

DECLARATION OF COVENANTS AND RESTRICTIONS
Mayfair Development Property Ownership

THIS DECLARATION made this 28TH day of DECEMBER, 1989 by MAYFAIR DEVELOPMENT, INC., an Indiana Corporation, ("Declarant").

W I T N E S S E T H:

WHEREAS, the following facts are true:

A. Declarant is the sole owner in fee simple title to certain real estate located in Marion County, Indiana, more particularly described in the attached Exhibit "A", which is incorporated herein by reference (hereinafter referred to as the "Tract").

B. Declarant by execution of this Declaration assures that all properties which are conveyed which are a part of the Tract shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Tract and be binding upon all parties having any right, title or interest in the Tract, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Applicable Date" means the date determined pursuant to Paragraph 10 of this Declaration.

(b) "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.

(c) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the By-Laws of the Corporation.

(d) "By-Laws" shall mean the By-Laws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation. A copy of the By-Laws is incorporated herein by reference.

(e) "Common Area" means the ground, if any, designated as such upon the recorded Plat of the Mayfair Lane.

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(f) "Common Expense" means expenses for administration of the Corporation, expenses for the upkeep, maintenance, repair and replacement of the Common Area, Landscape Easement and expenses for the maintenance and upkeep of the landscaping on each Lot, and all sums lawfully assessed against the Members of the Corporation.

(g) "Corporation" means Mayfair Homeowner's Association, Inc., its successors and assigns, an Indiana Corporation, whose Members shall be the Owners of Lots, or appointees as provided in paragraph 10 of this Declaration; such Corporation being more particularly described in paragraph 11 of this Declaration.

(h) "Declarant" shall mean and refer to Mayfair Development, Inc., an Indiana Corporation, and any successors and assigns of it whom it designates in one or more written recorded instrument, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(i) "Dwelling Unit" means one of the living units located upon a Lot.

(j) "Landscape Easement" means the ground designated as such upon the recorded Plat of Mayfair Lane. The Landscape Easement shall be used to landscape, screen and beautify the Mayfair Lane Development and shall include but not be limited to mounding, fencing, trees, shrubbery and decorative fountains.

(k) "Lot" means any plot of ground designated as such upon the recorded Final Plat of Mayfair Lane and upon which one (1) Dwelling Unit is constructed, may be constructed or exists thereon. When Lot is used it shall be deemed to include the Dwelling Unit, if any, located thereon.

(l) "Member" means a member of the Corporation.

(m) "Mortgagee" means the holder of a first mortgage lien on a Lot.

(n) "Plat" means the plat of Mayfair Lane recorded with the Recorder of Marion County, Indiana, as referred to in paragraph 30 herein.

2. Declaration. Declarant hereby expressly declares that the Tract shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. Description of Mayfair. Mayfair Lane consists of twenty (20) lots numbered 1 through 20 inclusive together with the common areas, if any, as designated on the Final Plat. The legal description of each lot in Mayfair Lane shall be as follows:

Lot _____ in Mayfair Lane, a Subdivision in Marion County, Indiana, as per plat thereof recorded as Book No. _____ Page _____ in the Office of the Recorder of Marion County, Indiana.

4. Lot Boundaries. The boundaries of each Lot in Mayfair Lane shall be as shown on the Final Plat.

5. Common Area. Common Area, if any, includes all of the area designated as such on the recorded Final Plat of Mayfair Lane and any lots or area conveyed to the Corporation by Declarant and dedicated as Common Area.

6. Ownership of Common Area. The Common Area shall be conveyed to or owned by the Corporation, and shall be held for the use and enjoyment of the Members, all of whom shall have the right and easement of enjoyment in and to the Common Area which right shall pass with title to every Lot, subject to the provisions of this Declaration.

7. Delegation of Use of the Common Area. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Corporation, his right of enjoyment, and use of the Common Area and facilities to members of his family, his tenants or contract purchasers, who reside on any Lot.

8. Easements in Common Area and Across Lots. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, underground sprinkler system and other common facilities, if any, located in the Common Area, the Landscape Easement, and the Lots and serving his Dwelling Unit.

