

MARTHA A. WOMACKS  
MARION COUNTY RECORDER

187515  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
WILDWOOD FARMS  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

FILED  
JUL 28 1999  
FRANKLIN TOWNSHIP  
ASSESSOR

34

Wildwood Farms  
Moller Estates  
@ Wildwood Farms

(A)

THIS DECLARATION, made on the 8<sup>th</sup> day of MARCH, 1999, by  
CROSSMANN COMMUNITIES PARTNERSHIP, an Indiana general partnership,  
("Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Marion 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 known as *Wildwood Farms*.

WHEREAS, Declarant may hereafter become the owner of the real estate more commonly described in what is attached hereto and incorporated herein by reference as Exhibit "B" (hereafter "Additional Real Estate");

WHEREAS, Declarant desires to subdivide and develop the Real Estate and may in the future desire to subdivide and develop such portions (or all) of the Additional Real Estate as may be made subject to the terms of this Declaration, as hereinafter provided;

WHEREAS, the term "Property" shall hereafter mean and refer to the Real Estate together with such portions of the Additional Real Estate as have from time to time been subjected to and at anytime subject to this Declaration

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, hypothecate, 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 and consents to and with Declarant, the Association, and the Owners of each of the Lots hereby affected to keep, observe, and comply with the terms and conditions hereof

Declarant shall have, and hereby reserves the right, at any time, and from time to time, at any time prior to the expiration of the Development Period, to add to the Property and subject to this declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Property, and therefore and thereby becomes a part of the Property and subject in all respects to this declaration and all rights, obligations, and privileges herein, when Declarant places of record in Marion County, Indiana an instrument so declaring the same to be part of the Property, which supplementary declaration (hereafter "Supplementary Declaration") may be as part of a subdivision plat for any portion of the Additional Real Estate, or by an amendment or supplement to this Declaration. Such Supplementary Declaration may provide for another homeowners association and contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments applicable to the Additional Real Estate and/or the Dwelling Units constructed thereon as may be necessary to reflect the different character thereof.

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

Declarant shall also have and hereby reserves the right to construct upon the Real Estate, or any Additional Real Estate, Dwelling Units which are attached in groups of two (2) or more. If Declarant exercises this right, then Declarant may place of record with the Recorder of Marion County, Indiana, one (1) or more additional declarations providing for another homeowners association and containing modifications hereto and additional terms, conditions, restrictions, maintenance obligations and assessments applicable to such attached Dwelling Units as may be necessary to reflect their different character and nature. Such one (1) or more additional declarations shall also be hereafter referred to as a "Supplementary Declaration".

## ARTICLE I

### *Name*

The subdivision of the Property created by this Declaration shall be known and designated as *Wildwood Farms*, a subdivision located in Marion County, Indiana.

## 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 *WILDWOOD FARMS 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

Section 2.5 "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 Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereafter defined) as a "Block", "Common Area", "C.A.", or such other areas within the Property that are not otherwise identified on the Plat (as hereafter defined) as a lot or street. The Common Area to be conveyed to the Association at the time of conveyance of the first Lot to an Owner is described in the Plat (as hereinafter defined).

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 Common Area, 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 the *CROSSMANN COMMUNITIES PARTNERSHIP, an Indiana general partnership* 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 or any other portion of the Property. The Development Period shall recommence each time the Declarant acquires any part (or all) of the Additional Property.

Section 2.9 "Dwelling Unit" means any single-family residence situated upon a Lot (as hereafter defined). Dwelling Units may be attached in groups of two (2) or more.

Section 2.10 "Lake Area(s)" means any 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.

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 to be conveyed to an Owner or Owners (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 less than its originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a Dwelling Unit. In the event that two (2) or more attached Dwelling Units are constructed, each such Dwelling Unit shall have a separate Lot as evidenced by an as-built plat.

Section 2.12 "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 2.13 "Plat" means the subdivision plats of the Property or any "as-built" plat for two (2) or more attached Dwelling Units, which are recorded with the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented pursuant to this Declaration.

### ARTICLE III

#### *Property Rights, Easements and Encroachments*

Section 3.1 Owners' Easements of Enjoyment of Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to any Common Area, which nonexclusive right and easement or 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 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 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 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 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 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 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 two-thirds (2/3) of the membership of each class of members of the Association; and

(h) 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 Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.3 Certain Obligations and Access Rights to the 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 as provided herein, of the 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 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 Easement - The following rights reserved in this Section 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 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.

(a) Declarant hereby reserves unto itself during the Development Period, and thereafter unto any public or private utility, a general easement ("Drainage, Utility and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennae and other equipment and facilities) to serve any Dwelling Unit constructed on the Property. Any Drainage, Utility, Sewer and other Development 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 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 Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Association, of any 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 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, the right and 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 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 Marion County, Indiana.

(e) The title of the Association (as to the 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 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 grantor to be conveyed to the Association for the common enjoyment of all residents in *Wildwood Farms*

Section 3.7 Designated Drainage, Utility, and Sewer Easements There are strips of ground designated on the Plat as drainage easements, utility easements, sewer easements, sanitary sewer easements and storm sewer easements, or any combination thereof, which are hereby reserved to the appropriate governmental entities, public utilities, and private utilities for the installation and maintenance of swales, ditches, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities. Purchasers of Lots in this subdivision shall take title subject to such easements hereby created and subject at all times to the rights of proper authorities to service and maintain such drainage facilities and easements, and no permanent structure of any kind and no part thereof except fences which do not retard or impede the flow of drainage water and which are approved pursuant to Section 6.2 below, shall be built, erected or maintained on said drainage easements, except by Declarant and its assigns. It shall be the responsibility of the Association and the Owners of the areas enclosed within such easements to maintain such areas in such conditions 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 or any private or public utility. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to such areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. 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 of 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 Mounding, Landscaping, and Screening and Sign Easements. Any strips of grounds shown or designated on the Plat for (i) mounding easements, (ii) landscape or landscape maintenance easements, and/or (iii) sign easements, are hereby reserved for such (i) mounding easements, (ii) landscape easements and/or landscape maintenance easements and/or (iii) sign easements. Declarant hereby reserves unto itself during the Development Period, and, thereafter, unto the Association, any such easements for the purposes of (i) providing signs which either advertise the Property and the availability of Lots or identify the Property or, (ii) installing landscaping, mounding, and screening. Declarant reserves unto itself during the Development Period and thereafter unto the Association, the exclusive and sole right to erect signs and install landscaping, mounding, and screening within these strips of ground shown on the Plat as landscaping, mounding, and sign easements. Notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period. Furthermore, notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, or other improvements shall be erected between (i) any landscape easement or landscape maintenance easement, 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 are hereby dedicated to the public.

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 planted, 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 3.7 and Section 3.8 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.

## 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 Class A membership on the happening of either of the following events, whichever occurs earlier: (a) 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; or, (b) December 31, 2010.

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 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.

## ARTICLE V

### *Covenant for Maintenance Assessments*

Section 5.1 Creation of the Lien and Personal Obligation of Assessments Declarant, for each Lot now or hereafter owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, 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 Common Area, 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 Common Area, 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 \$130 00 per Lot per year; provided, however, that the maximum Regular Assessment may be increased per the terms of any Supplementary Declaration

(b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than 10% 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 10% above the maximum Regular Yearly Assessment for the previous year, by a vote of two-thirds ( $\frac{2}{3}$ ) 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 ( $\frac{2}{3}$ ) 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 ( $\frac{1}{2}$ ) 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, except that (i) Declarant and any individual or entity purchasing a Lot or Lots solely for the purpose of construction of a for-sale Dwelling Unit thereon (a "Builder") shall pay only twenty-five percent (25%) of the Regular Yearly Assessments and Special Assessments so long as any Dwelling Unit constructed upon a Lot by Declarant or Builder has not been conveyed to an Owner intending to occupy or rent said Dwelling Unit as a residence or leased to an individual or entity for use as a residence and (ii) Regular Monthly Assessments and Special Assessments may be increased, per the terms of a Supplementary Declaration, for such matters including, but not limited to, additional maintenance obligations

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 recording of such Plat. 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 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 Common Area owned by the Association 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 residential 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 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, outbuilding, mailbox, fence, 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 Declarant, until the end of the Development Period, and thereafter by the Board of Directors of the Association. After the Development Period, the Board of Directors may appoint three (3) or more representatives to an Architectural 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 therefor as above provided. However, there shall be no such approval of the planting of hedges, walls, fences, structures and/or other improvements prohibited under Section 3.8 above, 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.

