other Association Insurance. In addition, the Board may purchase and maintain contractual liability insurance, directors' and officers' liability insurance, and such other insurance as the Board may determine.

Section 5. Insurance Representative; Power of Attorney. Notwithstanding any of the foregoing provisions of this Article, or any requirement relating to property or liability insurance herein, there may be named, under any policy obtained by the Association, as an insured on behalf of the Association, its authorized representative, including any trustee with whom the Association may enter into an insurance trust agreement, or any successor to such trustee, who shall have exclusive authority to negotiate losses under any such policy. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or such designated representative, or such successor, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all

documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or such designated representative, or such successor, shall receive, hold or otherwise properly dispose of any proceeds of insurance, in trust, for Unit Owners and their first mortgage holders, as their interests may appear. This power is for the benefit of each and every Unit Owner, and their respective first mortgage holders, and the Association, and the Condominium, runs with the land, and is coupled with an interest.

Section 6. Unit Owners' Insurance. Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association pursuant hereto as the Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Association. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired or whose Occupant acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, a Unit Owner or Occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit Owner or Occupant, provided that if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Unit Owner with respect to improvements within the Unit shall be limited to the type and nature of coverage commonly referred to as "tenants' improvements and betterments". All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and trustees, and all other Unit Owners and Occupants. Unit Owners shall be responsible for the deductible of any insurance policy, prorated among the Unit Owners in proportion to their loss.

Section 7. Sufficient Insurance. In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause of peril insured against and the proceeds of any policy or policies insuring against such loss or damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied by the Board in payment therefor; provided, however, that in the event of complete destruction of all of the Buildings such as causes the termination of the Condominium pursuant to Article XII, Section 1, below, the Condominium shall be terminated, in which event such repair, restoration or reconstruction shall not be undertaken.

Section 8. Insufficient Insurance. In the event the improvements forming a part of the Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless there is complete destruction of all Buildings such as causes the termination of the Condominium pursuant to Article XII, Section 1, below, the Association shall make repairs, restoration or reconstruction of the Common Areas so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit Owners in proportion to their respective undivided interests in the Common Areas. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit owner's share for such cost in excess of available insurance proceeds, the amount so advanced by

the Association shall be assessed against the Unit of such Unit Owner and that assessment shall have the same force and effect, and, if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments.

ARTICLE XII.

DAMAGE; RECONSTRUCTION

Section 1. Complete Destruction. In the event of the complete destruction of all of the Buildings containing Condominium Units [as determined by a vote of Unit Owners holding two-thirds (2/3) of the voting power held by all Unit Owners] the Buildings shall not be reconstructed, and the insurance proceeds, if any, shall be divided among the Unit Owners and their respective mortgages in the percentage by which each Unit Owner owns an undivided interest in the Common Areas and facilities, and the property shall be considered as removed from the Condominium under section 32-25-1-28 of the Indiana Code, unless, by a vote of two-thirds (2/3) of the voting power held by all Unit Owners, a decision is made to rebuild the Building, in which case the insurance proceeds shall be applied and any excess of construction costs over insurance proceeds shall be contributed as provided herein for capital contributions.

Section 2. Reconstruction. In case of fire or any other casualty or disaster, other than complete destruction of all Buildings containing the Condominium Units, unless the Unit Owners elect for reconstruction as provided above, the improvements shall be promptly reconstructed and the insurance proceeds applied to reconstruct the improvements.

Section 3. Failure to Reconstruct. If it is determined by the Unit Owners to not rebuild after casualty or disaster has occurred, then in that event:

- (A) The Property shall be deemed to be owned in common by the Unit Owners;
- (B) The undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Unit Owner in the Common Areas;
- (C) Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Unit Owner in the Property; and
- (D) The Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the Unit Owners in a percentage equal to the percentage of undivided interest owned by each Unit Owner in the Property, after first paying out of the respective shares of the Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Unit Owner.

ARTICLE XIII.**CONDEMNATION**

Section 1. Standing. Except as hereinafter provided, the Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of all or any part of the Condominium Property, and shall have the sole and exclusive right to settle the loss with the condemning authority and to receive the award or proceeds of settlement, for the use and benefit of the Unit Owners and their mortgagees as their interests may appear except that any award or proceeds of settlement for the withdrawal of a Limited Common Area will be for the use and benefit of the Unit Owners entitled to their use. Notwithstanding the foregoing, in the event that a Unit Owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit Owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential loss, that Unit Owner may, at his, her or its election, separately pursue such claim, provided, that the pursuing of the same, or the realization of an award thereof, neither jeopardizes, in any way, an action by the Association to recoup the losses incurred by it, any other Unit Owner, or the direct loss with respect to the Unit itself, or with regard to the usability thereof, nor diminishes any award for any such loss.

Section 2. Use of Proceeds. The award of proceeds of settlement in any such proceedings, after reduction by the cost, if any, incurred in obtaining the same, shall be applied first to the cost of restoring or replacing all damaged improvements on the remaining Condominium Property in accordance with the Plans, or in accordance with any new Plans and specifications therefor approved by Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners, and the Eligible Holders of the First Mortgage Liens on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders of the First Mortgage Liens appertain. If the award of proceeds is insufficient for such purpose, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a part of Common Expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and distributed to the Unit Owners, and their first mortgages, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Areas. Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to condition comparable to that which existed prior to the taking, or could not be replaced, prior to the allocation and disbursement of any sum to any other Unit Owner or his, her or its mortgagee, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced, and his, her or its respective first mortgagee, as their interests may appear, such amount as is equal to the then fair market value of the Unit that cannot be so restored or replaced. Thereupon, such Unit or Units, and the owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Association, and future liability for

Common Expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

Section 3. Power of Attorney. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association, or its designated representative, or authorized successor, as his, her or its attorney-in-fact to represent that Unit Owner, settle losses, receive and utilize the award or proceeds of settlement, and do all things necessary or desirable for such attorney-in-fact to exercise the rights and fulfill the responsibilities of the Association set forth in this Article with respect to condemnation or eminent domain proceedings. This power is for the benefit of each and every Unit Owner, each holder of a first mortgage on a Unit, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

ARTICLE XIV.

GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS

Section 1. Easements of Enjoyment; Limitations. Every Unit Owner shall have a right and easement of enjoyment in, over and upon the Common Areas and a right of access to and from his, her or its Unit, which rights and easements shall be appurtenant to and shall pass with the title to a Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Areas, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof, or to that Unit's Limited Common Areas. Any Unit Owner may delegate that Unit owner's right to enjoyment to the Common Areas and to ingress and egress to the members of that Unit owner's family and to Occupants. Each Unit Owner shall have an easement for the installation, use, repair, replacement and relocation of a sprinkler system in the Common Area adjacent to such Owner's Unit, provided that the construction of any such sprinkler system be approved by the Declarant or, after the sale of all Units in the Condominium Property, by the Board of Directors of the Association.

Section 2. Right of Entry for Repair, Maintenance and Restoration. The Association, and its assigns, agents and authorized contractors, shall have a right of entry and access to, over, upon and through all of the Condominium Property, including, in the case of the Association, each Unit, to enable the Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance, repair, restoration and/or servicing of any items, things or areas of or in the Condominium Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Areas may be exercised without notice; otherwise, the Association shall give the Owners or Occupants of a Unit no less than 24-hours advance notice prior to entering a Unit or its appurtenant Limited Common Areas.

Section 3. Easement for Encroachments. Each Unit and the Common Areas shall be subject to easements for encroachments on any other Unit and upon the Common Areas created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, or

repair; or by reason of shifting, settlement, or movement of the structures; or by reason of errors in the Plans. Valid easements for these encroachments and for the maintenance of the same, so long as the encroaching structures remain, shall and do exist. However, no easement shall be permitted and no pavement or concrete, including driveways and sidewalks, if installed, shall be constructed on or within one foot horizontal distance of any sanitary sewer manhole or cleanout casting.

Section 4. Easement for Support. Every portion of a Building or utility line or any improvement on any portion of the Condominium Property contributing to the support of another Building, utility line or improvement on another portion of the Condominium Property shall be burdened with an easement of support for the benefit of all other such Buildings, utility lines, improvements and other portions of the Condominium Property.

Section 5. Easements for Utilities. There is hereby created upon, over and under all of the Condominium Property easements to the Association and all public agencies, governmental authorities and quasi-public utilities, for ingress and egress to, and the constructing, installation, extending, operating, inspecting, reconstructing, replacing, removing, repairing and maintaining of all utilities, including, but not limited to, water, sanitary sewer, storm sewer, gas, telephone, electricity, security systems, master television antennas and cable television. By this easement it shall be expressly permissible for such companies to construct and maintain the necessary poles and equipment, wires, circuits and conduits on, above, across and under the Condominium Property, so long as such poles, equipment, wires, circuits and conduits do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any such company furnishing a service request a specific easement by separate recordable document, the Board shall have the right to grant such easement without conflicting with the terms hereof and without the approval of any mortgagee, which consent is hereby given.

Section 6. Easement for Services. A non-exclusive easement is hereby granted to all police, fireman, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Association, but not to the public in general, to enter upon the Common Areas in the performance of their duties.

Section 7. Easements Reserved to Declarant. Non-exclusive easements are hereby reserved to the Declarant, their contractors, subcontractors, agents, successors and assigns, over and upon the Common Areas (a) for access for and for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that access thereto is not otherwise reasonably available, (b) for the periods for warranties hereunder, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit purchasers, and (c) to maintain one or more Units for sales and management offices and for storage and maintenance, and model Units, parking areas for sales and rental purposes, and advertising signs. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for the Declarant and its agents, employees, successors and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient or incidental to the completion, improvement and sale of Units or the developing of Units and Common Areas and Additional Property (as hereafter defined), including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model dwellings. The right to

maintain and carry on such facilities and activities shall include specifically the right to use Units as model residences and to use any Units as an office for the sale of Units and for related activities and to use any Unit as a construction office.

So long as Declarant owns any Property described on Exhibit "A," Declarant reserves blanket easements and the right to grant such specific easements over all the Property, including Units and Common Elements, as may be necessary in conjunction with the orderly development of the Property described on Exhibit "A" or any adjacent property (including without limitation the planning, construction, marketing, leasing, management and maintenance of improvements) for use, enjoyment, access, construction and maintenance of public or private utilities and storm drainage (whether subsurface or surface). No such easements may be located within the area beneath any building located thereon. All Units shall be subject to easements for the encroachment of initial improvements constructed on adjacent Units by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves and walls. Declarant reserves access easements over all Units for construction, either for that Unit or any adjacent property and easements for the installation of public or private utilities and storm drainage (whether subsurface or surface).

In addition, a non-exclusive perpetual easement is hereby reserved to Declarant, its successors and assigns, for its benefits and the benefit of future owners and Occupants of the area into which the Condominium may be expanded (the "Additional Property"), hereinafter described, for pedestrian and vehicular access over roadways and footpaths within the Condominium Property, for ingress and egress to and from the Additional Property, and each part thereof, and to extend the same onto the Additional Property. Additionally, Declarant, for itself and its successors and assigns, reserve an easement across the Common Areas to reach, and right to extend and tie into, utility lines in the Common Areas, as permitted by public authority and the utility company involved, to extend such lines into the Additional Property to service the same. These easements shall continue in effect whether or not all of the Additional Property, or any part thereof, is added to the Condominium.

Section 8. Power of Attorney. Each Unit Owner, by acceptance of a deed to a Unit, hereby irrevocably appoints the President of the Association, his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Unit Owner, such deeds of easement and other instruments as may be necessary or desirable, in the sole discretion of the Board, to further establish or effectuate the foregoing easements. This power is for the benefit of each and every Unit Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

Section 9. General. The easements and grants provided herein shall in no way affect any other recorded grant or easement.