9. Easement for Public and Quasi Public Vehicles, Utilities and Private Driveways.

(a) All public and quasi public vehicles including but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles shall have the right to enter upon the streets, Common Area, Landscape Easement, and Lots in the Tract in the performance of their duties.

(b) An easement is granted to all utilities (including cable companies) and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including but not limited to water, sewers, gas, telephone, electricity and cable equipment on the Tract, including the Common Area, Landscape Easement and Lots; PROVIDED, HOWEVER, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed and approved by Declarant on the Plat and designated as the Utility and Drainage Easement, or as thereafter may be approved by Declarant or by the Board of Directors. By virtue of this easement the utilities are permitted to erect and maintain the necessary equipment on the Tract to service the Lots. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant shall have the right to grant such easement. The easements granted herein shall in no way affect any other recorded easement on the Tract.

(c) The owners of Lots numbered 16, 17, 18 and 19 grant to each other, their tenants, invitees, guests and licensees, a reciprocal vehicular and pedestrian ingress and egress easement upon, over and across the driveways of Lots numbered 16, 17, 18 and 19 in order to provide each lot with access to and from Huntington Lane. The easement is designated on the Plat as a 15' private drive easement.

10. Landscape Easement. Subject to the Utility and Drainage Easement, an easement is granted to the Corporation, its officers, agents and employes to enter in or to cross over the Common Area and Lots to construct, install, replace, repair and maintain the Landscape Easement.

11. Corporation, Membership, Voting, Functions.

(a) Membership in Corporation. Declarant and each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of the Corporation 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.

(b) Voting Rights. The Corporation shall have two (2) classes of membership, with the following voting rights:

(i) 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 Corporation, 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.

(ii) 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 Corporation. Each Class B Member shall be entitled to three (3) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members of the Corporation. The Class B membership shall cease and terminate upon the Applicable Date, which shall be 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 Corporation, (ii) the date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership.

(c) Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Area, Landscape Easement and for the maintenance and upkeep of such portions of the Lots as designated in this Declaration, to pay taxes assessed against and payable with respect to the Common Area and to pay any other necessary expenses and costs in connection with the Common Area, and to perform such other functions as may be designated for it to perform under this Declaration.

12. Board of Directors.

(a) Management. The business and affairs of the Corporation 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 is a person appointed by Declarant as provided in subparagraph (b) of this Paragraph 11.

(b) Initial Board of Directors. The Initial Board of Directors shall be composed of the persons designated in the Articles, to wit: Talbott W. Denny and Robert Hollander (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in this Declaration, the Articles or the By-Laws (a) the Initial Board shall hold office until 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 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 juridical 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 Corporation are entitled to vote under the Declaration, the Articles, the by-Laws or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-face 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 Member of the Corporation 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 Corporation nor an Owner or a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a Member of the Corporation).

(c) 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 shall be represented on the Board of Directors by more than one person at a time.

(d) Term of Office and Vacancy. Subject to the provisions of subparagraph (b) of this Paragraph 11, one (1) member of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one member of the Board of Directors shall be elected for a three (3) year term, one for a two (2) year term, and one for a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of subparagraph (b) of this Paragraph 11 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 subparagraph (e) of this Paragraph 11. 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.

(e) 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, such 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 and until his successor is duly elected and qualified.

(f) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including, but not limited to, providing for the administration of the Tract, the management, maintenance, repair, upkeep and replacement of the Common Area (unless the same are otherwise the responsibility or duty of Owners), and the maintenance and upkeep of such portions of the Lots as designated in this Declaration, and the collection and disbursement of the common Expenses.

(g) Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (i) to employ a Managing Agent to assist the Board in performing its duties;
- (ii) to purchase, lease or otherwise obtain for the Corporation, 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;
- (iii) 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 Corporation;
- (iv) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (v) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

- (iv) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (v) to include the costs of all of the above and foregoing as Common Expenses; and to pay all of such costs therefrom;
- (vi) to open and maintain a bank account or accounts in the name of the Corporation;
- (vii) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Tract and the Common Area (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 rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners.