Section 6.3 Leasing Any Lot may be leased by its Owner.

Section 6.4 Animals No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Property, on any Lot, or in any Dwelling Unit, except that no more than a total of two (2) dogs, cats, or other normal household pets may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose.

Section 6.5 Outside Storage 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 regularly removed from the premises, and shall not be allowed to accumulate thereon. Trash must be stored in enclosed containers

Section 6.6 Setback Lines Front Building lines are hereby established as shown on the Plat. Between such Front Building lines and the right-of-way lines there shall be erected, placed or altered no structure or part thereof, except fences in keeping with architectural style as specifically approved by the Declarant until the end of the Development Period, and thereafter by the Association Board of Directors or Architectural Review Committee; provided, however, except that in no case will such fences be permitted on the public right-of-way. 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 6.7 Side Setbacks The minimum side yard and minimum rear yard requirements shall be those established by the applicable zoning and subdivision control ordinances.

Section 6.8 Temporary Structures and Outbuildings. No structure of a temporary character, tent, shack, basement, garage, barn or other out-building shall be erected, placed, or altered upon any Lot for use as a residence either temporarily or permanently, or at any time be used for such purpose

Section 6.9 Motor Vehicle Repair. The repair of inoperative motor vehicles or material alteration of motor vehicles shall not be permitted on any Lot unless entirely within a garage permitted to be constructed per the terms of the Declaration.

Section 6.10 Nuisances No noxious or offensive activities shall be carried on or be permitted to exist on any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance. Any structure or building permitted to be constructed on any Lot by this Declaration, which may be all or in part destroyed by fire, wind, storm or any other reason, shall be rebuilt and restored to its previous condition within a reasonable length of time, and all debris accumulated in connection therewith shall be removed within a reasonable time after any such occurrence

Section 6.11 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 6.12 Drains No house footing drain or roof water drain shall be discharged into the sanitary sewers

Section 6.13 Residential Use. Lots may be used only for residential purposes and only for one single-family dwelling, a private garage, and other such outbuildings as are usual and incidental to the use of a residential lot. All lots in this subdivision shall be designated as residential Lots, and no home shall exceed two and one-half (2-½) stories or thirty-five (35) feet in height.

Section 6.14 Size. Subject to any further restrictions imposed by any recorded commitment, every single-family dwelling erected, placed, altered or maintained on any Lot within 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 6.15 Unsightly Growth In order to maintain the standards of the Property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Property, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall warrant the Declarant or the Association to cut weeds or 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 6.16 Site Visibility No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and nine (9) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet from the intersection of a street 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. No fences shall be permitted to be constructed between the front set back line and the street curb.

Section 6.17 Semi-tractor trucks, trailers, etc. No semi-tractor trucks, semi-trucks, semi-tractor trailers, boats, campers, mobile homes, disabled vehicles, and/or trailers shall be permitted to park on the Property or a Lot unless fully enclosed in a garage, or unless the same is necessary and incident to the Declarant's, builder's or Association's business on the Property.

Section 6.18 Sign Limitations No sign of any kind, other than those installed by Declarant, the Association, or a Builder, may be displayed to public view on any Lot, except that one sign with an area of not more than six (6) feet may be displayed with the purpose of advertising the Lot for sale.

Section 6.19 Lakes, Lake Areas 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 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 the 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 Common Area owned by the Association adjacent to a Lake.

Section 6.20 Rules and Regulations The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots and the 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 6.21 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 6.22 Outside Use of Lots Except in an individual patio area appurtenant to a Dwelling Unit, no planting or gardening shall be done, and no fences, hedges, walls or other improvements shall be erected or maintained upon the Property except such as installed in accordance with the initial construction of the buildings located thereon or as approved by the Board of Directors. Above ground swimming pools are prohibited on the Property.

Section 6.23 Mailboxes All mailboxes installed upon Lots shall be uniform and shall be of a type, color and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors of the Association.

Section 6.24 Yard Lights The builder on each Lot shall supply and install a yard light in operable condition on such Lot at a location, having a height and of a type, style and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors of the Association. Each such light fixture shall also have a bulb of sufficient wattage to insure uniform illumination on each Lot and shall be equipped with a photo-electric cell or similar device.

to insure automatic illumination from dusk to dawn each day. The yard light thereafter shall be maintained in proper working order by the Owner of each Lot

Section 6.25 Notice of Zoning Commitments. Notice is hereby given that certain written commitments (hereafter "Written Commitments") were made in connection with the zoning of all or part of the Property. The Written Commitments were filed with the City of Indianapolis, Metropolitan Development Commission, under case numbers 98-Z-63, 98-DP-10, 98-Z-83 and 98-DP-13. The Written Commitments pertain to different matters including, but not limited to, (i) Satellite dishes, (ii) prohibitions against carports, above-ground pools and gravel drives, and (iii) fencing and (iv) outbuildings.

## ARTICLE VII

### *Maintenance, Repairs and Replacements*

Section 7.1 By Owners. Except as specifically provided in this Declaration or in any Supplementary Declaration, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. Except as may be specified in any Supplementary Declaration, 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. Except as provided in any Supplementary Declaration, 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 Unit or any part of the Common Area owned by the Association. Except as specified in any Supplementary Declaration, 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 Dwelling Unit or Lot

### Section 7.2 Common Properties and Lawns 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 Common Area. Maintenance of the 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 Common Area;

(ii) Maintenance of the entry signs, permanent subdivision identification sign, and landscaping installed by the Declarant in any Common Area, Landscape Easement, or Landscape Maintenance 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 Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only) as it deems necessary.

(b) Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only), 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 any items deemed as such for purposes of maintenance only), 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.

(c) The authorized representatives of the Association, the Board of Directors 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 Common Area owned by the Association or any items deemed as Common Area for purposes of maintenance only, 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 organ 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 Common Area owned by the Associations, 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 canceled 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 managing 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 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. Except as provided in any Supplementary Declaration, 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 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 rights against any Owner for committing willful or malicious damage

## 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 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 an 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 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 "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 Properties 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 Property 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

### *General Provisions*

Section 10.1 Right of Enforcement In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the 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 10.2 Severability and Waiver 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 10.3 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 Marion County, Indiana, approved and signed by at least seventy-five percent (75%) of the then Owners. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without

Declarant's prior written approval. Except as prohibited below, this Declaration may also be unilaterally amended by Declarant, if it then has any ownership interest in the Property, at any time within four (4) years after the recordation hereof. Notwithstanding anything herein to the contrary, the Declarant may unilaterally record any Supplementary Declaration. 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 two-thirds (2/3) of the Owners of Lots (excluding Declarant or Builder):

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the 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 100 percent of the insurable value (based on current replacement costs);

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

Section 10.4 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, the following actions will require the prior approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development:

(a) Annexation of additional properties other than the Additional Real Estate;

(b) Dedication or Mortgaging of Common Area; and

(c) Amendment of the Declaration of Covenants, Conditions and Restrictions, other than as set forth in any Supplementary Declaration.

Section 10.5 Assignment Declarant may assign or otherwise transfer any and all of its rights as Declarant in whole or in part.

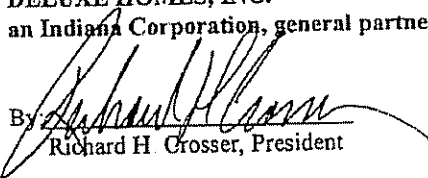
Section 10.6 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Common Area owned 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, CROSSMANN COMMUNITIES PARTNERSHIP, an Indiana general partnership, has caused this Declaration to be executed as of the date first written above.