ARTICLE XV.

ASSESSMENTS AND ASSESSMENT LIENS

Section 1. Types of Assessments. Each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association: (1) annual operating assessments, (2) special assessments for capital improvements, (3) special individual Unit assessments, (4) working capital assessments, (5) such assessments as are required or permitted to be paid under this Declaration, all of such assessments to be established and collected as hereinafter provided or as provided in this Declaration; and (6) the assessments under the Master Declaration. Each Unit Owner as instructed by the Association and Master Association shall either pay the assessments under the Master Declaration directly to the Master Association or shall pay them to the Association in which case, the Association shall timely pay such assessments under the Master Declaration to the Master Association.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of Unit Owners and Occupants and the best interests of the Condominium Property.

Section 3. Elements-Appportionment: Due Dates.

(A) Annual Operating Assessments.

(1) At such time prior to the closing by Declarant of the sale of the first Unit, and prior to the beginning of each fiscal year of the Association thereafter, the Board shall estimate, and prorate among the Units on the basis of the undivided interest of each Unit in the Common Areas, Common Expenses of the Association consisting of the following:

(a) the estimated next fiscal year's cost of the maintenance, repair, and other services to be provided by the Association;

(b) the estimated next fiscal year's costs for insurance and bond premiums to be provided and paid for by the Association;

(c) the estimated next fiscal year's costs for utility services not separately metered;

(d) an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements and usual and ordinary repair expenses, and for the funding of insurance deductibles in the event of casualty loss;

(e) a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and facilities, which funds shall be used for the purpose and not for usual and ordinary repair expenses of the Common Areas and facilities. This fund for capital

expenditures and replacement and repair of Common Areas and facilities shall be maintained in a separate interest bearing account with a bank or savings and loan association. Assessments collected for contributions to this fund may not be subject to Indiana gross income tax or adjusted gross income tax;

(f) the estimated next fiscal year's costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs constituting Common Expenses not otherwise herein specifically excluded; and

(g) the Association's share of any expense of maintenance, repair and replacement of private streets and roads on the Additional Property.

(2) The Board shall thereupon allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Areas, and thereby establish the annual operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.

(3) The annual operating assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semi-annual, quarterly or monthly increments. The due dates of any such installments shall be established by the Board, and, unless otherwise provided, the Association shall collect on or before the first day of each month from those who own the Unit an equal monthly pro-rata share of the annual operating assessment for that Unit.

(4) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth.

(5) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained by the Association, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Unit Owners.

(6) Except for its responsibilities as a Unit Owner as provided in this Declaration, the Declarant shall not have any responsibility for the maintenance, repair or replacement of any part of the Common Areas.

(B) **Special Assessments for Capital Improvements.**

(1) In addition to the annual operating assessments, the Board may levy, in any fiscal year, special assessments to construct, reconstruct or replace capital improvements on the Common Areas to the extent reserves therefor are insufficient, provided that new capital improvements not replacing existing improvements shall not be constructed nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to twenty-five percent (25%) of that fiscal year's budget, without the prior consent of Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners.

(2) Any such assessment shall be prorated among all Units in proportion to their respective undivided interests in the Common Areas, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

(C) **Special Individual Unit Assessments.** The Board may levy an assessment against an individual Unit, or Units, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms hereof to a particular Unit (such as, but not limited to, the cost of making repairs which are or were the responsibility of a Unit Owner, the cost of insurance premiums separately billed to a Unit Owner, and a Unit owner's enforcement and arbitration charges). Any such assessment shall become due and payable on such date as the Board determines, and gives written notice to the Unit Owners subject thereto. Additionally, the Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid, when due, and assess each Unit Owner for his, her or its share of such real estate taxes and assessments as a special individual Unit assessment. The share of those taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Areas attributable to that Unit. The calculation by the Association of the Units' shares of taxes and assessments shall be binding upon all Unit Owners.

(D) **Working Capital Assessments.** Each Unit Owner shall pay to Association at the closing of the purchase of that Unit three months' estimated Common Expenses for each Unit for use as working capital. The initial contribution of working capital shall be collected at the closing of each Unit, and such initial amounts paid shall not be considered as advance payments of regular assessments.

Section 4. Effective Date of Assessments. Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, on the date approved by the Board (with respect to assessments described in Section 3 of this Article XV), and upon the date that any installment of such assessment becomes delinquent (with respect to late charges and interest), and/or the date costs are incurred by the Association (with respect to costs of collection). Written notice of the amount of the assessments established pursuant to Section 3 of this Article XV shall be sent by the Board to the Unit Owner subject thereto prior to the due date thereof, or the due date of the first installment thereof, if to be paid in installments. Written

notice mailed or delivered to a Unit owner's Unit shall constitute notice to that Unit Owner, unless the Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit Owner. Failure of the Board to deliver such notice in accordance with the foregoing shall not invalidate the assessment, nor constitute a defense by any party to the collection of the assessment or enforcement of the lien therefor. Notwithstanding anything to the contrary contained herein, Declarant shall be excused from paying any of the assessments described in this Article XV for any Units owned by Declarant and offered for the first time for sale for a period of time that begins on the day this Declaration is recorded and terminates the earlier of: (i) five (5) years thereafter or (ii) upon Declarant recording an amendment waiving such right ("Exempt Period"). Declarant guarantees to each Unit Owner that the annual operating assessments will not increase over \$2200 for Chestnut and Acorn Units, \$2400 for Timberwood Units and \$2800 for Majestic Units annually ("Maximum Amount") during such Exempt Period, and Declarant shall pay the amount by which the expenses incurred during such Exempt Period exceed the annual operating assessments at the Maximum Amount that are receivable during such Exempt Period from the Unit Owners, excluding Declarant.

Section 5. Effect of Nonpayment of Assessment; Remedies of the Association.

(A) If any assessment or any installment of any assessment is not paid when due, the Board, at its option, without demand or notice, may (i) declare the entire unpaid balance of the assessment immediately due and payable, (ii) charge interest on the entire unpaid balance at the rate of interest of ten percent (10%) per annum, or at such rate as the Board may from time to time determine, and (iii) charge a reasonable, uniform late fee, as determined from time to time by the Board, as well as the cost of collection, including, without limitation, reasonable attorneys' fees to the extent not prohibited by Indiana law. The interest, late fees, and costs of collection shall be considered to be part of the "Assessment" for all purposes herein.

(B) Annual operating and both types of special assessments, together with interest, late charges and costs, shall be a charge and a continuing lien in favor of the Association upon the Unit against which each such assessment is made, from the effective date thereof.

(C) At any time after an installment of an assessment levied pursuant hereto remains unpaid after the same has become due and payable, a certificate of lien for all or any part of the unpaid balance of that assessment, and interest and costs, (including attorneys' fees), may be filed with the Recorder of Hendricks County, Indiana, pursuant to authorization given by the Board. The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the then current amount of the unpaid portion of the assessment. The failure to include current interest, fees, and costs of collection, in such certificate shall not invalidate the Association's right to collect such interest, fees, and costs of collection accruing before or after the filing of such certificate.

(D) Any Unit Owner who believes that an assessment chargeable to his, her or its Unit (for which a certificate of lien has been filed by the Association) has been

improperly charged against that Unit, may bring an action in the Hendricks County, Indiana, courts for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

(E) Each such assessment together with interest, fees, and costs of collection, (including, without limitation, reasonable attorneys' fees to the extent not prohibited by Indiana law), shall also be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the assessment fell due.

(F) Any grantee of an interest in a Unit shall be entitled to a statement from the Board setting forth the amount of the unpaid installments of the assessments against the grantor, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth in such certificate.

(G) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees and costs, (including attorneys' fees), bring an action at law against the Unit Owner or owners personally obligated to pay the same, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the Unit Owner or owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action, and the Association as plaintiff in any such action shall be entitled to the appointment of receiver to collect such rent, and to become a purchaser at the foreclosure sale, and acquire, hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or having the lien securing the same. In any such action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment, to the extent not prohibited by the Indiana law.

(H) No owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Areas, or any part thereof, or by abandonment of his, her or its Unit.

Section 6. Subordination of the Lien to First Mortgages. The lien of the assessments and charges provided for herein shall be subject and subordinate to the tax liens on the Unit in favor of any assessing Unit and special district, and the lien of any duly executed first mortgage on a Unit recorded prior to the effective date of such assessment.

ARTICLE XVI.

NOTICE TO MORTGAGEES

Any holder, insurer or guarantor of a first mortgage, upon written request to the Association (which request states the name and address of such holder, insurer or guarantor and the Unit designation or address), shall be entitled to timely written notice, (delivered by certified or registered mail, return receipt requested), by the Association of:

(1) any proposed addition or amendment of the Condominium Organizational Documents effecting a change or addition in provisions establishing, providing for, governing or regulating (a) voting, (b) assessments, assessment liens or subordination of such liens, (c) reserves for maintenance, repair and replacement of Condominium Property, (d) insurance or fidelity bonds, (e) rights to use of the Common Areas, (f) responsibility for maintenance and repair, (g) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium, (h) the boundaries or composition of any Unit, (i) the interests in the Common or Limited Common Areas, (j) the convertibility of Units into Common Areas or of Common Areas into Units, (k) the leasing of any Unit or part thereof, (l) the imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit, (m) the management of the Condominium, (n) the restoration or repair of the Condominium, or (o) any provisions which are for the express benefit of the holder, insurer or guarantor of any first mortgage on a Unit.

(2) any proposed termination of the Condominium as a Condominium regime;

(3) any condemnation, eminent domain proceeding, or casualty loss which may affect a material portion of the Condominium Property or any Unit on which there is a first mortgage held, insured or guaranteed by such Eligible Holder of the First Mortgage Lien;

(4) any decision by the Association not to restore or repair any portion of the Condominium Property (after damage or destruction or partial condemnation), or not to restore or repair such property in a manner specified by the Condominium Organizational Documents;

(5) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (the Secretary of the Association shall furnish each Unit Owner and each Eligible Holder of the First Mortgage Lien whose interest may be affected, prompt notice of the obtaining, change or termination of any insurance policy.);

(6) any decision by the Association to reconstruct the Condominium Buildings where all Buildings containing Units have been destroyed;

(7) any decision by the Association to construct significant new capital improvements to replacing existing improvements;

(8) times and places of Unit Owners' meetings;

(9) any default under the Condominium Organizational Documents which gives rise to a cause of action against a Unit Owner whose Unit is subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days;

(10) any decision by the Association to establish self-management when professional management had been required previously by an Eligible Holder of the First Mortgage Lien; and

(11) any proposed action which requires the consent of a specified percentage of Eligible Holders of the First Mortgage Liens.

No notice shall be required for any addition or amendment of the Condominium Organizational Documents made for the purpose of correcting technical errors or for clarification only, nor to any mortgagee who is not an Eligible Holder of the First Mortgage Lien.

ARTICLE XVII.

AMENDMENTS

Section 1. Power to Amend. Except as hereinafter provided, amendment of this Declaration (or the other Condominium Organizational Documents) shall require (a) the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners (including Declarant), and (b) notice to all Eligible Holders of the First Mortgage Liens on Units. Notwithstanding the foregoing:

(A) The prior written consent of all Unit Owners shall be required for any amendment effecting a change in:

(1) the boundaries of any Unit;

(2) the undivided interest in the Common Areas appertaining to a Unit or the liability for Common Expenses appertaining thereto except as permitted by the expansion provisions in this Declaration;

(3) the number of votes in the Association appertaining to any Unit except as permitted by the expansion provisions in this Declaration;

(4) to terminate the Condominium or remove any interest from the Property; or

(5) the fundamental purposes to which any Unit or the Common Areas are restricted.