(h) Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$1,000.00 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

- (i) contracts for replacing or restoring portions of the Common Area damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (ii) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
- (iii) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

(i) 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.

(j) 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 misconduct, bad faith or gross negligence. The Corporation 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 Corporation, 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 Corporation.

(k) Additional Indemnity of Directors. The Corporation 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 Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suite 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, suite or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suite or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or 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 negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation 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 Corporation 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 negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

(1) Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Corporation, and such other officers as the board deems necessary, to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wilful 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.

13. Management. The Board of Directors may enter into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) for a term not to exceed three (3) years with either party having the right to terminate upon ninety (90) days' notice under which Declarant (or such affiliate of Declarant as appropriate) will provide supervision, management and maintenance of the Common Area, and to the extent the same is not otherwise the responsibility of Owners of individual Lots, the maintenance of Lots and in general perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms of three (3) or less years. Such management agreement is or will be subject to termination by Declarant (or its affiliate as appropriate) at any time prior to expiration of its term, in which event the Corporation shall thereupon and thereafter resume performance of all of its duties and obligations. Notwithstanding anything to the contrary contained herein, so long as a management agreement between the Corporation and Declarant (or its affiliate as appropriate) is in effect, Declarant (or its affiliate as appropriate) shall have and Declarant hereby reserves to itself (or to its affiliate as appropriate), the exclusive right to manage the Tract and perform all the functions of the Corporation.

14. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Tract or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Tract or that part thereof that is assessed as a whole, which shall be the ratio that the square footage in his Lot bears to the total square footage of all the land comprising the Tract or part thereof assessed as a whole, and shall pay his proportionate share of the real estate taxes assessed on the improvements on the Tract or part thereof

assessed as a whole based upon the ratio that the square footage on is improved Lot bears to the total square footage of all improved Lots. Any real estate taxes or other assessments which are chargeable against the Common Area shall be paid by the Corporation and treated as a Common Expense.

15. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered, if any, shall be treated as and paid as part of the Common Expense unless otherwise determined by the Corporation.

16. Maintenance, Repairs and Replacements. Maintenance, repairs, replacements and upkeep of the Common Area and Landscape Easement shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

In addition to maintenance upon the Common Area and Landscape Easement, the Corporation shall provide maintenance and upkeep upon each Lot as follows: The Corporation shall maintain all landscaping, trees and grass on all Lots and shall replace any landscaping, trees or grass which the Board determines should be replaced. The Corporation shall further maintain, repair and replace the driveways on each Lot. Each Owner shall be responsible for maintaining and keeping his Dwelling Unit and all other structural improvements located on his Lot in a good, clean, neat, sanitary and well maintained condition and shall do such work thereon as is required to cause such structural improvements to be so maintained.

Notwithstanding any obligation or duty of the Corporation to repair or maintain any Lot, the Landscape Easement, or the Common Area, if, due to the wilful, 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, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, 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.

If any Owner shall fail to maintain and keep his Dwelling Unit and other structural improvements located on his Lot in a good, clean and sanitary condition as determined by the Board of Directors, the Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Corporation's lien on the Owner's Lot.

So long as the Tract is subject to this Declaration each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Corporation, its agents, and employees, the right to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair, landscaping or other work contemplated herein.

17. Architectural Control.

(a) The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more persons as may, from time to time, be provided in the By-Laws. Until the Applicable Date, the Architectural Review Board shall be the Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors.

(b) Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Tract (Common Area and Lots) and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

(c) Conditions. No improvements, alterations, repairs, change of colors, excavation, changes in grade, changes in or additions to the landscaping or other work which in any way alters any Lot or the exterior of any Dwelling Unit or other improvement thereon from how such Lot or Dwelling Unit or other improvement existed on the date such Lot was first conveyed in fee by the Declarant (provided, however, in the initial sale of a Lot by Declarant the plan need not be approved by the Architectural Review Committee) shall be made or done without the

prior written approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. There shall be no requirement that the Architectural Review Board approve the initial construction of a Dwelling Unit on a Lot if such plans are approved by Declarant. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Plans by the Architectural Review Board other than the initial construction of a Dwelling Unit and other improvements provided the plans for such construction are approved by Declarant. Notwithstanding anything contained herein to the contrary, there shall be no requirement that the Architectural Review Board approve any landscaping unless such landscaping is made in connection with physical improvements.