CROSSMANN COMMUNITIES PARTNERSHIP  
an Indiana general partnership

By: DELUXE HOMES, INC.  
an Indiana Corporation, general partner

By:   
Richard H. Crosser, President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Richard H Crosser, as President of Deluxe Homes, Inc., an Indiana Corporation, a general partner of Crossmann Communities Partnership, an Indiana general partnership, and having been duly sworn, acknowledged execution of this Declaration of Covenants, Conditions and Restrictions of Wildwood Farms

Witness my hand and Notarial Seal this 8th day of March, 1999.

My Commission Expires:

May 21, 2001



  
Notary Public

Residing in Hendricks County

Shirley J. White  
Printed Name

Prepared By: Charles D Frankenberger, NELSON & FRANKENBERGER, 3021 East 98th Street, Suite 220, Indianapolis, Indiana 46280; (317) 844-0106

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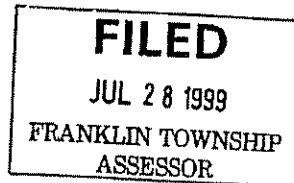
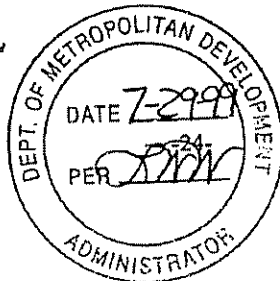




EXHIBIT "A"

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said quarter section, from the three quarter inch bolt found at the Northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said quarter section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 586.45 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 07 minutes 04 seconds East 574.11 feet; thence North 61 degrees 56 minutes 18 seconds East 1,630.66 feet along the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868 Instrument No. 51920, in the Office of the Recorder of Marion County, to the East line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 2,025.39 feet along said East line and along the East line of the West Half of the Southwest Fractional Quarter of said Section 30; thence North 53 degrees 05 minutes 10 seconds West 345.84 feet; thence North 53 degrees 12 minutes 10 seconds West 770.47 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 1,135.00 feet and subtended by a long chord having a bearing of South 30 degrees 45 minutes 52 seconds West and a length of 238.19 feet; thence Southwesterly 238.63 feet along said curve to a tangent line; thence South 36 degrees 47 minutes 15 seconds West 13.13 feet to a tangent curve concave to the Northeast having a radius of 25.00 feet and subtended by a long chord having a bearing of South 08 degrees 12 minutes 27 seconds East and a length of 35.35 feet; thence Southerly and Southeasterly 39.27 feet to the Northeastern right-of-way line of Southeastern Avenue; thence South 36 degrees 47 minutes 50 seconds West 50.00 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 509.39 feet along said centerline to the POINT OF BEGINNING and containing 40.91 acres, more or less.

EXHIBIT "A", CONT.

TOGETHER WITH:

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to a point, which is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 27 minutes 29 seconds West 198.78 feet; thence North 89 degrees 32 minutes 31 seconds East 203.98 feet; thence South 0 degrees 27 minutes 29 seconds East 354.19 feet to the centerline of Southeastern Avenue; thence North 53 degrees 05 minutes 10 seconds West 104.71 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 151.72 feet along said centerline to the POINT OF BEGINNING and containing 1.29 acres, more or less.

ALSO TOGETHER WITH:

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 27.43 feet along said centerline to the POINT OF BEGINNING of this description; thence North 61 degrees 56

EXHIBIT "A", CONT.

minutes 18 seconds East 508.61 feet along the North line of a 150 foot wide electric transmission easement recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 0 degrees 07 minutes 04 seconds West 574.11 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 559.02 feet along said centerline to the POINT OF BEGINNING, containing 2.95 acres, more or less.

ALSO TOGETHER WITH:

A part of the Northeast Quarter and a part of the Southeast Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Beginning at the railroad spike marking the Southwest corner of the Northeast Quarter of said Section; thence North 00 degrees 59 minutes 39 seconds West, 1,755.37 feet along the West line of the Northeast Quarter of said Section; thence North 89 degrees 00 minutes 21 seconds East 16.50 feet to the East line of the right-of-way of Franklin Road, thence North 14 degrees 31 minutes 19 seconds East 103.76 feet along the East line to the Southwestern line of the right-of-way of Interstate 74; thence South 85 degrees 19 minutes 28 seconds East 35.36 feet along said Southeastern line; thence South 41 degrees 19 minutes 28 seconds East 2,462.21 feet along said Southwestern line to the South line of the Northeast Quarter of said Section; thence South 89 degrees 50 minutes 46 seconds West 332.58 feet along said South line to the Northeast corner of the West Half of the Southeast Quarter of said Section; thence South 01 degrees 02 minutes 15 seconds East 150.02 feet along the East line of the West Half of the Southeast Quarter of said Section to the Northeast corner of August Place Addition, the plat of which is recorded in Plat Book 32, page 377, in the Office of the Recorder of Marion County, thence South 89 degrees 50 minutes 46 seconds West 1,340.37 feet along the North line of said Addition to the West line of the Southeast Quarter of said Section; thence North 01 degrees 07 minutes 46 seconds West 150.02 feet along said West line to the point of beginning, containing 41.837 acres, more or less.

EXHIBIT "A", CONT

ALSO TOGETHER WITH:

A part of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the POINT OF BEGINNING of this description; thence North 89 degrees 08 minutes 16 seconds East 467.15 feet; thence South 00 degrees 07 minutes 04 seconds West 1,612.98 feet along the East line of said Moeller land; thence North 89 degrees 52 minutes 56 seconds West 469.10 feet to the West line of said Moeller land; thence North 00 degrees 11 minutes 22 seconds East 1,604.99 feet along said West line and parallel with the East line of said Section 25 to the POINT OF BEGINNING, containing 17.290 acres, more or less.

ALSO TOGETHER WITH:

A part of the East Half of the Northeast Quarter of Section 25 Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along said North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said Section 25; thence North 89 degrees 08 minutes 16 seconds

EXHIBIT "A", CONT.

East 467.15 feet to the POINT OF BEGINNING of this description, which point is a point on the East line of said Moeller land; thence North 89 degrees 08 minutes 16 seconds East 187.50 feet; thence South 00 degrees 51 minutes 44 seconds East 42.29 feet; thence Southerly, and Southeasterly 460.48 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of South 14 degrees 27 minutes 43 seconds East and a length of 456.17 feet; thence South 28 degrees 03 minutes 42 seconds East 630.48 feet; thence Southeasterly, and Southerly 625.87 feet along an arc to the right and having a radius of 1,030.00 feet and subtended by a long chord having a bearing of South 10 degrees 39 minutes 14 seconds East and a length of 616.29 feet; thence South 06 degrees 45 minutes 14 seconds West 372.62 feet to a point on the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 61 degrees 56 minutes 18 seconds West 73.08 feet along said North line; thence North 06 degrees 45 minutes 14 seconds East 414.34 feet; thence Northerly 21.93 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of North 06 degrees 06 minutes 22 seconds East and a length of 21.93 feet; thence North 89 degrees 52 minutes 56 seconds West 658.63 feet to a point on the East line of said Moeller land; thence North 00 degrees 07 minutes 04 seconds East 1,612.98 feet along said East line to the POINT OF BEGINNING, containing 17.940 acres, more or less.

**ALSO TOGETHER WITH:**

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue

EXHIBIT "A", CONT.

(formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline; thence North 00 degrees 27 minutes 29 seconds West 198.78 feet to the POINT OF BEGINNING of this description; thence North 00 degrees 27 minutes 29 seconds West 209.54 feet; thence South 53 degrees 12 minutes 10 seconds East 256.27 feet; thence South 00 degrees 27 minutes 29 seconds East 54.40 feet; thence South 89 degrees 32 minutes 31 seconds West 203.98 feet to the POINT OF BEGINNING, containing 0.618 acres, more or less.