(B) Unless at least seventy-five percent (75%) of the Eligible Holders of the First Mortgage Lien (based upon one vote for each mortgage owned), and seventy-five percent (75%) of Unit Owners have given their prior written approval (except in some cases a greater majority or unanimous approval may be needed as provided herein or in the Act) the Association shall not be entitled to (a) take any action, or (b) make any change, which materially affects the operation of the Association, including the following:

(1) Voting rights;

- (2) Assessments, assessment liens, or subordination or assessment liens;
- (3) Reserves for maintenance, repair and replacement of Common Areas;
- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interest in the general or Limited Common Areas, or rights to their use except as permitted by the expansion provisions in this Declaration;
- (6) Boundaries of any Units;
- (7) Convertibility of Units into Common Areas or visa versa;
- (8) Expansion or contraction of the Property, or the addition, annexation or withdrawal of property to or from the Property except as permitted by the expansion provisions in this Declaration;
- (9) Insurance or fidelity bonds;
- (10) Imposition of any restrictions on a Unit owner's right to sell or transfer his or her Unit;
- (11) A decision by the Association to establish self-management when professional management had existed previously;
- (12) Restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;
- (13) Any action to terminate the legal status of the Property after substantial destruction or condemnation occurs;
- (14) Provisions that specifically and explicitly expressly benefit Eligible holders of a first mortgage lien, mortgage holders, insurers or guarantors;
- (15) The prorata interest or obligations of any individual Unit for the purpose of: (a) levying assessments or charges or allocating distributions or hazard insurance proceeds or condemnation awards or (b) determining the prorata share of the ownership of each Unit in the Common Areas, except as provided in the expansion provisions;
- (16) Dimensions of any Unit by partition or subdivision;
- (17) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas;

(18) Use hazard insurance proceeds for losses to any Condominium Property (whether to Units or to Common Areas) for other than repair, replacement or reconstruction of such Condominium Property, except as provided by statute in case of substantial loss to the Units and/or Common Areas.

Notwithstanding the above, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Condominium Property shall not be deemed a transfer within the meaning of this clause.

(C) Eligible Holders of the First Mortgage Lien shall have the right to examine the books and records of the Association or the Condominium project.

(D) The consent of Eligible Holders of the First Mortgage Liens on Units to additions or amendments to the Condominium Organizational Documents shall not be required except in those instances, previously described, in which the Eligible Holders of the First Mortgage Liens on Units are entitled to written notice of such proposed additional or amendment.

(E) Any Eligible Holders of the First Mortgage Liens who obtain title to a Unit pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such Unit's unpaid dues or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee.

(F) In any event, and notwithstanding any provision to the contrary, Declarant reserves the right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by Declarant), without the consent, approval or signature of each Unit Owner, to (i) amend the Condominium Organizational Documents, to the extent necessary to conform to the requirements then governing the purchases or insurance of mortgages by The Mortgage Corporation, Federal National Mortgages Association, Governmental National Mortgages Association, Federal Home Loan Mortgage Corporation, Mortgage Guaranty Insurance Corporation, Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, or any other similar agency or organization, (ii) induce any such agencies or entities to make, purchase, sell, insurance or guarantee first mortgages covering Unit ownership, (iii) to correct typographical errors, surveyor errors in descriptions or otherwise or obvious factual errors the correction of which would not impair the interest of any Unit Owner or mortgagee, (iv) bring this Declaration into compliance with the Act (v) to amend Exhibits "A", "B", "D", "E" and "F" for each expansion; or (vi) to amend this Declaration in any manner that does not materially interfere with the use and enjoyment of a Unit by a Unit Owner and further provided that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power of Declarant to vote in favor of, make, execute and record any of the foregoing amendments. The rights of

Declarant under this Section shall terminate at such time as Declarant no longer holds or controls title to a Unit and the right of Declarant to add the Additional Property has expired.

An Eligible Holder of the First Mortgage Lien on a Unit who receives a written request to approve additions or amendments who does not deliver or post to the request party a negative response within thirty (30) days after it receives such written notice (provided that notice was delivered by certified or registered mail, return receipt requested), shall be deemed to have approved such request. The rights of Declarant shall terminate at such time as Declarant no longer holds or controls title to a Unit and the right to expand the Condominium has expired.

Section 2. Method to Amend. An amendment to this Declaration (or the Plans or the By-Laws), adopted with the consents hereinbefore provided, shall be executed with the same formalities as this Declaration by two officers of the Association and shall contain their certification that the amendment was duly adopted in accordance with the foregoing provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Declaration shall be duly executed by it with the same formalities as to execution as this Declaration and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in the Declarant or any duly empowered successor Declarant by the Declaration. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Recorder of Hendricks County, Indiana.

ARTICLE XVIII.

EXPANSIONS

Section 1. Reservation of Expansion Option and Option not to Expand. Declarant expressly reserves the option to expand the Condominium Property as provided in this Article. Notwithstanding the foregoing, the Declarant reserves an option to not expand the Condominium.

Section 2. Limitation on Option. Declarant has no limitation on its option to expand the Condominium Property except as provided in this Article, or elsewhere in this Declaration, and except as otherwise so expressly limited, has the sole right, power, and authority to expand the Condominium Property. No Unit owner's consent is required to enable Declarant to expand the Condominium Property.

Section 3. Maximum Expansion Time. Declarant's option to expand the Condominium Property shall expire and terminate at the end of seven years from the date this Declaration is filed for record, unless Declarant, by written notice to the Association, elects to waive that option effective at a time prior to the expiration of that seven-year period. There are no other circumstances that will terminate that option prior to the expiration of that seven-year period.

Section 4. Legal Description. A legal description, by metes and bounds, of all Additional Property that, through exercise of Declarant's option, may be added to the Condominium Property by submission to the Condominium Act as part of this Condominium, is attached hereto and marked "Exhibit E", and referred to herein as the "Additional Property".

Section 5. Composition of Portions Added. Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor, if any of the Additional Property is added, shall it be required that a particular portion of the Additional Property must be added, provided that portions added meet all other requirements set forth in this Article, and all improvements on portions added are substantially completed prior to the time added to the Condominium. Except as expressly provided in this Article, there are no limitations on the portions of the Additional Property that may be added to the Condominium Property.

Section 6. Time for Adding Portions. Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, within the time limit previously described. There are no limitations fixing the boundaries of portions added, or regulating the order in which portions are added.

Section 7. Improvement Location Limitations. There are no established or defined limitations as to the location of any improvements that may be made or any portion of the Additional Property added to the Condominium Property except such limitations as may then be in effect by reason of the laws and lawful rules and regulations of the appropriate governmental bodies and authorities having jurisdiction.

Section 8. Maximum Number of Units. The maximum total number of Units that may be created on the Additional Property and added to the Condominium Property is One Hundred Sixteen (116) provided, that the foregoing shall neither limit nor restrict nor be so construed as to limit or restrict the number of dwelling Units that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property. Subject to the foregoing total maximum of Units that may be added to the Condominium Property there is no limit as to the maximum number of Units per acre that may be created on any portion of the Additional Property added to the Condominium Property.

Section 9. Non-Residential Uses. The maximum percentage of the aggregate land and floor area of all Units that may be created on the Additional Property or portions thereof and added to the Condominium Property that are not restricted exclusively to residential use is zero, since no such Unit may be so created and added. There is no restriction on the use of the Additional Property, or any portion thereof, which is not added to the Condominium Property.

Section 10. Compatibility of Structures. All structures erected on all or any portion of the Additional Property and added to the Condominium Property will be consistent with and be reasonably compatible with, but need not be substantially identical to, the structures then on the Condominium Property in terms of quality of construction, the principal materials to be used, and architectural style and design. Consistency and compatible style and design shall be deemed to exist if the exterior appearance of the structures on the Additional Property is compatible and harmonious with those then on the Condominium Property. Design shall not be deemed to be incompatible or not compatible because of changes in the number of dwelling Units in a Building, variances in set-backs or locations of structures in relation to other improvements, or changes in layout of Units.

Section 11. Improvements other than Structures. With respect to improvements other than structures on any Additional Property added to the Condominium Property, there is no

requirement that any such improvements must be made and there are no restrictions or limitations upon what, if any, such non-structural improvements shall be made; except that any such non-structural improvements shall not be incompatible with other improvements than then on the Condominium Property.

Section 12. Types of Units. The types of Units and recreational facilities, if any, which may be constructed upon the all or any portion of the Additional Property and added to the Condominium Property are shown on the Plans filed herewith, but need not be substantially identical to such Plans or to any of the types of Units then on the Condominium Property.

Section 13. Limited Common Areas. Declarant reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Areas therein consistent in type, size, and number as those areas then so designated as such in the Condominium Property, including, without limiting the generality of the foregoing, patios, porches, and limited common driveway areas in front of garages. The precise size and number of such newly created Limited Common Areas cannot be ascertained precisely, because those facts will depend on how large each portion added may be, the size and location of the Buildings and other improvements on each portion, and other factors presently undetermined.

Section 14. Supplementary Plans. Declarant does not consider any other drawings or Plans, other than the Condominium Plans, presently appropriate in supplementing the foregoing provisions of this Article. However, at such time as Declarant adds all or any portion of the Additional Property to the Condominium Property it shall file drawings and Plans with respect to the Additional Property as required by the Condominium Act.

Section 15. Procedures for Expansion. All or any portion of the Additional Property shall be added to the Condominium Property by the execution and filing for record by the Declarant and all owners and ground lessees of the land so added, in the manner provided by the Condominium Act, of an amendment to the Declaration that contains the information, drawings and Plans with respect to the Additional Property and improvements thereon added required by the Condominium Act.

Section 16. Effects of Expansion. Upon the filing for record of an amendment to the Declaration adding all or any portion of the Additional Property to the Condominium Property:

(A) the added portion shall thereafter be subject to all of the terms and provisions hereof, to the same extent and with the same effect as if that added portion had been provided herein as constituting part of the Condominium Property, that is, the rights, easements, covenants, restrictions and assessment plan set forth herein shall run with and bind the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property;

(B) the owner or owners of the added portion shall thereupon become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other members; and

(C) the undivided interests of Units in the Common Areas, as so expanded, shall be reallocated as follows. Each amended Declaration shall include (i) an amended

Exhibit "D" which shall amend Exhibit "D" hereto by setting forth the legal description of such addition, and (ii) an amended Exhibit "B" which shall amend Exhibit "B" hereto by setting forth the amended percentages of the undivided interests in the Common Areas (as amended and added to by such amended Declaration) allocated to each Unit (including all previous Units and the additional Units added by such amended Declaration). The percentage of the undivided ownership interest in the Common Areas as amended by each amended Declaration, and as set forth in the amended Exhibit "B", shall be determined and adjusted in the following manner:

(1) The Common Areas as amended by such amended Declaration shall be deemed to consist of:

(a) the Common Areas as existing immediately prior to the recording of such amended Declaration (hereinafter referred to as the "Existing Common Areas"); and

(b) the Common Areas added by such amended Declaration (hereinafter referred to as the "Added Common Areas").

(2) The Units as amended by such amended Declaration shall be deemed to consist of:

(a) the Units are existing immediately prior to the recording of such amended Declaration (hereinafter referred to as the "Existing Units"); and

(b) the Units added by such amended Declaration (hereinafter referred to as the "Added Units").

The size of each of the Added Units shall be added to the current aggregate size of the Existing Units and the total thereof shall be deemed to be the new size of all Units of the Property. "Size" as used in this paragraph shall be determined by the Declarant as of the date of such recording of the amended Declaration. Such determination by the Declarant shall be conclusive and binding upon all Unit Owners, mortgagees and other parties who then or in the future have any interest in the Property.