(d) Waiver of Restriction. Subject to the approval of the appropriate governmental agencies, the Architectural Review Board shall have the right, power and authority to waive any building line setback as designated in the plat or as designated in this Declaration.

(e) Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision by the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Board as may be delegated to them.

(f) Maintenance of Architectural Control. The Association may not waive or abandon the procedure for regulating and enforcing the architectural design or exterior appearance of the Dwelling Units nor for maintaining the Common Area without the prior written approval of all Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

19. Assessments.

(a) Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by an accounting group approved by the Board, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget. Annually, before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year: estimating the total amount of the Common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the current fiscal year. At the annual meeting of the Owners notwithstanding any other provision in this Declaration, the Articles or the By-Laws, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of those Owners present either in person or by proxy; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such portion of the Lots as designated in this Declaration that must be replaced on a periodic basis, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such portion of the Lots as designated in this Declaration shall be

maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion or Hamilton Counties, Indiana selected from time to time by the Board.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment, against each Lot not owned by Declarant, equal to one-twentieth (1/20th) of the Common Expenses. In the event more than fifteen (15) Lots are owned by persons other than Declarant, the Common Expenses shall be divided equally among the Owners of such Lots. In the event less than fifteen (15) Lots are owned by persons other than Declarant, Declarant shall be assessed as its share of the Common Expenses an amount equal to the Common Expenses multiplied by a fraction, the numerator of which is 20 minus the number of non-Declarant owned Lots, and the denominator of which is 20. Notwithstanding anything herein to the contrary, in any instance where Declarant or its successors or assigns own an undeveloped lot then Declarant's assessed share of Common Expenses for each such undeveloped lot shall be equal to (i) twenty-five (25%) percent of Declarant's share of the Common Expenses if more than fifteen lots are owned by persons other than Declarant, and (ii) twenty-five (25%) percent of the product of the Common Expenses multiplied by a fraction, the numerator of which is 20 minus the number of non-Declarant owned lots and the denominator of which is 20, in the event less than fifteen lots are owned by persons other than Declarant. In addition to contributing its share of the Regular Assessment, until such time as fifteen (15) Lots are owned by persons other than Declarant, Declarant shall pay the deficit, if any, in the Common Expenses.

Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment."). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance in two equal semi-annual installments with the first payment due on the first day of the first month of each fiscal year. Payment of the semi-annual installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay assessments annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

- (i) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or
- (ii) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

PROVIDED, HOWEVER, that if an Owner had paid his Regular Assessment annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom such statement may be delivered or who may rely thereon shall be bound by such final determinations. Semi-annual installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same

(d) Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay

for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

(e) Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Regular Assessments and Special Assessments or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person the liability of such person shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment or Special Assessment when due the Board may in its discretion accelerate the entire balance of unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any assessments the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot and Dwelling Unit and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may at its option bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. Any action to recover a Regular Assessment or Special Assessment whether by foreclosure or otherwise, the board for and on behalf of the Corporation shall be entitled to recover from the

Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to reasonable attorneys fees) and interest from the date such assessments were due until paid at the rate equal to the highest prime interest rate charged by Bank One, Indianapolis N.A. to its largest and best corporate customers (or if such bank is no longer in existence then such rate charged by another national bank in Marion County, Indiana selected by the Board of Directors) during the unpaid period plus two percent (2%).

(f) Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

19. Mortgages and Unpaid Assessments.

(a) Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at 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 By-Laws 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 By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation 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 By-Laws which is not cured within sixty (60) days.

(b) Notice of Unpaid Assessments. The Corporation 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 Corporation 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 or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in paragraph 18 hereof.

(c) Right to Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any mortgagee making such payment shall be owed immediately reimbursement by the Corporation.