EXHIBIT "B"

MODERNIZED LAND BOUNDARY DESCRIPTION

A part of the East Half of the Northeast Quarter and a part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows: Commencing at the northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the north line of said quarter section, from the three-quarter-inch bolt found at the northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the north line of said quarter section to the POINT OF BEGINNING of this description, which point is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument no. 82-73234 in the Office of the Recorder of Marion County; thence North 89 degrees 08 minutes 16 seconds East 827.15 feet along said north line to the iron pin found at the northeast corner of said Section 25, said corner being North 0 degrees 11 minutes 22 seconds East 5,333.98 feet, measured along the east line of said section, from the iron pin found at the southeast corner of said section; thence South 0 degrees 11 minutes 22 seconds West 53.98 feet along the east line of said section to a point that is 225.00 feet south of (by perpendicular measurement) the north line of the Northwest Fractional Quarter of said Section 30; thence South 89 degrees 49 minutes 20 seconds East 1,051.56 feet parallel with said north line to the east line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 4,941.52 feet along said east line and along the east line of the West Half of the Southwest Fractional Quarter of said Section 30 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence North 53 degrees 05 minutes 10 seconds West 593.65 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 1,815.94 feet along said centerline to the southwest corner of said Moeller land; thence North 0 degrees 11 minutes 22 seconds East 3,541.89 feet along the west line of said Moeller land and parallel with the east line of said Section 25 to the POINT OF BEGINNING and containing 185.149 acres, more or less. The bearings in this description are based upon the Indiana State Plane Coordinate System (Grid North).

EXCEPT:

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said quarter section, from the three quarter inch bolt found at the Northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said quarter section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 586.45 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 07 minutes 04 seconds East 574.11 feet; thence North 61 degrees 56 minutes 18 seconds East 1,630.66 feet along the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868 Instrument No. 51920, in the Office of the Recorder of Marion County, to the East line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 2,025.39 feet along said East line and along the East line of the West Half of the Southwest Fractional Quarter of said Section 30; thence North 53 degrees 05 minutes 10 seconds West 345.84 feet; thence North 53 degrees 12 minutes 10 seconds

EXHIBIT "B", CONT.

West 770.47 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 1,135.00 feet and subtended by a long chord having a bearing of South 30 degrees 45 minutes 52 seconds West and a length of 238.19 feet; thence Southwesterly 238.63 feet along said curve to a tangent line; thence South 36 degrees 47 minutes 15 seconds West 13.13 feet to a tangent curve concave to the Northeast having a radius of 25.00 feet and subtended by a long chord having a bearing of South 08 degrees 12 minutes 27 seconds East and a length of 35.35 feet; thence Southerly and Southeasterly 39.27 feet to the Northeastern right-of-way line of Southeastern Avenue; thence South 36 degrees 47 minutes 50 seconds West 50.00 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 509.39 feet along said centerline to the POINT OF BEGINNING and containing 40.91 acres, more or less.

ALSO EXCEPT:

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to a point, which is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 27 minutes 29 seconds West 198.78 feet; thence North 89 degrees 32 minutes 31 seconds East 203.98 feet; thence South 0 degrees 27 minutes 29 seconds East 354.19 feet to the centerline of Southeastern Avenue; thence North 53 degrees 05 minutes 10 seconds West 104.71 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 151.72 feet along said centerline to the POINT OF BEGINNING and containing 1.29 acres, more or less.

ALSO EXCEPT:

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line



EXHIBIT "B", CONT.

of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 27.43 feet along said centerline to the POINT OF BEGINNING of this description; thence North 61 degrees 56 minutes 18 seconds East 508.61 feet along the North line of a 150 foot wide electric transmission easement recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 0 degrees 07 minutes 04 seconds West 574.11 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 559.02 feet along said centerline to the POINT OF BEGINNING, containing 2.95 acres, more or less.

ALSO EXCEPT:

A part of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the POINT OF BEGINNING of this description; thence North 89 degrees 08 minutes 16 seconds East 467.15 feet; thence South 00 degrees 07 minutes 04 seconds West 1,612.98 feet along the East line of said Moeller land; thence North 89 degrees 52 minutes 56 seconds West 469.10 feet to the West line of said Moeller land; thence North 00 degrees 11 minutes 22 seconds East 1,604.99 feet along said West line and parallel with the East line of said Section 25 to the POINT OF BEGINNING, containing 17 290 acres, more or less.

ALSO EXCEPT:

A part of the East Half of the Northeast Quarter of Section 25 Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along said North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said

EXHIBIT "B", CONT.

Section 25; thence North 89 degrees 08 minutes 16 seconds East 467.15 feet to the POINT OF BEGINNING of this description, which point is a point on the East line of said Moeller land; thence North 89 degrees 08 minutes 16 seconds East 187.50 feet; thence South 00 degrees 51 minutes 44 seconds East 42.29 feet; thence Southerly, and Southeasterly 460.48 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of South 14 degrees 27 minutes 43 seconds East and a length of 456.17 feet; thence South 28 degrees 03 minutes 42 seconds East 630.48 feet; thence Southeasterly, and Southerly 625.87 feet along an arc to the right and having a radius of 1,030.00 feet and subtended by a long chord having a bearing of South 10 degrees 39 minutes 14 seconds East and a length of 616.29 feet; thence South 06 degrees 45 minutes 14 seconds West 372.62 feet to a point on the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 61 degrees 56 minutes 18 seconds West 73.08 feet along said North line; thence North 06 degrees 45 minutes 14 seconds East 414.34 feet; thence Northerly 21.93 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of North 06 degrees 06 minutes 22 seconds East and a length of 21.93 feet; thence North 89 degrees 52 minutes 56 seconds West 658.63 feet to a point on the East line of said Moeller land; thence North 00 degrees 07 minutes 04 seconds East 1,612.98 feet along said East line to the POINT OF BEGINNING, containing 17.940 acres, more or less.

ALSO EXCEPT:

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline; thence North 00 degrees 27 minutes 29 seconds West 198.78 feet to the POINT OF BEGINNING of this description; thence North 00 degrees 27 minutes 29 seconds West 209.54 feet; thence South 53 degrees 12 minutes 10 seconds East 256.27 feet; thence South 00 degrees 27 minutes 29 seconds East 54.40 feet; thence South 89 degrees 32 minutes 31 seconds West 203.98 feet to the POINT OF BEGINNING, containing 0.618 acres, more or less.

15

**CROSS REFERENCE: Declaration of Covenants, Conditions and Restrictions of Wildwood Farms, recorded with the Recorder of Marion County as Instrument No. 99-146908.**

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WILDWOOD FARMS**

This First Amendment is made this 13<sup>th</sup> day of SEPTEMBER, 1999, by Crossmann Communities Partnership, an Indiana general partnership (hereafter "Declarant");

WITNESSETH:

WHEREAS, the Declarant recorded with the Recorder of Marion County, Indiana, the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms, as Instrument No. 99-146908

WHEREAS, prior to this First Amendment, (i) the term "Real Estate" as used throughout the Declaration referred to certain real estate located in Marion County, Indiana, which real estate is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A", and (ii) the term "Additional Real Estate" as used throughout the Declaration referred to certain additional real estate located in Marion County, Indiana, which real estate is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "B".

WHEREAS, by this First Amendment, the Declarant is desirous of substituting (i) for Exhibit "A" that real estate located in Marion County, Indiana, which is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A-1", and (ii) for Exhibit "B" that

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Inst # 1999-0178134

additional real estate located in Marion County, Indiana, which is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "B-1".

NOW THEREFORE, in consideration of the foregoing preambles and recitations, the Declaration is hereby amended as follows:

1. Preambles and Recitations - The foregoing preambles, recitations and definitions are made a part hereof as though fully set forth herein

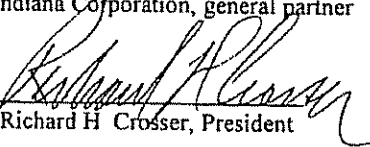
2. Real Estate - The term "Real Estate" as used throughout the Declaration shall mean and refer to that certain real estate located in Marion County, Indiana, which is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A-1", and shall no longer mean and refer to that certain real estate located in Marion County, Indiana, more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A"

3. Additional Real Estate - The term "Additional Real Estate" as used throughout the Declaration shall mean and refer to that certain additional real estate located in Marion County, Indiana, which is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "B-1", and shall no longer mean and refer to that certain additional real estate located in Marion County, Indiana, more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "B"

4. Full Force and Effect - All terms and conditions of the Declaration not hereby amended shall remain unchanged, and the Declaration, as hereby amended, shall remain in full force and effect.