(3) The percentage of undivided ownership interest, as amended and adjusted by such amended Declaration, in the entire Common Areas, consisting of the Existing Common Areas, plus the Added Common Areas, to be allocated among all the Units, consisting of the Existing Units plus the Added Units, shall be computed by taking as a basis the size of each Unit in relation to the size of all Units of the Property, determined as aforesaid.

The Existing Units shall be entitled to their respective percentages of ownership, as amended and adjusted and set forth in amended Exhibit "B" attached to such amended Declaration, in the Added Common Areas, as well as in the Existing Common Areas.

(4) Each and all of the provisions of this Declaration and the Exhibits attached hereto, as amended by each such successive amended Declaration and the amended Exhibits attached thereto, shall be deemed to apply to each and all of the Units, including all such Added Units as well as all Existing Units, and to all of the Common Areas, including all such Added Common Areas as well as all Existing Common Areas.

(5) The recording of an amended Declaration shall not alter or affect the amounts of any liens for Common Expenses due from any Existing Unit Owners prior to such recording, nor the respective amounts theretofore assessed to or due from Existing Unit Owners for Common Expenses or other assessments.

(6) The lien of any mortgage encumbering any Existing Unit, together with its appurtenant percentage of undivided ownership interest in the Existing Common Areas, shall automatically be deemed to be adjusted and amended when an amended Declaration is recorded, in accordance with the respective percentage of undivided ownership interest in the Common Areas for such Existing Unit as set forth in the amended Exhibit "B" attached to such amended Declaration, and the lien of such mortgage shall automatically attach in such percentage to the Added Common Areas.

(a) In all other respects, all of the provisions of this Declaration shall include and apply to such additional portions, and to the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

(b) Each owner by acceptance of the deed conveying his Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each amended Declaration is and shall be deemed to be in accordance with the Act and for purposes of this Declaration and the Act, any changes in the respective percentages of ownership in the Common Areas as set forth in each such amended Declaration shall be deemed to be made by agreement of all Unit Owners.

(c) The foregoing provisions of the Declaration and deeds and mortgages of the Units and Common Areas contain and will contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other toward the end that a valid shifting of the percentage interest in the Common Areas can be accomplished.

ARTICLE XIX.

GENERAL PROVISIONS

Section 1. Covenants Running With the Land. The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Condominium Property, and the Association, and their respective heirs, executors, administrators, successors and assigns.

Section 2. Enforcement. In addition to any other remedies provided in this Declaration, Declarant, the Association, and each Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the By-Laws or now or hereafter imposed by or through the Association's rules and regulations. Failure by Declarant, the Association or by any Unit Owner to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. Further, the Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Organizational Documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, and the Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration.

Section 3. Severability. Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act, the latter's requirements shall prevail and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no wise affect any other provisions of this Declaration, which provisions shall remain in full force and effect.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, limited liability companies, men or women, shall in all cases be assumed as though in such case fully expressed.

Section 5 Captions. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

Section 6. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the incumbent President of the United States and the Governor of Indiana.

Section 7. Notices. Notices provided for in the Act, Declaration or By-Laws shall be in writing and shall be addressed to the Association or Board, as the case may be, at 6880 North Frontage Road, Suite 100, Burr Ridge, Illinois, 60527 or to the Unit Owner at the address of his Unit, or at such other address as hereinafter provided. The Association or Board may designate a different address or addressees for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

Section 8. Litigation/Arbitration. Excluding (a) any suit by the Association to collect Assessments under Article XV; (b) any suit by the Association to obtain a temporary restraining order to enforce the provisions of Article III; and (c) arbitration conducted by the Board under Article III, any and all claims, disputes and controversies by and between the Association, a Unit Owner, Developer, Declarant, Managing Agent or any other party connected in any way to the Association, or any combination of the foregoing, arising from or related to the Property, the Association, any improvements to the Property, the sale of any Unit on the Property, including, without limitation, any claim of breach of contract, negligence, negligent or intentional misrepresentation or non disclosure in the inducement, execution or performance of any contract, including this arbitration agreement, and breach of any alleged duty of good faith and fair dealings, shall be submitted to arbitration by and pursuant to the rules of Construction Arbitration Services, Inc. (hereinafter CAS) in effect at the time of the request for arbitration or by such other arbitration service as Declarant shall, in its sole discretion select, and pursuant to the rules of that arbitration service in effect at the time of the request for arbitration. This arbitration agreement shall inure to the benefit of, and be enforceable by all successors and assigns of the parties. Any party shall be entitled to recover reasonable attorneys' fees and costs incurred in enforcing this arbitration agreement, and the arbitrator shall have sole authority to award such fees and costs. The decision of the arbitrator shall be final and binding and may be entered as a judgment in any state or federal court of competent jurisdiction. This arbitration agreement shall be deemed to be a self executing arbitration agreement. Any disputes concerning interpretation or the enforceability of this arbitration agreement, including without limitation, its revocability or voidability for any cause, the scope of arbitrable issues and any defense based on waiver, estoppel or laches shall be decided by the arbitrator. The initiation of or participation by any party in any judicial proceedings concerning this arbitration agreement or any matter arbitrable hereunder shall not be deemed a waiver of the right to enforce this arbitration agreement, and notwithstanding provision of law to the contrary, shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration agreement. Any party who shall commence a judicial proceeding concerning a dispute that is arbitrable, however, shall also be deemed a party requesting arbitration within the meaning of this arbitration agreement. The arbitrator's compensation shall be borne equally by the arbitrating parties. Any additional fees may be assessed in accordance with the arbitration rules and fees. Parties expressly agree that this arbitration agreement involves and concerns interstate commerce and is governed by the provisions of the Federal Arbitration Act (9 USC §1 *et seq.*) now in effect as the same may from time to time be amended, supplanted or replaced, to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any local law, ordinance or judicial rule may be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rule shall govern the conduct of the proceedings. If any provision of this arbitration agreement shall be determined by arbitrator or by any court to be (i) non-enforceable or

(ii) have been waived, the remaining provision shall be deemed to be severable therefrom and enforceable according to their terms. Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each mortgage owned), and seventy-five percent (75%) of the Unit Owners (other than the sponsor, developer or builder) of the individual Units have given their prior written approval (except in some cases a greater majority or unanimous approval may be needed as provided herein or in the Act) the Association shall not be entitled to commence any arbitration against the Developer, Declarant, or any other party connected in any way to the Association. No litigation shall be permitted in any circumstance

Section 9. Exculpation. Notwithstanding anything contained in this Declaration, if at any time Declarant shall fail to perform or pay any covenant or obligation to be performed or paid under this Declaration or any other agreement, and as a consequence thereof a Unit Owner or third party claiming by, through or under a Unit Owner, shall recover a money judgment against Declarant, such judgment shall be enforced against and satisfied out of only the proceeds of sale produced upon execution of such judgment and levy thereon against Declarant's interest in the Condominium Property, the rents, issues or other income receivable from the Condominium Property after such judgment is obtained, or the consideration received by Declarant from the sale of other disposition of the Condominium Property after such judgment is obtained. The provisions of this Section 9 are not intended to relieve Declarant from the performance of any of its obligations hereunder, but rather to limit Declarant's liability as aforesaid.

Section 10. Non-Liability of the Board, Officers and Declarant. Neither the Board, Officers of the Association nor Declarant shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever of such Board, Officers or Declarant, except for any acts or omissions found by a court to constitute gross negligence, fraud or criminal intent. The Unit Owners shall indemnify and hold harmless each member of the Board, Officers and Declarant, and their respective members, heirs, executors, administrators, successors and assigns in accordance with the provisions of the By-Laws.

Section 11 Disclaimer of Warranties. Declarant hereby disclaims and excludes any and all warranties, express or implied, (included without limitation, any implied warranty of habitability, merchantability, quality or fitness for a particular purpose), with respect to the Property, Common Areas and Limited Common Areas. In any event, Declarant shall not be liable for any personal injury, emotional distress, loss of income, loss of value and adverse health affects and or other special, indirect, punitive, consequential or secondary damages and/or losses which may arise out of the Property, Common Areas and Limited Common Areas. The Association's and Unit Owners' remedies, if any, are limited to repair and replacement.

Section 12. Disclaimer of Other Entities. Owners and the Association acknowledge and understand that their relationship is with the Declarant, pursuant to the written terms of this Declaration, and no other entity notwithstanding anything to the contrary in advertising, promotional or other materials. Owners and the Association acknowledge that they have no claim against any entity including affiliates, subsidiaries, parents or otherwise under common control of Declarant, and Owners and the Association waive and release any such claims, if any.

Section 13. Assignments by Declarant. All rights which are specified by this Declaration to be the rights of the Declarant are assignable, mortgageable, pledgeable or

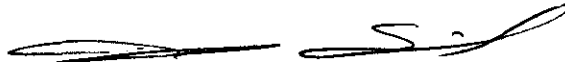
Consent of Mortgage Holder

The undersigned Lender ("Lender") is the Lender under various loan documents dated MARCH 9, 2006 in the original principal amount of \$6,969,800.00 ("Loan"), which Loan is secured by a lien upon the herein described Property pursuant to that certain Deed of Trust or Mortgage (the "Deed of Trust"), dated MARCH 9, 2006, recorded as Document Number 2006 00015053 of the Real Property Records of Hendricks County, Indiana.

Lender hereby consents to the execution and recording of this Declaration, consents to the creation of the covenants, conditions and restrictions herein established against the Property pursuant to the Declaration and agrees that the Deed of Trust and the lien and security interests thereof (together with any and all other liens and security interests in favor of Lender against the Property given to secure the payment and performance by Declarant of the indebtedness and the other obligations of Declarant under the Loan, the Deed of Trust and any and all other instruments and agreements given to secure payment of the Loan) are hereby subordinated to this Declaration and to the covenants, conditions and restrictions contained herein; provided, however, that no lien or assessment created by or arising under this Declaration shall be prior or superior to the Deed of Trust, and as to any which liens or assessments created by or arising under this Declaration the lien and security interests of the Deed of Trust shall remain prior and superior at all times. It is the intention of Lender and Declarant that in the event of any foreclosure of the Deed of Trust or in the event of any conveyance in lieu of such Deed of Trust this Declaration and all covenants, conditions, restrictions and other rights and duties created herein will remain in place and in full force and effect against the Property and all parties bound by the Declaration as if no such foreclosure or transfer in lieu of foreclosure had occurred.