20. Insurance.

(a) Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Common Area in an amount consonant with the full replacement value of the improvements which in whole or in part, comprise

the Common Area. 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.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. The proceeds shall be used or disbursed by the Corporation or Board of Directors, as appropriate, and only in accordance with the provisions of this Declaration and any surety bond or bonds obtained by the Board of Directors concerning the officers of the Corporation as provided in the By-Laws shall specifically include protection for any insurance proceeds so received.

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 Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) contains an endorsement that such policy shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice to Mortgagees.

Each Owner shall be solely responsible for loss or damage to his Dwelling Unit and the contents thereof however caused and his personal property stored elsewhere on the Real Estate and the Corporation shall have no liability to the Owner for such loss or damage. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

(b) Public Liability Insurance. The Corporation 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. Such comprehensive public liability insurance policy shall cover the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or

employees of any of the foregoing with respect to the Real Estate. 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 Corporation or other Owners.

(c) Other Insurance. The Corporation 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 shall from time to time deem necessary, advisable or appropriate, including, but not limited to, liability insurance on vehicles owned or leased by the Corporation 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 Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. 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 Corporation.

(d) General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Corporation, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Corporation who is required to send notices of meetings of the Corporation.

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 remittance 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 Area. No Owner or any other party shall have priority over any rights of a Mortgagee pursuant to its mortgage in the case of distribution to such Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees if to do so would be in violation of the Indiana Not-For-Profit Corporation Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

(e) Insurance by Owners. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

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

In the event the insurance proceeds, if any, received by the Corporation 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 Area and Landscape Easement, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area and Landscape Easement so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation 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 Area and Landscape Easement to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

22. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Plat, if any, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family.

(b) Each residence constructed on a lot in the subdivision shall be no more than one story in height and shall have a ground area of the main structure exclusive of one-story open porches and and garages of not less than 1,650 square feet. All garages shall be attached to the residence dwelling.

(c) Nothing shall be done or kept in any Dwelling Unit, or on any Lot, or on the Common Area which will cause an increase in the rate of insurance on any Dwelling Unit or the contents thereof or on any Common Area. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Area which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Area, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(d) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot.

(e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Dwelling Unit without the prior consent of the Architectural Review Board.,

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Area, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Area, caused by his pet. The tethering of pets outside an Owner's Dwelling Unit does not constitute "attended." The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Tract within ten (10) days after written notice from the board to the respective Owner to do so.

(g) All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage shall be stored in closed sanitary containers, shall be regularly removed from the premises, and shall not be allowed to accumulate. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Area. The Common Area shall be kept free and clear of rubbish, debris and other unsightly materials.

(h) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate.

(i) No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Tract, any Lot or any Dwelling Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Tract in connection with any unsold or unoccupied Lots and Dwelling Units.

(j) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Area or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Area.

(k) No boats, campers, trailers of any kind, buses, mobile homes, recreational vehicles, trucks, motorcycles, mini bikes or mopeds shall be permitted, parked or stored anywhere within the Tract unless stored completely enclosed within a garage. No repair work shall be done on the Tract on any vehicles, including passenger automobiles unless completely enclosed within a garage. No go-carts, mopeds, mini-bikes, motorcycles or other non-conventional modes of transportation shall be operated on the Tract.

(l) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Area or on any Lot, except with express permission from the Board, nor shall any Owner be permitted to remove trees or landscaping without the express permission of the Board.

(m) Common Area shall be used and enjoyed only for the purposes for which it is designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

(n) No Owner may rent or lease his Dwelling Unit for transient or hotel purposes.

(o) Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease which shall provide that the lease is subject to the provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.

(p) All Owners shall keep their garage doors closed unless necessary to be opened for appropriate use of the garage.

(q) Each Lot shall be required to install an outside light with a photocell in such location as is approved by Declarant or the Architectural Review Committee, as appropriate.

(r) No Owner, members of Owner's family, their guests or invitees or other persons shall be permitted to park on the east side of Huntington Lane. Parking shall be permitted on the west side of Huntington Lane and both sides of Huntington Drive.