CROSSMANN COMMUNITIES PARTNERSHIP  
an Indiana general partnership

By: DELUXE HOMES, INC  
an Indiana Corporation, general partner

By:   
Richard H. Crosser, President

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

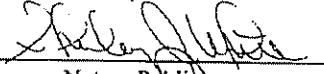
Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Richard H. Crosser*, as President of Deluxe Homes, Inc., an Indiana Corporation, a general partner of Crossmann Communities Partnership, an Indiana general partnership, and having been duly sworn, acknowledged execution of this First Amendment to the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms.

Witness my hand and Notarial Seal this 13th day of September, 1999.

My Commission Expires:  
May 21, 2001

Residing in Hendricks County



  
Notary Public  
Shirley J. White  
Printed Name

Prepared By: **Charles D. Frankenger**, NELSON & FRANKENBERGER, 3021 East 98th Street, Suite 220, Indianapolis, Indiana 46280 - (317) 844-0106

EXHIBIT "A"

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said quarter section, from the three quarter inch bolt found at the Northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said quarter section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 586.45 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 07 minutes 04 seconds East 574.11 feet; thence North 61 degrees 56 minutes 18 seconds East 1,630.66 feet along the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868 Instrument No. 51920, in the Office of the Recorder of Marion County, to the East line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 2,025.39 feet along said East line and along the East line of the West Half of the Southwest Fractional Quarter of said Section 30; thence North 53 degrees 05 minutes 10 seconds West 345.84 feet; thence North 53 degrees 12 minutes 10 seconds West 770.47 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 1,135.00 feet and subtended by a long chord having a bearing of South 30 degrees 45 minutes 52 seconds West and a length of 238.19 feet; thence Southwesterly 238.63 feet along said curve to a tangent line; thence South 36 degrees 47 minutes 15 seconds West 13.13 feet to a tangent curve concave to the Northeast having a radius of 25.00 feet and subtended by a long chord having a bearing of South 08 degrees 12 minutes 27 seconds East and a length of 35.35 feet; thence Southerly and Southeasterly 39.27 feet to the Northeastern right-of-way line of Southeastern Avenue; thence South 36 degrees 47 minutes 50 seconds West 50.00 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 509.39 feet along said centerline to the POINT OF BEGINNING and containing 40.91 acres, more or less.

EXHIBIT "A", CONT.

TOGETHER WITH:

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to a point, which is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 27 minutes 29 seconds West 198.78 feet; thence North 89 degrees 32 minutes 31 seconds East 203.98 feet; thence South 0 degrees 27 minutes 29 seconds East 354.19 feet to the centerline of Southeastern Avenue; thence North 53 degrees 05 minutes 10 seconds West 104.71 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 151.72 feet along said centerline to the POINT OF BEGINNING and containing 1.29 acres, more or less.

ALSO TOGETHER WITH:

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 27.43 feet along said centerline to the POINT OF BEGINNING of this description; thence North 61 degrees 56

EXHIBIT "A", CONT.

minutes 18 seconds East 508.61 feet along the North line of a 150 foot wide electric transmission easement recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 0 degrees 07 minutes 04 seconds West 574.11 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 559.02 feet along said centerline to the POINT OF BEGINNING, containing 2.95 acres, more or less.

ALSO TOGETHER WITH:

A part of the Northeast Quarter and a part of the Southeast Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Beginning at the railroad spike marking the Southwest corner of the Northeast Quarter of said Section; thence North 00 degrees 59 minutes 39 seconds West, 1,755.37 feet along the West line of the Northeast Quarter of said Section; thence North 89 degrees 00 minutes 21 seconds East 16.50 feet to the East line of the right-of-way of Franklin Road, thence North 14 degrees 31 minutes 19 seconds East 103.76 feet along the East line to the Southwestern line of the right-of-way of Interstate 74; thence South 86 degrees 19 minutes 28 seconds East 35.36 feet along said Southeastern line; thence South 41 degrees 19 minutes 28 seconds East 2,462.21 feet along said Southwestern line to the South line of the Northeast Quarter of said Section; thence South 89 degrees 50 minutes 46 seconds West 332.58 feet along said South line to the Northeast corner of the West Half of the Southeast Quarter of said Section; thence South 01 degrees 02 minutes 15 seconds East 150.02 feet along the East line of the West Half of the Southeast Quarter of said Section to the Northeast corner of August Place Addition, the plat of which is recorded in Plat Book 32, page 377, in the Office of the Recorder of Marion County, thence South 89 degrees 50 minutes 46 seconds West 1,340.37 feet along the North line of said Addition to the West line of the Southeast Quarter of said Section; thence North 01 degrees 07 minutes 46 seconds West 150.02 feet along said West line to the point of beginning, containing 41.837 acres, more or less.



EXHIBIT "A", CONT.

**ALSO TOGETHER WITH:**

A part of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the POINT OF BEGINNING of this description; thence North 89 degrees 08 minutes 16 seconds east 467.15 feet; thence South 00 degrees 07 minutes 04 seconds West 1,612.98 feet along the East line of said Moeller land; thence North 89 degrees 52 minutes 56 seconds West 469.10 feet to the West line of said Moeller land; thence North 00 degrees 11 minutes 22 seconds East 1,604.99 feet along said West line and parallel with the East line of said Section 25 to the POINT OF BEGINNING, containing 17.290 acres, more or less.

**ALSO TOGETHER WITH:**

A part of the East Half of the Northeast Quarter of Section 25 Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds east 521.40 feet along said North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said Section 25; thence North 89 degrees 08 minutes 16 seconds

EXHIBIT "A", CONT.

East 467.15 feet to the POINT OF BEGINNING of this description, which point is a point on the East line of said Moeller land; thence North 89 degrees 08 minutes 16 seconds East 187.50 feet; thence South 00 degrees 51 minutes 44 seconds East 42.29 feet; thence Southerly, and Southeasterly 460.48 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of South 14 degrees 27 minutes 43 seconds East and a length of 456.17 feet; thence South 28 degrees 03 minutes 42 seconds East 630.48 feet; thence Southeasterly, and Southerly 625.87 feet along an arc to the right and having a radius of 1,030.00 feet and subtended by a long chord having a bearing of South 10 degrees 39 minutes 14 seconds East and a length of 616.29 feet; thence South 06 degrees 45 minutes 14 seconds West 372.62 feet to a point on the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 61 degrees 56 minutes 18 seconds West 73.08 feet along said North line; thence North 06 degrees 45 minutes 14 seconds East 414.34 feet; thence Northerly 21.93 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of North 06 degrees 06 minutes 22 seconds East and a length of 21.93 feet; thence North 89 degrees 52 minutes 56 seconds West 658.63 feet to a point on the East line of said Moeller land; thence North 00 degrees 07 minutes 04 seconds East 1,612.98 feet along said East line to the POINT OF BEGINNING, containing 17.940 acres, more or less.

**ALSO TOGETHER WITH:**

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue

EXHIBIT "A", CONT.

(formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline; thence North 00 degrees 27 minutes 29 seconds West 198.78 feet to the POINT OF BEGINNING of this description; thence North 00 degrees 27 minutes 29 seconds West 209.54 feet; thence South 53 degrees 12 minutes 10 seconds East 256.27 feet; thence South 00 degrees 27 minutes 29 seconds East 54.40 feet; thence South 89 degrees 32 minutes 31 seconds West 203.98 feet to the POINT OF BEGINNING, containing 0.618 acres, more or less.