LENDER:

THE PRIVATE BANK SAVINGS & TRUST
COMAPNY



By: DANIEL C. SIADAK
Title: MANAGING DIRECTOR

REC'D JUL 9 1 2006

BUILDING 11 IN BLOCK A OF GRANT PARK

PART OF THE N.W. 1/4 OF SECTION 8-T15N-R1E
 HENDRICKS COUNTY, INDIANA
 HORIZONTAL PROPERTY REGIME
EXHIBIT "A"

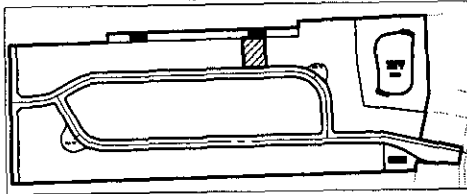
OWNER/SUBDIVIDER
 PORTRAIT HOMES-GRANT PARK, LLC
 9333 NORTH MERIDIAN STREET, SUITE 300
 INDIANAPOLIS, INDIANA 46260
 (317) 705-8971

THIS INSTRUMENT WAS PREPARED
 BY BRYAN F. CATLIN
 PROFESSIONAL LAND SURVEYOR
 INDIANA #910012
 8901 OTIS AVENUE
 INDIANAPOLIS, INDIANA 46216
 TELEPHONE (317) 826-7100

SURVEYOR
 THE SCHNEIDER CORPORATION
 HISTORIC FORT HARRISON
 8901 OTIS AVENUE
 INDIANAPOLIS, INDIANA 46216
 (317) 826-7100

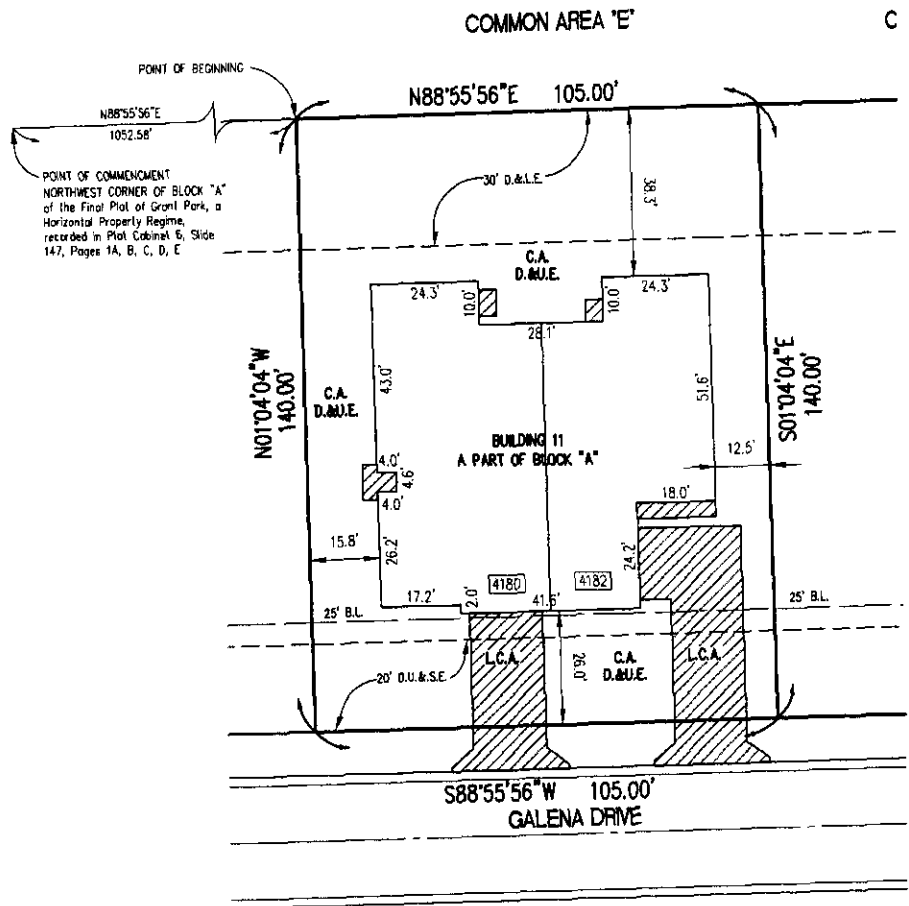
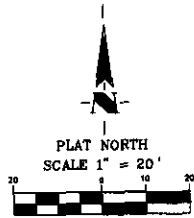


PLAT DETAIL
 NOT TO SCALE



LEGEND

- D.&U.E. — DRAINAGE AND UTILITY EASEMENT
- B.L. — BUILDING SETBACK LINE
- R.D.E. — REGULATED DRAINAGE EASEMENT
- L.C.A. — LIMITED COMMON AREA
- C.A. — COMMON AREA
- D.U.&S.E. — DRAINAGE UTILITY AND SEWER EASEMENT
- D.&L.E. — DRAINAGE AND LANDSCAPE EASEMENT



BUILDING 12 IN BLOCK A OF GRANT PARK

PART OF THE N.W. 1/4 OF SECTION 8-T15N-R1E
 HENDRICKS COUNTY, INDIANA
 HORIZONTAL PROPERTY REGIME
EXHIBIT "A"

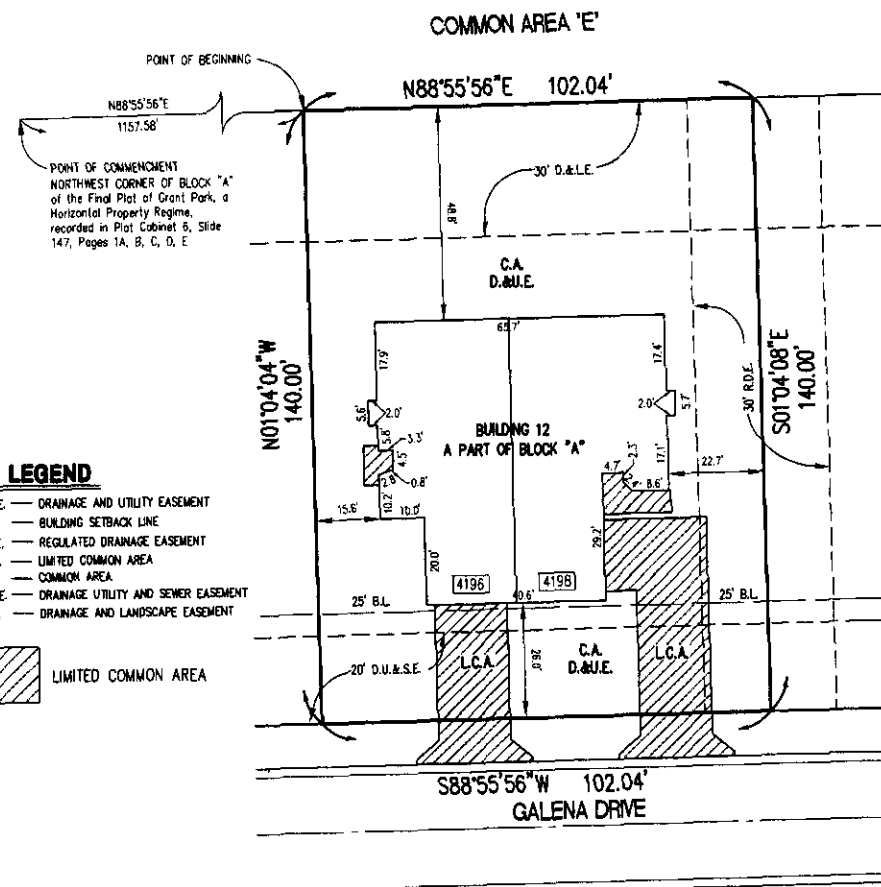
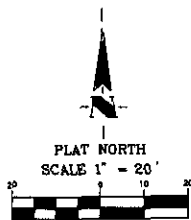
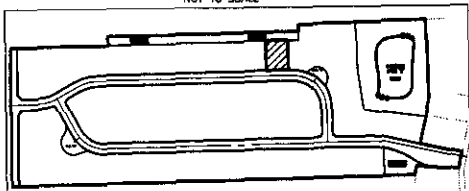
OWNER/SUBDIVIDER
 PORTRAIT HOMES-GRANT PARK, LLC
 9333 NORTH MERIDIAN STREET, SUITE 300
 INDIANAPOLIS, INDIANA 46260
 (317) 705-8971

THIS INSTRUMENT WAS PREPARED
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SURVEYOR
 THE SCHNEIDER CORPORATION
 HISTORIC FORT HARRISON
 8901 OTIS AVENUE
 INDIANAPOLIS, INDIANA 46216
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PLAT DETAIL
 NOT TO SCALE



LEGEND

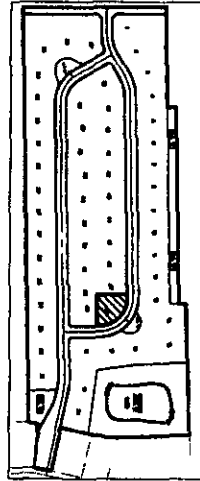
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 - B.L. — BUILDING SETBACK LINE
 - R.D.E. — REGULATED DRAINAGE EASEMENT
 - L.C.A. — LIMITED COMMON AREA
 - C.A. — COMMON AREA
 - D.U.&S.E. — DRAINAGE UTILITY AND SEWER EASEMENT
 - D.&L.E. — DRAINAGE AND LANDSCAPE EASEMENT
- LIMITED COMMON AREA

OWNER/SUBMITTER
 PORTLAND PARK GRANT PARK, LLC
 3333 NORTH WINDY STREET, SUITE 300
 INDIANAPOLIS, INDIANA 46250
 (317) 856-8971

DESIGNER
 SCHNEIDER CORPORATION
 HISTORIC FORT JACKSON
 8801 OTIS AVENUE
 INDIANAPOLIS, INDIANA 46216
 (317) 856-7100

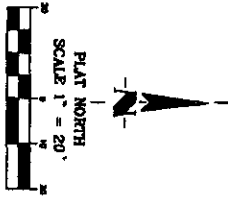
Schneider

THIS INSTRUMENT WAS PREPARED
 BY BRYAN F. CALVIN
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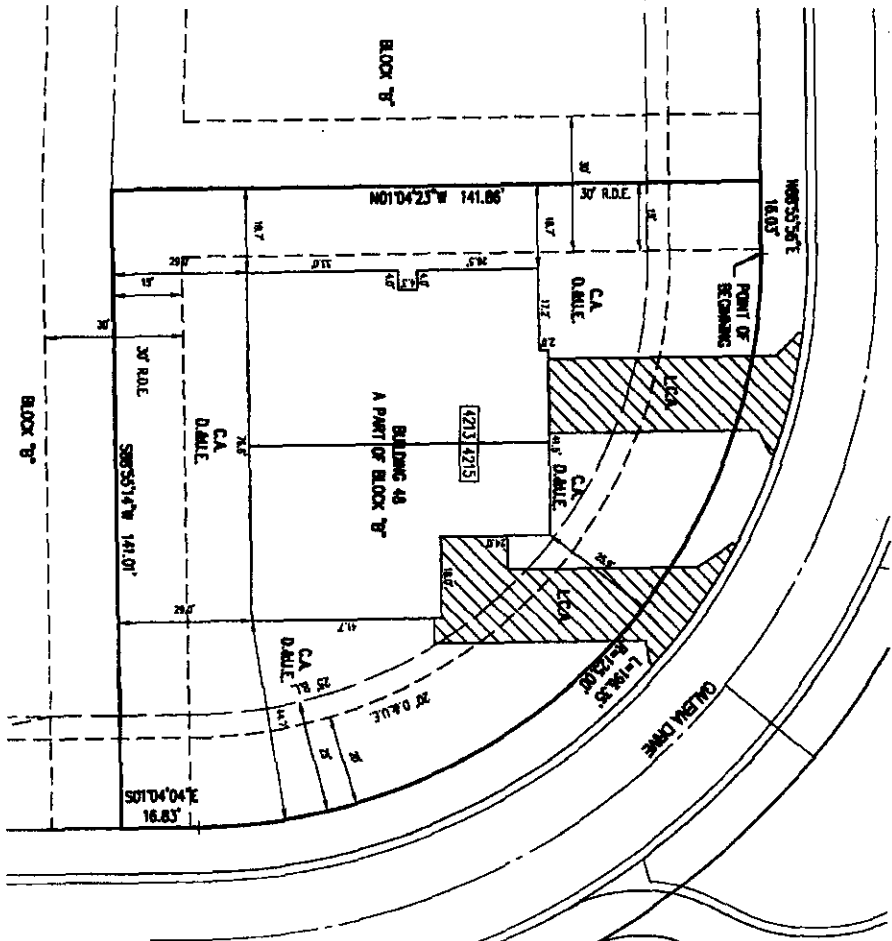
LEGEND