(s) The foregoing covenants (or restriction) 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 of this plat, at which time said covenants, (or restrictions), shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then owners of the buildings covered by these covenants, or restrictions, in whole or in part. Invalidation of any one of the foregoing covenants or restrictions, by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force or effect.

Notwithstanding anything to the contrary contained herein or in the Articles or By-Laws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the Applicable Date, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by Persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Area, unless so designated by Declarant; and declarant shall have the right to remove the same from the Tract at any time.

23. Amendment of Declaration.

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

- (i) 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.
- (ii) 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.

- (iii) 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 By-Laws.
- (iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five (75%) percent in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.
- (v) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's or Excluded Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of this Declaration of Paragraph 19 with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Paragraph 20 of this Declaration with respect to reconstruction or repair of the Common Area in the event of fire or any other casualty or disaster, or (4) the provisions of Paragraph 16 of this Declaration establishing the Architectural Review Board and providing for its functions, or (5) the provisions of Paragraph 17 of this Declaration with respect to the commencement of assessments or any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.
- (vi) Recording. Each amendment to the Declarant shall be executed by the President and Secretary of the Corporation and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

(b) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, 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 such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lot and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements or (d) to correct

clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Paragraph 23 on 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 Paragraph 23 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

24. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and rules and regulations, 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 be binding on any person having at any time any interest or estate in a Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Tract in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

25. 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 or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation.

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

27. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

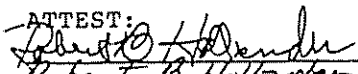
28. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles, or the By-Laws,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

29. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa as appropriate.

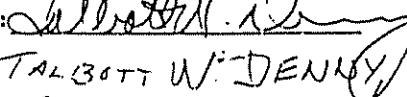
30. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

31. The Plat. The Final Plat of Mayfair Development is incorporated into this Declaration by reference and has been filed in the office of the Recorder of Marion County, Indiana, as of the 23 day of February, 1990 as 90-17634.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

ATTEST:

Robert B. Hollander
Secretary

MAYFAIR DEVELOPMENT, INC.

By: 
TALIBOTT W. DENNY
PRESIDENT

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Talbot W. Denny and Robert B. Hallender, the President and Secretary, respectively, of MAYFAIR DEVELOPMENT, INC., who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions of Mayfair Development Property Ownership on behalf of said Corporation.

WITNESS my hand and notarial seal this 28 day of December, 1989.

My Commission Expires:
May 1, 1992

Barbara J. Lindsay
Barbara J. Lindsay, Notary Public
Resident of Morgan County

This instrument was prepared by Stephen A. Backer, Attorney at Law, BACKER & BACKER, P.C., 101 W. Ohio, Suite 1500, Indianapolis, Indiana 46204.

EXHIBIT "A"

LEGAL DESCRIPTION

Part of the Northeast Quarter of the Northeast Quarter of Section 16, Township 17 North, Range 3 East, in Marion County, Indiana, more particularly described as follows:

Beginning at the Northeast corner of said Quarter Quarter Section, said point being also in the centerline of West 96th Street, thence South $89^{\circ}12'06''$ West, 331.00 feet along the North line of said Quarter Quarter Section; thence South $00^{\circ}42'13''$ East 711.76 feet to a point in the North right-of-way line of Interstate Road 465 as now located, said point being 324.5 feet by description West of the East line of said Quarter Quarter section; thence Easterly in and along said right-of-way the following two (2) courses 1) North $88^{\circ}35'45''$ East 93.32 feet to the Point of Curvature of a curve concave Northerly having a central angle of $06^{\circ}10'34''$ and a radius of 2152.00 feet; 2) Easterly along said curve an arc distance of 231.97 feet (said arc being subtended by a chord bearing North $85^{\circ}30'28''$ East and a length of 231.86 feet) to the East line of said Quarter Quarter Section; thence North $00^{\circ}10'55''$ West 695.87 feet the Point of Beginning, containing 5.32 acres more or less subject to highways, right-of-way and easements.