EXHIBIT "B"

MODERNIZED LAND BOUNDARY DESCRIPTION

A part of the East Half of the Northeast Quarter and a part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows: Commencing at the northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the north line of said quarter section, from the three-quarter-inch bolt found at the northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the north line of said quarter section to the POINT OF BEGINNING of this description, which point is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument no. 82-73234 in the Office of the Recorder of Marion County; thence North 89 degrees 08 minutes 16 seconds East 827.15 feet along said north line to the iron pin found at the northeast corner of said Section 25, said corner being North 0 degrees 11 minutes 22 seconds East 5,333.98 feet, measured along the east line of said section, from the iron pin found at the southeast corner of said section; thence South 0 degrees 11 minutes 22 seconds West 53.98 feet along the east line of said section to a point that is 225.00 feet south of (by perpendicular measurement) the north line of the Northwest Fractional Quarter of said Section 30; thence South 89 degrees 49 minutes 20 seconds East 1,051.56 feet parallel with said north line to the east line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 4,941.52 feet along said east line and along the east line of the West Half of the Southwest Fractional Quarter of said Section 30 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence North 53 degrees 05 minutes 10 seconds West 593.65 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 1,815.94 feet along said centerline to the southwest corner of said Moeller land; thence North 0 degrees 11 minutes 22 seconds East 3,541.89 feet along the west line of said Moeller land and parallel with the east line of said Section 25 to the POINT OF BEGINNING and containing 185.149 acres, more or less. The bearings in this description are based upon the Indiana State Plane Coordinate System (Grid North).

EXCEPT:

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said quarter section, from the three quarter inch bolt found at the Northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said quarter section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 586.45 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 07 minutes 04 seconds East 574.11 feet; thence North 61 degrees 56 minutes 18 seconds East 1,530.56 feet along the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868 Instrument No. 51920, in the Office of the Recorder of Marion County, to the East line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 2,025.39 feet along said East line and along the East line of the West Half of the Southwest Fractional Quarter of said Section 30; thence North 53 degrees 05 minutes 10 seconds West 345.84 feet; thence North 53 degrees 12 minutes 10 seconds

EXHIBIT "B", CONT.

West 770.47 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 1,135.00 feet and subtended by a long chord having a bearing of South 30 degrees 45 minutes 52 seconds West and a length of 238.19 feet; thence Southwesterly 238.63 feet along said curve to a tangent line; thence South 36 degrees 47 minutes 15 seconds West 13.13 feet to a tangent curve concave to the Northeast having a radius of 25.00 feet and subtended by a long chord having a bearing of South 08 degrees 12 minutes 27 seconds East and a length of 35.35 feet; thence Southerly and Southeasterly 39.27 feet to the Northeastern right-of-way line of Southeastern Avenue; thence South 36 degrees 47 minutes 50 seconds West 50.00 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 509.39 feet along said centerline to the POINT OF BEGINNING and containing 40.91 acres, more or less.

ALSO EXCEPT:

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to a point, which is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline to the POINT OF BEGINNING of this description; thence North 0 degrees 27 minutes 29 seconds West 198.78 feet; thence North 89 degrees 32 minutes 31 seconds East 203.98 feet; thence South 0 degrees 27 minutes 29 seconds East 354.19 feet to the centerline of Southeastern Avenue; thence North 53 degrees 05 minutes 10 seconds West 104.71 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 151.72 feet along said centerline to the POINT OF BEGINNING and containing 1.29 acres, more or less.

ALSO EXCEPT:

A part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 0 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line

EXHIBIT "B", CONT.

of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 27.43 feet along said centerline to the POINT OF BEGINNING of this description; thence North 61 degrees 56 minutes 18 seconds East 508.61 feet along the North line of a 150 foot wide electric transmission easement recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 0 degrees 07 minutes 04 seconds West 574.11 feet to the centerline of Southeastern Avenue; thence North 53 degrees 12 minutes 10 seconds West 559.02 feet along said centerline to the POINT OF BEGINNING, containing 2.95 acres, more or less.

**ALSO EXCEPT:**

A part of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the POINT OF BEGINNING of this description; thence North 89 degrees 08 minutes 16 seconds East 467.15 feet; thence South 00 degrees 07 minutes 04 seconds West 1,612.98 feet along the East line of said Moeller land; thence North 89 degrees 52 minutes 56 seconds West 469.10 feet to the West line of said Moeller land; thence North 00 degrees 11 minutes 22 seconds East 1,604.99 feet along said West line and parallel with the East line of said Section 25 to the POINT OF BEGINNING, containing 17.290 acres, more or less.

**ALSO EXCEPT:**

A part of the East Half of the Northeast Quarter of Section 25 Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows:

Commencing at the Northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along said North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 953.75 feet along the West line of said Moeller land and parallel with the East line of said

EXHIBIT "B", CONT.

Section 25; thence North 89 degrees 08 minutes 16 seconds East 467.15 feet to the POINT OF BEGINNING of this description, which point is a point on the East line of said Moeller land; thence North 89 degrees 08 minutes 16 seconds East 187.50 feet; thence South 00 degrees 51 minutes 44 seconds East 42.29 feet; thence Southerly, and Southeasterly 460.48 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of South 14 degrees 27 minutes 43 seconds East and a length of 456.17 feet; thence South 28 degrees 03 minutes 42 seconds East 630.48 feet; thence Southeasterly, and Southerly 625.87 feet along an arc to the right and having a radius of 1,030.00 feet and subtended by a long chord having a bearing of South 10 degrees 39 minutes 14 seconds East and a length of 616.29 feet; thence South 06 degrees 45 minutes 14 seconds West 372.62 feet to a point on the North line of a 150 foot wide electric transmission easement, recorded in Deed Record 1868, Instrument No. 51920, in the Office of the Recorder of Marion County; thence South 61 degrees 56 minutes 18 seconds West 73.08 feet along said North line; thence North 06 degrees 45 minutes 14 seconds East 414.34 feet; thence Northerly 21.93 feet along an arc to the left and having a radius of 970.00 feet and subtended by a long chord having a bearing of North 06 degrees 06 minutes 22 seconds East and a length of 21.93 feet; thence North 89 degrees 52 minutes 56 seconds West 658.63 feet to a point on the East line of said Moeller land; thence North 00 degrees 07 minutes 04 seconds East 1,612.98 feet along said East line to the POINT OF BEGINNING, containing 17.940 acres, more or less.

ALSO EXCEPT:

A part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded Instrument No. 82-73234, in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence South 53 degrees 12 minutes 10 seconds East 1,664.22 feet along said centerline; thence North 00 degrees 27 minutes 29 seconds West 198.78 feet to the POINT OF BEGINNING of this description; thence North 00 degrees 27 minutes 29 seconds West 209.54 feet; thence South 53 degrees 12 minutes 10 seconds East 256.27 feet; thence South 00 degrees 27 minutes 29 seconds East 54.40 feet; thence South 89 degrees 32 minutes 31 seconds West 203.98 feet to the POINT OF BEGINNING, containing 0.618 acres, more or less.

EXHIBIT "A-1"

A part of the Northeast Quarter and a part of the Southeast Quarter of Section 30, Township 15 North, Range 5 East, Marion County, Indiana, described as follows:

Beginning at the railroad spike marking the Southwest corner of the Northeast Quarter of said Section; thence North 00 degrees 59 minutes 39 seconds West, 1,755.37 feet along the West line of the Northeast Quarter of said Section; thence North 89 degrees 00 minutes 21 seconds East 16.50 feet to the East line of the right-of-way of Franklin Road, thence North 14 degrees 31 minutes 19 seconds East 103.76 feet along the East line to the Southwestern line of the right-of-way of Interstate 74; thence South 86 degrees 19 minutes 28 seconds East 35.36 feet along said Southeastern line; thence South 41 degrees 19 minutes 28 seconds East 2,462.21 feet along said Southwestern line to the South line of the Northeast Quarter of said Section; thence South 89 degrees 50 minutes 46 seconds West 332.58 feet along said South line to the Northeast corner of the West Half of the Southeast Quarter of said Section; thence South 01 degrees 02 minutes 15 seconds East 150.02 feet along the East line of the West Half of the Southeast Quarter of said Section to the Northeast corner of August Place Addition, the plat of which is recorded in Plat Book 32, page 377, in the Office of the Recorder of Marion County, thence South 89 degrees 50 minutes 46 seconds West 1,340.37 feet along the North line of said Addition to the West line of the Southeast Quarter of said Section; thence North 01 degrees 07 minutes 46 seconds West 150.02 feet along said West line to the point of beginning, containing 41.837 acres, more or less.