DAILE — DRAINAGE AND UTILITY EASEMENT
 BL — BUILDING STACK LINE
 R.O.E. — REQUIRED DRAINAGE EASEMENT
 L.C.A. — LIMITED COMMON AREA
 CA — COMMON AREA



**BUILDING 48 IN BLOCK B
 OF GRANT PARK**

PART OF THE NW 1/4 OF SECTION 8-T15N-R1E
 HENDRICKS COUNTY, INDIANA
 HORIZONTAL PROPERTY REGIME
EXHIBIT "A"



**EXHIBIT B
TO
GRANT PARK CONDOMINIUM DECLARATION
BUILDING 11, 12, 48**

PERCENTAGE OF INTEREST TABLE FOR CONDOMINIUM UNITS

UNIT NUMBER	PERCENTAGE OF INTEREST
1101	18.628301%
1102	16.736303%
1201	13.496255%
1202	15.774537%
4801	16.736303%
4802	18.628301%
	<hr/>
	100.000000%

EXHIBIT C

BY-LAWS

OF

GRANT PARK CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

Members
(Unit Owners)

SECTION 1. Eligibility. There shall be one class of Members of Grant Park Condominium Association, Inc. The Members shall consist of the respective Unit Owners of the Property known as Grant Park Condominium located within Hendricks County, Indiana (called "Property"), in accordance with the respective percentages of ownership interest in the Common Areas of the Property owned by the respective Unit Owners (these and other terms are used in these By-Laws as they are defined in Grant Park Condominium Declaration for Grant Park Condominium Association, Inc., which Declaration is recorded in the Office of the Recorder of Hendricks County, Indiana. The words "member" or "members" as used in these By-Laws means and shall refer to "Unit Owner" or "Unit Owners", as the case may be, as defined in the Declaration). If a Unit Owner is a trust, then the member shall be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, the member may be an officer, partner, or employee of such Unit Owner or beneficiary.

SECTION 2. Succession. The membership of each Unit Owner shall terminate when he ceases to be a Unit Owner, and upon the sale, transfer or other disposition of his ownership interest in the Property, his membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interests.

SECTION 3. Regular Meetings. The first regular annual meeting of Unit Owners as determined by Declarant (the "First Meeting") may be held within the limits of Hendricks County, subject to the terms hereof, on any date, at the option of the Board, provided, however, that said First Meeting shall be held not later than either (a) sixty (60) days after Portrait Homes-Grant Park LLC ("Declarant) has sold and delivered its deed for at least 75% of the Units, or (b) twenty-four (24) months from the recording date of the Declaration, whichever is earlier, provided, however, that (a) in computing the aforementioned "75%" figure, the numerator shall be the number of Units which have been sold and for which a deed had been delivered, and the denominator shall be the maximum number of Units which may be created in the Property together with the Additional Property, as said maximum number is set forth in Section 8 of Article XVIII of the Declaration, and (b) if additional property is added pursuant to the Declaration, then the aforementioned two (2) year period shall be extended for an additional two (2) years from the date of recording the amendment to this Declaration and the amendment to the Plat which establishes the addition of the Additional property. Subsequent to the First Meeting, there shall be a regular annual meeting of the Unit Owners held each year within limits of Hendricks County, within fifteen (15) days of the anniversary of the First Meeting, one of the purposes of which shall be to elect members of the Board. All such meetings of Unit Owners

shall be held at such place in Hendricks County, Indiana, and at such time, and for purposes as specified in the written notice of such meeting which shall be mailed to all Unit Owners at least ten (10) days and not more than sixty (60) days prior to the date of such meeting, except that notice of the First Meeting shall be given at least twenty-one (21) days prior to the date of such Meeting. Regarding the First Meeting, the Declarant shall provide to any Unit Owner the names, addresses, telephone numbers (if available), and weighted vote of each Unit Owner entitled to vote at the Meeting within three (3) working days of the request. Unit Owners shall receive this same information with three (3) working days of request for each subsequent meeting to elect members of the Board. The method of calling meetings shall be by the aforesaid written notice sent by the Board, copies of which notice may also be either delivered personally to the Unit Owners or to the entry door of their Unit or posted conspicuously in the hallways, lobbies, or on bulletin boards or other parts of the Common Areas, at the discretion of the Board.

SECTION 4. Special Meetings. Special meetings of the Unit Owners may be called by the President or by a majority of the directors of the Board, or by twenty percent (20%) of the Unit Owners. Said special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days nor more than sixty (60) days prior to the date of said meeting, stating the date, time and place of said special meeting within Hendricks County and the matters to be considered. Matters to be submitted by the Unit Owners shall first be submitted to the Board, at least five (5) days prior to the special meeting, who shall then submit such matters to the special meeting.

SECTION 5. Voting Member. There shall be one Person with respect to each Unit who shall be entitled to vote at any meeting of the Unit Owners (Voting Member). Such Voting Members shall be the Unit Owner or one of the group composed of all the Unit Owners of a Unit or may be some Person designated by such Unit Owners to act as proxy of his or their behalf and who need not be a Unit Owner. The proxies shall give the Unit Owner the right to express a preference from among the known candidates or to write in a name. Such designations shall be dated, shall be made in writing to the Board prior to the meeting, shall be executed by the Unit Owner or his duly authorized attorney in fact or by any of multiple owners of a Unit as set forth below, and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Unit Owner or Unit Owners, and such designations shall be invalid after 11 months from their date unless provided otherwise therein. Any or all Unit Owners of a Unit, and their designee, if any, may be present at any meeting of the Voting Members, but only the Voting members of the Unit may vote or take any other action as a Voting Member either in person or by proxy. The Declarant shall designate the voting member with respect to any Unit owned by the Declarant. In the absence of any written designation with respect to a particular Unit, the Board shall be entitled to conclusively relay on a vote cast by anyone of the group composed of all Unit Owners of that particular Unit.

SECTION 6. Voting. The aggregate number of votes for all Unit Owners shall be one hundred percent (100%), and shall be divided among the respective Unit Owners in accordance with their respective percentage of ownership interest in the Common Areas. If any Unit Owner consist of more than one Person, and if only one of the multiple owners of a Unit is present at a meeting of the Association, he is entitled to cast all the votes allocated to that Unit, if more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners; there is majority

agreement if any one of the multiple owners cast the votes allocated to that Unit without protest being made promptly to the Person presiding over the meeting by any of the other owners of the Unit.

SECTION 7. Quorum. A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in Person or by proxy and holding an aggregate of at least twenty percent (20%) of the total ownership interest in the Common Areas.

SECTION 8. Miscellaneous.

- (A) No merger or consolidation of the Association; sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all of the Property and assets of the Association; and the purchase or sale of property of Units on behalf of all Unit owners shall be effectuated unless there is an affirmative vote of two-thirds (2/3) of the votes of Unit Owners, or such greater percentage as may be provided for in the Declaration and an affirmative vote of three-fourths (3/4) of the Eligible Holder of the First Mortgage Lien.
- (B) When thirty percent (30%) or fewer of the Unit Owners, by number, possess over fifty percent (50%) in the aggregate of the votes in the Association, any percentage of vote of members specified in the Declaration, or the Act, shall require instead the specified percentage of number of Units, rather than by percentage of interest in the Common Areas allocated to Units that would otherwise be applicable.
- (C) In the event of a resale of a Unit from other than the Declarant under an installment contract, while the purchaser resides in the Unit he shall be counted toward a quorum for the election of Board members at any meeting of the Unit Owners called for the purposes of such election, shall have the right to vote for election of Board members and shall have the right to be elected and serve on the Board unless the Seller expressly retains in writing all or any of such rights. In no event may both the Purchaser and Seller be counted toward a quorum, permitted to vote, elected or permitted to serve on the Board. Satisfactory evidence of the installment contract shall be given to the Board or its agents.

ARTICLE II

Board of Directors

SECTION 1. Number, Election and Term of Office. The Board of Directors of the Association (referred to in the Condominium Declaration as Directors of the Association shall consist of five (5) members (hereinafter referred to as "directors"). Directors shall be elected at large at the regular annual meeting of Association members by the vote of Unit Owners, except that, until the election of directors at the First Meeting of Members, the directors and number thereof (hereinafter called "members of the First Board") shall be appointed by the Declarant. At such annual meetings, directors, or their representatives shall have the right to be present at the counting of the ballots cast during such annual meetings. The Board may, but shall not be obligated to, distribute to Unit Owners, biographical and background information about

candidates for election to the Board provided that (1) no preference is expressed in favor of any candidate, and (2) reasonable efforts are made to identify all candidates and (3) all candidates are given an opportunity to include biographical and background information in the information to be distributed. Those candidates for election as Director receiving the greatest number of votes cast either in Person or by proxy at the meeting shall be elected. At the initial election held at the First Meeting of Members, those two (2) directors receiving the greatest number of votes shall hold office for a term of three (3) years, the two (2) directors receiving the next greatest number of votes shall hold office for a term of two (2) years, and the remaining one (1) Director shall hold office for a term of one (1) year. Thereafter, every Director shall hold office for a term of two (2) years and until his successor shall be elected and qualified. Members of the Board may succeed themselves.

SECTION 2. Qualifications. Except for members of the First Board and those appointed by Declarant, each Director shall be a resident of a Unit and shall be a Unit Owner (or, if a Unit Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, a Director may be an officer, partner or employee of such Unit Owner or beneficiary). If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place of the Board shall be deemed vacant.

SECTION 3. Vacancies. Any vacancies occurring in the Board shall be filled by a two-thirds (2/3) vote of the remaining members thereof, except that a vacant position of the Board which was last filled by a member of the First Board may be filled by a Person appointed by the Declarant. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the time until the next meeting of Unit Owners or thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the Association's votes requesting a meeting of the Unit Owners to fill the vacancy for the balance of its unexpired term. Such a meeting shall be called no later than sixty (60) days following the filing of such a petition signed by Unit Owners holding 20% of the Association's votes.

SECTION 4. Meetings. A regular annual meeting of the Board shall be held within ten (10) days following the regular annual meeting of Unit Owners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than forty-eight (48) hours notice in writing to each Director, delivered personally or by mail or telegram.

Any Director may waive notice of a meeting, or consent to the holding of meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A director's attendance at a meeting shall constitute his waiver of notice of said meeting. The Board shall meet at least four (4) times annually, and at such other times as the Board deems necessary. Meetings of the Board shall be open to any Unit Owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the particular Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or a Unit owner's unpaid share of Common Expenses; however, any vote on these matters shall be taken at a meeting or portion thereof open to any Unit Owner. Any Unit Owner may record the proceedings at meetings required to be open by this Act by tape, film or other means. The Board may prescribe reasonable rules and regulations to govern the

right to make such recordings. Notice of any such meeting shall be mailed or delivered at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the Person or persons entitled to such notice pursuant to the Declaration, By-Laws, or provision of law before the meeting is convened. Copies of notices of any such meetings shall be posted conspicuously in hallways, lobbies or bulletin boards at least 48 hours prior to such meeting, except if there is no common lobby for seven (7) or more Units, the Board may designate locations near said Units.

SECTION 5. Removal. Any Director may be removed from office for cause by the vote of two-thirds (2/3) of the total undivided ownership of the Common Areas.

SECTION 6. Compensation. Directors shall receive no compensation for their services as directors, unless expressly provided for in resolutions adopted by the Unit Owners.

SECTION 7. Quorum. Three (3) Directors shall constitute a quorum.