## EXHIBIT "B-1"

A part of the East Half of the Northeast Quarter and a part of the East Half of the Southeast Quarter of Section 25, Township 15 North, Range 4 East, and a part of the West Half of the Northwest Fractional Quarter and a part of the West Half of the Southwest Fractional Quarter of Section 30, Township 15 North, Range 5 East, all in Marion County, Indiana, described as follows: Commencing at the northwest corner of the East Half of the Northeast Quarter of said Section 25, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the north line of said quarter section, from the three-quarter-inch bolt found at the northwest corner of said quarter section; thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the north line of said quarter section to the POINT OF BEGINNING of this description, which point is the northwest corner of the land conveyed in the Warranty Deed to Emil C. Moeller, Jr. recorded instrument no. 82-73234 in the Office of the Recorder of Marion County; thence North 89 degrees 08 minutes 16 seconds East 827.15 feet along said north line to the iron pin found at the northeast corner of said Section 25, said corner being North 0 degrees 11 minutes 22 seconds East 5,333.98 feet, measured along the east line of said section, from the iron pin found at the southeast corner of said section; thence South 0 degrees 11 minutes 22 seconds West 53.98 feet along the east line of said section to a point that is 225.00 feet south of (by perpendicular measurement) the north line of the Northwest Fractional Quarter of said Section 30; thence South 89 degrees 49 minutes 20 seconds East 1,051.56 feet parallel with said north line to the east line of the West Half of the Northwest Fractional Quarter of said Section 30; thence South 0 degrees 26 minutes 52 seconds East 4,941.52 feet along said east line and along the east line of the West Half of the Southwest Fractional Quarter of said Section 30 to the centerline of Southeastern Avenue (formerly known as Michigan Road); thence North 53 degrees 05 minutes 10 seconds West 393.65 feet along said centerline; thence North 53 degrees 12 minutes 10 seconds West 1,815.94 feet along said centerline to the southwest corner of said Moeller land; thence North 0 degrees 11 minutes 22 seconds East 3,541.89 feet along the west line of said Moeller land and parallel with the east line of said Section 25 to the POINT OF BEGINNING and containing 185.14 acres, more or less. The bearings in this description are based upon the Indiana State Plane Coordinate System (Grid North); and

TOGETHER WITH any real estate adjacent to the above described real estate; and

TOGETHER WITH any real estate adjacent to the real estate described in Exhibit "A-1" to the First Amendment of the Declaration of Covenants, Conditions, and Restrictions of Wildwood Farms.

MB

MARTHA A. WOLACKS  
MAR 17 1999

15886 113-88

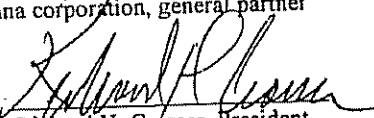
**CROSS REFERENCE** - Declaration of Covenants, Conditions and Restrictions of Wildwood Farms recorded with the Recorder of Marion County, Indiana, on August 3, 1999, as Instrument No. 1999-146908.

**SUPPLEMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF WILDWOOD FARMS**

Crossmann Communities Partnership, an Indiana general partnership, the Declarant in the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms recorded with the Recorder of Marion County, Indiana on August 3, 1999, as Instrument No. 1999-146908 (hereafter referred to as "Declaration"), states that the capitalized terms set forth herein shall have the same meaning as specified in the Declaration and hereby declares that the real estate located in Marion County, Indiana, and more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A" shall and hereby is made part of and annexed to the Property and is subject in all respects to the Declaration and all rights, obligations, and privileges specified therein.

**CROSSMANN COMMUNITIES PARTNERSHIP,**  
an Indiana general partnership

By: **CROSSMANN COMMUNITIES, INC.,**  
an Indiana corporation, general partner

By:   
Richard H. Crosser, President

Dated: 2-28-00

03/09/00 03:48PM WANDA MARTIN MARION CTY RECORDER NJS 14.00 PAGES: 3

Inst # 2000-0037185

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STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

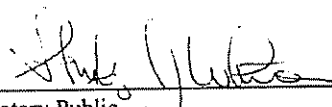
Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Richard H. Crosser*, as President of Crossmann Communities, Inc., an Indiana corporation, general partner of Crossmann Communities Partnership, an Indiana general partnership, and having been duly sworn, acknowledged execution of this *Supplement to Declaration of Covenants, Conditions and Restrictions of Wildwood Farms*

Witness my hand and Notarial Seal this 28th day of February, 2000.

My Commission Expires:

May 21, 2001


Residing in Hendricks County

  
Notary Public

Shirley J. White  
Printed Name



Prepared By:

 **Charles D. Frankenger**  
NELSON & FRANKENBERGER  
3021 East 98th Street, Suite 220  
Indianapolis, Indiana 46280  
(317) 844-0106

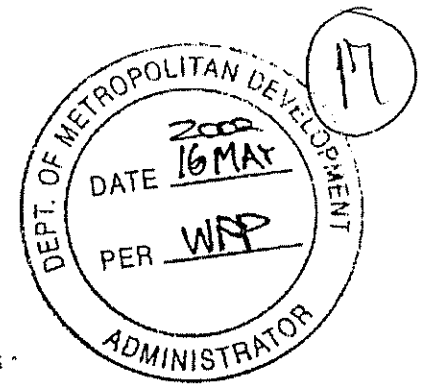
## EXHIBIT "A"

Commencing at the Northwest corner of the East Half of the Northeast Quarter of Section 25, Township 15 North, Range 4 East, said corner being North 89 degrees 08 minutes 16 seconds East 1,348.55 feet, measured along the North line of said Quarter Section, from the three-quarter-inch bolt found at the Northwest corner of said Quarter Section, thence North 89 degrees 08 minutes 16 seconds East 521.40 feet along the North line of said Quarter Section to the Northwest corner of land conveyed in the Warranty Deed to Emil C Moeller, Jr. recorded Instrument No. 82-73234 in the Office of the Recorder of Marion County; thence South 00 degrees 11 minutes 22 seconds West 3,541.89 feet along the West line of said Moeller land and parallel with the East line of said Section 25 to the center line of Southeastern Avenue (formerly know as Michigan Road), thence South 53 degrees 12 minutes 10 seconds East 1,815.94 feet along said center line, thence South 53 degrees 05 minutes 10 seconds East 593.65 feet along said center line to the East line of the West Half of the Southwest Fractional Quarter of said Section 30, said point being North 00 degrees 26 minutes 52 seconds West 209.03 feet, measured along the East line of said Half-Quarter Section, from the Southeast corner of said Half Quarter Section, thence North 00 degrees 26 minutes 52 seconds West along said East line 408.90 feet to the POINT OF BEGINNING; thence North 53 degrees 05 minutes 10 seconds West 345.84 feet; thence North 53 degrees 12 minutes 10 seconds West 770.47 feet to a point on a curve concave northwesterly, the radius point of said curve being North 65 degrees 15 minutes 31 seconds West 1,135.00 feet from said point; thence northerly along said curve 259.05 feet to a point on said curve the radius point of said curve being North 78 degrees 20 minutes 08 seconds West 1,135.00 feet from said point; thence South 71 degrees 30 minutes 16 seconds East 79.79 feet; thence South 53 degrees 12 minutes 45 seconds East 608.48 feet; thence North 89 degrees 32 minutes 31 seconds East 85.44 feet, thence North 00 degrees 27 minutes 29 seconds West 106.60 feet to the point of curvature of a curve concave Southwesterly, the radius point of said curve being South 89 degrees 32 minutes 31 seconds West 13.00 feet from said point; thence northwesterly along said curve 18.76 feet to the point of tangency of said curve, the radius point of said curve being South 06 degrees 52 minutes 46 seconds West 13.00 feet from said point, said point also being the point of curvature of a curve concave northerly; the radius point of said curve being North 06 degrees 52 minutes 46 seconds East 225.00 feet from said point; thence westerly along said curve 15.35 feet to a point on said curve, the radius point of said curve being North 10 degrees 47 minutes 13 seconds East 225.00 feet from said point; thence North 10 degrees 47 minutes 13 seconds East 50.00 feet to a point on a curve concave northerly, the radius point of said curve being North 10 degrees 47 minutes 13 seconds East 175.00 feet from said point; thence easterly along said curve 1.32 feet to the point of tangency of said curve, the radius point of said curve being North 10 degrees 21 minutes 23 seconds East 175.00 feet from said point, said point also being the point of curvature of a curve concave northwesterly, the radius point of said curve being North 10 degrees 21 minutes 23 seconds East 13.00 feet from said point; thence northeasterly along said curve 22.87 feet to the point of tangency of said curve, the radius point of said curve being South 89 degrees 32 minutes 31 seconds West 13.00 feet from said point, thence North 00 degrees 27 minutes 29 seconds West 1.21 feet; thence North 89 degrees 32 minutes 31 seconds East 50.00 feet thence South 00 degrees 27 minutes 29 seconds East 23.07 feet; thence North 89 degrees 32 minutes 31 seconds East 110.23 feet to a point on said East line; thence South 00 degrees 26 minutes 52 seconds East along said East line 688.72 feet to the place of beginning containing 7.688 acres more or less subject to all legal highways rights of Way, easements and restrictions of record