SECTION 8. General Powers and Duties of the Board. The powers and duties of the Board shall include, but shall not be limited to, the following matters:

- (A) operation, care, upkeep, maintenance, replacement and improvement of the Common Areas;
- (B) preparation, adoption and distribution of the annual budget for the Property;
- (C) levying of assessments;
- (D) collection of assessments from Unit Owners;
- (E) employment and dismissal of the personnel necessary to advisable for the maintenance and operation of the Common Areas;
- (F) obtaining adequate and appropriate kinds of insurance;
- (G) owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to or purchased by it;
- (H) adoption and amendment of rules and regulations covering the details of the operation and use of the Property;
- (I) keeping of detailed accurate records of the receipts and expenditures affecting the use and operation of the Property;
- (J) having access to each Unit from time to time as may be necessary for the maintenance, repair or replacement of any Common Areas therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Areas or to any other Unit.

SECTION 9. Other Powers and Duties. The Board shall also have the following powers and duties:

- (A) to elect and remove the officers of the Association as hereinafter provided;
- (B) to administer the affairs of the Association and the Property;
- (C) to engage, if the Board deems desirable, the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided however, that the First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Declarant, on behalf of the Association, and Encore Real Estate Co. to act as Managing Agent for the Property for a term commencing on the date this Declaration is recorded and terminating two (2) years thereafter, which ratification and approval shall not be subject to the provisions of Article IV, Section 6 hereof;
- (D) to formulate policies for the administration, management and operation of the Property and the Common Areas thereof;
- (E) to provide for payments for all debts, obligations, and contracts of the Association and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;
- (F) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Areas and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);
- (G) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- (H) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;
- (I) to acquire such furnishing, equipment, and other personal property for the Common Areas as the Board shall determine are necessary and proper;
- (J) to maintain and repair any Unit if such maintenance and repair is necessary, in the discretion of the Board, to protect the Common Areas or any other portion of the Building, and, if a Unit Owner or any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair mailed or delivered by the Board to said

Unit Owner, the Board may levy a special assessment against such Unit Owner for the cost of said maintenance or repair;

- (K) the Board or its agent upon reasonable notice, may enter any Unit when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the Unit Owner as practicable and any damage caused thereby shall be repaired by the Board as a common expense;
- (L) the Board may, in accordance with the Act, adopt such reasonable rules and regulations not consistent herewith, as it may deem advisable for the maintenance, administration, management, operation, use, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Unit Owners and Occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners and Occupants and the entire Property shall at all times be maintained subject to such rules and regulations;
- (M) upon authorization by a two-thirds (2/3) vote of the members of the Board or by the affirmative votes of not less than a majority of the voting members at a meeting duly called for such purposes, the Board, acting on behalf of all Unit Owners, shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Indiana or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as Common Expenses;
- (N) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority (51%) of the undivided interest in the Common Areas, Unit Owners as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;
- (O) to exercise all other power and duties of the Board or Unit Owners as group referred to in the Act, and all powers and duties of a Board or a Board of Directors referred to in the Declaration or these By-Laws or as permitted by law.

SECTION 10. Non-Delegation. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners.

SECTION 11. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting at which time they could take at a meeting by obtaining the written approval of all of the directors. Any action so taken shall have the same effect as though taken at a meeting of the directors.

ARTICLE III

Officers

SECTION 1. **Designation.** At each regular annual meeting, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

- (A) a President, who shall be a Director and who shall preside over the meetings of the Board and the Unit Owners, and who shall be the chief executive of the Association;
- (B) a Secretary, who shall keep the minutes of all meetings of the Board and the Unit, owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent;
- (C) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported;
- (D) such additional officers as the Board sees fit to elect.

SECTION 2. **Powers.** The respective officers shall have the general powers usually vested in such officers, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit. Either the President or the Secretary may mail and receive notices and execute amendments to the Declaration as provided for in the Act and in the Declaration.

SECTION 3. **Term of Office.** Each officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified.

SECTION 4. **Vacancies.** Vacancies in any office shall be filled by the Board by a two-thirds (2/3) vote of the remaining members thereof, at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the time until the next meeting of Unit Owners or thirty (30) days following the filing of a petition signed by Unit Owners holding 20% of the Association's votes requesting a meeting of the Unit Owners to fill the vacancy for the balance of its unexpired term. Such a meeting shall be called no later than sixty (60) days following the filing of such petition signed by Unit Owners holding 20% of the Association's votes. Any officer may be removed for cause at any time by vote of two thirds (2/3) of the total membership of the Board at a special meeting thereof.

SECTION 5. **Compensation.** The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Unit Owners.

ARTICLE IV

Assessments

SECTION 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated Common Expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, real estate taxes, and all other Common Expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or use of the Common Areas. The annual budget shall provide for a reserve for contingencies for the year and a reserve for capital expenditures, in reasonable amounts as determined by the Board. The reserve for capital expenditures shall be held in a segregated account in the name of the Association.

SECTION 2. Assessments. The estimated annual budget for each fiscal year shall be approved by the Board, and copies of the proposed annual budget, together with an indication of which portions are intended for capital expenditures or repairs or payment of real estate taxes, shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the adoption thereof. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as his respective monthly assessment for the Common Expenses, on twelfth (1/12) of his proportionate share of the Common Expenses for such year as shown by the annual budget. Unless otherwise provided in the Declaration, such proportionate share for each Unit Owner shall be in accordance with his respective ownership interest in the Common Areas as set forth in Exhibit B of the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Unit Owner shall pay his monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of his obligation to pay his assessment by abandoning or not using his Unit, the Common Areas, or the Limited Common Areas. Each Unit Owner shall receive notice, in the same manner as is provided herein for membership meetings, of any meeting of the Board concerning the adoption of the proposed annual budget or any increase or establishment of an assessment.

SECTION 3. Partial Year or Month. For the first fiscal year, the annual budget shall be as approved by the First Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of occupancy of his Unit, each Unit Owner shall pay his assessment for the following month or fraction of a month, which assessment shall be in proportion to his respective ownership interest in the Common Areas and the number of months and days remaining of the period covered by the Current annual budget, and which assessment shall be as computed by the Board.

SECTION 4. [Intentionally omitted.]

SECTION 5. Supplement Budget. In the event that during the course of a year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget.

SECTION 6. Expenditures. Except with respect to such expenditures with (i) are specifically authorized by the Declaration or By-Laws, or (ii) are required by law, or (iii) can be paid from the proceeds of insurance received by or for the account of the Board, or (iv) are immediately necessary for the emergency repair, preservation, safety or protection of the Unit Owners or the Common Areas, the Board shall have no authority to approve or authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of the Twenty Thousand Dollars (\$20,000.00) or any contract for a term of more than four (4) years, unless such expenditure or contract shall have been approved by two-thirds (2/3) of the total votes cast at a meeting called for that purpose.

Any non-recurring Common Expense not set forth in the budget as adopted, and any increase in assessment over the amount adopted shall be separately assessed against all Unit Owners. Any such separate assessment shall be subject to the approval by the affirmative votes of at least two-thirds (2/3) of the Unit Owners voting at a meeting of Unit Owners duly called for the purpose of approving the assessment if it involves proposed expenditures resulting in a total payment assessed to a Unit equal to the greater five (5) time Unit's most recent Common Expense assessment calculated on a monthly basis or \$500.00.

SECTION 7. Lien. It shall be the duty of every Unit Owner to pay his proportionate share of the Common Expenses, as provided in the Declaration, and as assessed in the manner herein provided.

If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses, when due, the amount thereof together with interest thereof at the rate of 10% per annum or such greater percentage as may then be permitted under the laws of the State of Indiana after said Common Expenses become due and payable, late charges, reasonable attorneys' fees and cost of collection or amount of any unpaid fine shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property, provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage held by an insurance company, bank, savings, and loan, mortgage broker and FNMA or other lending institution on the interest of such Unit Owner, except for the amount of the proportionate share of Common Expenses which are due and payable from and after the date on which such mortgage owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or accepts a deed in lieu of foreclosure for its mortgage and causes a receiver to be appointed, in suit to foreclose its mortgage, all as provided in the Declaration. The provisions of this paragraph of this Section 7 shall not be amended, changed, modified or rescinded in any way without the prior written consent of all

such lien holders of record. The Association or its successors and assigns, or the Board or its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorneys' fees to be fixed by the Court. Furthermore, if any Unit Owner shall fail or refuse to pay when due his proportionate share of the Common Expenses and such Unit Owner withholds possession of his Unit after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Unit. The Board and the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Declaration or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

SECTION 8. Records and Statement of Accounts. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Areas, and Limited Common Areas, specifying and itemizing the Common Expenses and limited Common Expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. Further, the Association, within a reasonable time, shall produce audited financial statements of the Association upon the reasonable, appropriate written request of a Unit Owner or Eligible Holder of the First Mortgage Lien.

The Board shall, upon receipt of ten (10) day written notice to it or the Association and upon payments of a reasonable fee, furnish to any Unit Owner a statement of his account setting forth the amount of any unpaid assessments of other charges due and owing from such owner.

SECTION 9. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the property of the Common Areas, rather than a lien against only a particular Unit. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

SECTION 10. Holding of Funds. All funds collected hereunder shall be held and expended for the purpose designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentage set forth in Exhibit "B".

SECTION 11. Forbearance. The Association shall have no authority to forbear the payment of assessments by any Unit Owner, except as provided in the Declaration.

ARTICLE V

Contractual Powers

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors of the Association are directors, or are financially interested, is void or voidable because such Director or directors are present at the meeting of the Board or a committee thereof

which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

- (A) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Director or directors; or
- (B) the contract or transaction is just and reasonable as to the Association at the time it is authorized or approved.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

ARTICLE VI

Amendments

These By-Laws may be amended or modified from time to time by action or approval of seventy-five percent (75%) of the total ownership, and such amendment shall be effective upon the recording, in the Office of the Recorder of Hendricks County, Indiana, of a certificate of the Secretary of the Association setting forth the amendment and certifying the requisite percentage vote of the total ownership; provided, however, that no change, modification or amendment which affects the rights, privileges, or obligations of the Declarant, shall be effective without the prior written consent of the Declarant.

ARTICLE VII

Indemnification

SECTION 1. General. The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association, and the Board and Declarant, and each of its members, against all contractual and other liabilities to others arising out of contracts made by or other act of such directors, Board, officers, committee members, Declarant or its members, on behalf of the Unit Owners, or arising out of their status as directors, Board, officers, committee members, Declarant or its members unless any such contract or act is contrary to the provisions of the Declaration or these By-Laws or shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all cost and expenses (including, but not limited to, counsel fees, amounts of judgment paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative or other, in which any such Director, officer, Board, Committee member, Declarant or its members may be involved by virtue of such persons being or having been such directors, officer, Board, committee member, Declarant or its members; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such Person shall have been finally adjudged in such action, suit or

proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member, Declarant or its members; of (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, Board, officer, committee member, Declarant or its members.

SECTION 2. Success on Merits. To the extent that the Declarant or its members or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

SECTION 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of any undertaking by or on behalf of the Person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VIII.

SECTION 4. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, Declarant or its member, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees, Declarant or its members, shall be limited to such proportion of the total liability hereunder as said Unit owner's percentage of interest in the Common Areas bears to the total percentage interest of all the Unit Owners in the Common Areas. Every agreement made by the directors, Board, officers, members of such committees, Declarant or its members or by the Managing Agent on behalf of the Unit Owners shall provide that the directors, Board, officers, members of such committees, Declarant or its members or the Managing Agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Areas bears to the total percentage interest of all Unit Owners in the Common Areas. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a Person or entity who has ceased to be the Declarant or its members or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such Person or entity.

ARTICLE VIII

Definition of Terms

The terms used in these By-Laws, to the extent they are defined therein, shall have the same definition as set forth in Grant Park Condominium Declaration, which Declaration is recorded in the Office of the Recorder of Hendricks County, Indiana.

The term "member", as used in these By-Laws, means "Unit Owner" as defined in the Declaration.

**EXHIBIT D
TO
GRANT PARK CONDOMINIUM DECLARATION**

Land Description

GRANT PARK - BUILDING 11

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana described as follows:

Commencing at the northwest corner of said Block "A"; thence North 88 degrees 55 minutes 56 seconds East along the north line thereof a distance of 1052.58 feet to the **Point of Beginning**; thence continuing North 88 degrees 55 minutes 56 seconds East along said north line a distance of 105.00 feet; thence South 01 degrees 04 minutes 04 seconds East a distance of 140.00 feet; thence South 88 degrees 55 minutes 56 seconds West along the north right-of-way of Galena Drive a distance of 105.00 feet; thence North 01 degrees 04 minutes 04 seconds West a distance of 140.00 feet to the **Point of Beginning**, containing 0.337 acres, more or less.

GRANT PARK - BUILDING 12

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana described as follows:

Commencing at the northwest corner of said Block "A"; thence North 88 degrees 55 minutes 56 seconds East along the north line thereof a distance of 1157.58 feet to the **Point of Beginning**; thence continuing North 88 degrees 55 minutes 56 seconds East along said north line a distance of 102.04 feet; thence South 01 degrees 04 minutes 08 seconds East a distance of 140.00 feet; thence South 88 degrees 55 minutes 56 seconds West along the north right-of-way of Galena Drive a distance of 102.04 feet; thence North 01 degrees 04 minutes 04 seconds West a distance of 140.00 feet to the **Point of Beginning**, containing 0.328 acres, more or less.

GRANT PARK - BUILDING 48

A part of Block "B" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana described as follows:

Beginning at the northeast corner of said Block "B", said corner also being a point on a tangent curve to the right having a radius of 125.00 feet, the radius point of which bears South 01 degrees 04 minutes 04 seconds East; thence easterly, southeasterly, and southerly along said curve and along the northeast line of said Block "B" an arc distance of 196.35 feet to an east corner of said Block "B" which bears North 88 degrees 55 minutes 56 seconds East from said radius point; thence South 01 degrees 04 minutes 04 seconds East along the east line of said Block "B" a distance of 16.83 feet to the centerline of a Regulated Drainage Easement per said Final Plat of Grant Park; thence South 88 degrees 55 minutes 14 seconds West along said centerline a distance of 141.01 feet to the centerline of a Regulated Drainage Easement per said Final Plat of Grant Park; thence North 01 degrees 04 minutes 23 seconds West along said centerline a distance of 141.86 feet to the north line of said Block "B"; thence North 88 degrees 55 minutes 56 seconds East along said north line a distance of 16.03 feet to the **Point of Beginning**, containing 0.38 acres, more or less.

**EXHIBIT E
TO
GRANT PARK CONDOMINIUM DECLARATION**

**Legal Description of Additional Land
Overall Plat Land Description**

GRANT PARK OVERALL LAND DESCRIPTION

Part of the Northwest Quarter of Section 8, Township 15 North, Range 1 East in Hendricks County, Indiana, described as follows:

COMMENCING at the Southeast Corner of the Southwest Quarter of said Section 8; thence South 89 degrees 03 minutes 19 seconds West (assumed bearing) along the South Line thereof a distance of 606.33 feet; thence North 03 degrees 14 minutes 23 seconds West a distance of 323.22 feet; thence South 89 degrees 03 minutes 19 seconds West, parallel with the said South Line, a distance of 119.27 feet; thence North 64 degrees 09 minutes 15 seconds West a distance of 94.83 feet; thence South 88 degrees 29 minutes 21 seconds West a distance of 275.73 feet; thence South 89 degrees 03 minutes 21 seconds West a distance of 239.95 feet; thence North 00 degrees 18 minutes 04 seconds West a distance of 2312.59 feet to the South Line of the Northwest Quarter of Section 8 and the BEGINNING POINT; thence North 88 degrees 55 minutes 56 seconds East along the said South Line a distance of 531.12 feet; thence North 08 degrees 31 minutes 46 seconds East a distance of 22.69 feet; thence North 09 degrees 19 minutes 21 seconds East a distance of 20.08 feet; thence South 85 degrees 45 minutes 51 seconds East a distance of 198.60 feet to a curve having a radius of 525.00 feet, the radius point of which bears South 83 degrees 34 minutes 52 seconds East; thence Northeasterly along said curve an arc distance of 49.40 feet to a point which bears North 78 degrees 11 minutes 24 seconds West from said radius point; thence North 11 degrees 48 minutes 36 seconds East a distance of 30.05 feet; thence North 78 degrees 11 minutes 24 seconds West a distance of 199.13 feet; thence North 09 degrees 19 minutes 21 seconds East a distance of 20.02 feet; thence North 11 degrees 48 minutes 36 seconds East a distance of 120.00 feet; thence North 11 degrees 48 minutes 36 seconds East a distance of 77.62 feet; thence North 01 degrees 50 minutes 17 seconds West a distance of 43.61 feet; thence North 01 degrees 50 minutes 17 seconds West a distance of 325.86 feet to the south right-of-way line of the Cleveland, Cincinnati, Chicago and St. Louis Railway; thence South 88 degrees 09 minutes 43 seconds West along the said south right-of-way line a distance of 591.55 feet to the East Line of the West Half of the said Northwest Quarter Section; thence South 00 degrees 15 minutes 32 seconds East along said East Line a distance of 31.62 feet; thence South 88 degrees 55 minutes 56 seconds West, parallel with the South Line of the Northwest Quarter of said Section 8, a distance of 887.84 feet; thence South 01 degrees 04 minutes 04 seconds East a distance of 40.00 feet; thence South 88 degrees 55 minutes 56 seconds West, parallel with the said South Line, a distance of 456.39 feet to the West Line of the said Northwest Quarter Section; thence South 00 degrees 12 minutes 47 seconds East along said West Line a distance of 648.32 feet to the Southwest Corner of said Northwest Quarter Section; thence North 88 degrees 55 minutes 56 seconds East along the South Line of said Northwest Quarter Section a distance of 1345.58 feet to the BEGINNING POINT, containing 30.887 acres, more or less.

EXCEPT:

GRANT PARK - BUILDING 11

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana described as follows:

Commencing at the northwest corner of said Block "A"; thence North 88 degrees 55 minutes 56 seconds East along the north line thereof a distance of 1052.58 feet to the **Point of Beginning**; thence continuing North 88 degrees 55 minutes 56 seconds East along said north line a distance of 105.00 feet; thence South 01 degrees 04 minutes 04 seconds East a distance of 140.00 feet; thence South 88 degrees 55 minutes 56 seconds West along the north right-of-way of Galena

Drive a distance of 105.00 feet; thence North 01 degrees 04 minutes 04 seconds West a distance of 140.00 feet to the **Point of Beginning**, containing 0.337 acres, more or less.

GRANT PARK - BUILDING 12

A part of Block "A" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana described as follows:

Commencing at the northwest corner of said Block "A"; thence North 88 degrees 55 minutes 56 seconds East along the north line thereof a distance of 1157.58 feet to the **Point of Beginning**; thence continuing North 88 degrees 55 minutes 56 seconds East along said north line a distance of 102.04 feet; thence South 01 degrees 04 minutes 08 seconds East a distance of 140.00 feet; thence South 88 degrees 55 minutes 56 seconds West along the north right-of-way of Galena Drive a distance of 102.04 feet; thence North 01 degrees 04 minutes 04 seconds West a distance of 140.00 feet to the **Point of Beginning**, containing 0.328 acres, more or less.

GRANT PARK - BUILDING 48

A part of Block "B" of the Final Plat of Grant Park, a Horizontal Property Regime, recorded as Plat Cabinet 6, Slide 147, Pages 1A, B, C, D, E in the Office of the Recorder, Hendricks County, Indiana described as follows:

Beginning at the northeast corner of said Block "B", said corner also being a point on a tangent curve to the right having a radius of 125.00 feet, the radius point of which bears South 01 degrees 04 minutes 04 seconds East; thence easterly, southeasterly, and southerly along said curve and along the northeast line of said Block "B" an arc distance of 196.35 feet to an east corner of said Block "B" which bears North 88 degrees 55 minutes 56 seconds East from said radius point; thence South 01 degrees 04 minutes 04 seconds East along the east line of said Block "B" a distance of 16.83 feet to the centerline of a Regulated Drainage Easement per said Final Plat of Grant Park; thence South 88 degrees 55 minutes 14 seconds West along said centerline a distance of 141.01 feet to the centerline of a Regulated Drainage Easement per said Final Plat of Grant Park; thence North 01 degrees 04 minutes 23 seconds West along said centerline a distance of 141.86 feet to the north line of said Block "B"; thence North 88 degrees 55 minutes 56 seconds East along said north line a distance of 16.03 feet to the **Point of Beginning**, containing 0.38 acres, more or less.

**EXHIBIT F
TO
GRANT PARK CONDOMINIUM DECLARATION**

MAXIMUM PERCENTAGE OF INTEREST: 0.008700230

MINIMUM PERCENTAGE OF INTEREST: 0.008504973



* 2 0 1 3 0 6 7 5 1 2 *

HENDRICKS COUNTY RECORDER

03/08/2013 09:18:32AM

Cross-Reference: Declaration of Covenants and Restrictions of Parks at Prestwick recorded as Instrument No. 200300004751 in the Office of the Recorder of Hendricks County, Indiana.

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF PARKS AT PRESTWICK

This Amendment (the "**Amendment**") to the Declaration of Covenants and Restrictions of Parks at Prestwick, as previously amended, is made this 20 day of February, 2013 by Beazer Homes Indiana, LLP ("**Declarant**").

WITNESSETH:

WHEREAS, Beazer Homes Indiana, LLP is currently the Declarant in the Declaration of Covenants and Restrictions of Parks at Prestwick recorded on February 3, 2003, in the Office of the Recorder of Hendricks County, Indiana as Instrument No. 200300004751 (the "**Declaration**").

WHEREAS, Declarant is desirous of amending the Declaration as set forth below.

NOW, THEREFORE, the Declaration is hereby amended to incorporate the Settlement Agreement and Release entered into as of the 25th day of May, 2012 (the "Settlement Agreement"), a copy of which is attached hereto as Exhibit A. To the extent there is any conflict between the Settlement Agreement and the Declaration, the Settlement Agreement controls. Except as specifically provided for in this Amendment and the Settlement Agreement, all of the terms, conditions, provisions, covenants, restrictions and obligations as set forth in the Declaration and subsequent amendments shall remain in force and effect as if restated herein.

IN WITNESS WHEREOF, the undersigned has caused this Amendment to be executed and made effective as of the day and year first written above.

[SIGNATURE PAGE FOLLOWS]

2+3

SIGNATURE PAGE OF DECLARANT TO AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF PARKS AT PRESTWICK

"Declarant"

BEAZER HOMES INDIANA, LLP

By: Lisa Hupfer

Printed: LISA HUPFER

Its: DIVISION PRESIDENT

STATE OF INDIANA)) SS:) COUNTY OF Manion)

Before me, a Notary Public in and for said County and State, personally appeared Lisa Hupfer, a Division President of BEAZER HOMES INDIANA, LLP, an Indiana limited liability partnership, who acknowledged execution of the foregoing Amendment to the Declaration of Covenants and Restrictions of Parks at Prestwick and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notary Seal this 5 day of March, 2013.

My Commission Expires:

7/30/17

Notary Public Residing in Hamilton County, Indiana

Treva Bailey (Printed Signature)



Treva Bailey County of Residence: Hamilton My Commission Expires: July 30, 2017

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

This instrument prepared by Scott E. Murray, Attorney-at-Law Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204