MARtha A WOMACKS  
MARION COUNTY CLERK

421098 MAY 16 2002

DULY RECORDED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER



**CROSS-REFERENCE:** Declaration of Covenants, Conditions, and Restrictions of Wildwood Farms recorded with the Recorder of Marion County, Indiana, on August 3, 1999, as Instrument No. 1999-0146908; the Secondary Plat of Moeller Estates at Wildwood Farms, Section Four, recorded with the Recorder of Marion County, Indiana, on August 20, 2001 as Instrument Number 010146963.

**SECOND SUPPLEMENT TO THE  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
WILDWOOD FARMS**

This Second Supplement to the Declaration of Covenants, Conditions, and Restrictions of Wildwood Farms ("Supplemental Declaration") is made this 6<sup>th</sup> day of MAY, 2002, by FIVE POINTS ROAD DEVELOPMENT COMPANY, LLC, an Indiana limited liability company ("Declarant");

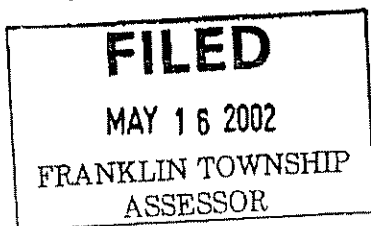
WITNESSETH:

WHEREAS, on the 3<sup>rd</sup> day of August, 1999, the Declarant and/or its assignor caused to be recorded with the Recorder of Marion County, Indiana, as Instrument No. 1999-0146908 the Declaration of Covenants, Conditions, and Restrictions of Wildwood Farms (hereafter the "Declaration");

WHEREAS, unless otherwise defined in this Supplemental Declaration, each word capitalized in this Supplemental Declaration shall have the same definition as specified in the Declaration;

WHEREAS, on the 20<sup>th</sup> day of August, 2001, the Declarant caused to be recorded with the Recorder of Marion County, Indiana, as Instrument Number 01046963, the Secondary Plat of Moeller Estates at Wildwood Farms, Section Four (the "Plat");

WHEREAS, the Declarant is the owner of all Lots identified and described in the Plat (hereafter collectively the "Land"), upon which the Declarant intends to develop Duplexes (hereafter defined);



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WHEREAS, as and throughout this Supplemental Declaration, the term Duplex shall mean and refer to a residential building or structure containing two (2) attached Dwelling Units, each of which has accommodation for one (1) single family and each of which shall exist as a separate Lot;

WHEREAS, it is the intent of this Supplemental Declaration to provide for (i) the specified exterior maintenance, specified below, of Duplexes located upon the Land, and (ii) casualty insurance specified below with respect to the Duplexes located upon the Land.

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

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, the Association, and the Exterior Maintenance Association, with respect to these restrictions and also for itself, its heirs, personal representatives, successors, and assigns covenants and agrees and consents to and with Declarant, the Association, the Exterior Maintenance Association, and the Owners of each of the Lots hereby affected to keep, observe, and comply with the terms and conditions hereof.

## ARTICLE I

### Covenant for Assessments

Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot located within the Land, hereby covenants, and each owner of any Lot located within the Land by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Exterior Maintenance Association (hereafter defined): (i) Maintenance Assessments as hereafter defined and established, and (ii) special assessments as provided for herein; such assessments to be established and collected as hereinafter provided. All such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Land and shall be a continuing lien upon the Land and Lots therein, and shall be in addition to the assessments due

and payable per the terms of the Declaration. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of a Lot located within the Land at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

## ARTICLE II

### Exterior Maintenance Association

A nonprofit corporation shall be established, in accordance with the guidelines hereafter set forth, for the purpose of assessing, collecting and expending the (i) Maintenance Assessment (hereafter defined and established), and for the purpose of fulfilling the Exterior Maintenance Obligations (hereafter defined and established), and (ii) one-time and special assessments as hereafter provided. Such non-profit corporation shall be named the "Wildwood Farms Exterior Maintenance Association, Inc." (hereafter "Exterior Maintenance Association"). The Exterior Maintenance Association shall exist in addition to and independently of the Wildwood Farms Homeowners Association, Inc. (hereafter "Association") identified in the Declaration. The Owners of Lots located within the Land shall elect a Board of Directors of Exterior Maintenance Association (hereafter "Maintenance Board") as prescribed by the Exterior Maintenance Association's Articles of Incorporation and By-Laws. The Maintenance Board shall manage the affairs of the Exterior Maintenance Association. Directors need not be members of the Exterior Maintenance Association

## ARTICLE III

### Maintenance

**Section 3.1 Maintenance by Owners.** The Owner of each Lot located within the Land shall furnish and be responsible for, at his or her own expense, (i) all the maintenance, repairs, decorating and replacements within his or her Dwelling Unit including, but not limited to, all internal installations of such Dwelling Unit such as refrigerators, ranges and other appliances, lighting fixtures and plumbing, and any other portion of any other utility services located within the Dwelling Unit or upon the Lot and (ii) any partitions, interior walls, ceiling and floor surfaces. Each such Owner of a Lot located within the Land further shall be responsible for the maintenance, repair and replacement of all windows and frames in his or her Dwelling Unit, and also the doors leading into the Dwelling Unit, and any and all other maintenance, repair, cleaning and replacements of his or her Lot and Dwelling Unit unless otherwise expressly provided herein.

**Section 3.2 Additional Maintenance.** Article 7.2 of the Declaration specifies the maintenance obligations of the Association with respect to all of the Property, including the Land. The Declaration is hereby amended so that, in addition to the Association's maintenance obligations set forth in the Declaration with respect to the Property, the Exterior Maintenance Association will provide the following maintenance and service with respect to and only with respect to Duplexes

located within the Land:

A. Exterior Maintenance Obligations of Exterior Maintenance Association with Respect to Duplexes. The Exterior Maintenance Association shall provide for the exterior maintenance of each Duplex located on or upon the Land , all of which will be subject to assessment as set forth in this Article III, but only as follows: exterior paint, exterior repair, repair, replace and care for driveways, replace and care for roofs, gutters, downspouts and exterior building surfaces (collectively the "Exterior Maintenance Obligations"). Such maintenance and repair shall be subject to the by-laws, rules and regulations of the Exterior Maintenance Association. Such exterior maintenance shall not include glass surfaces, doors and doorways, windows, and window frames. In the event that the need for maintenance or repair is caused through the intentional or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

B. Snow Removal and Lawn Care. The Exterior Maintenance Association shall provide for snow removal from driveways, sidewalks and paved portions of the street. The Exterior Maintenance Association shall pay for lawn cutting, irrigating and fertilizing.

**Section 3.3 Exterior Maintenance Assessment.** Section 5.3 of the Declaration provides for Regular Yearly Assessments on any Lot located upon the Property. In addition to the Regular Yearly Assessment, and in order to provide funds for the insurance obligations specified in Article IV below and the Exterior Maintenance Obligations, each owner of a Lot located within the Land shall also be assessed and shall pay an additional maintenance/insurance assessment of Sixty Dollars (\$60.00) per lot per month (hereafter "Maintenance Assessment"); provided, however, that the Maintenance Assessment may be increased in the manner described below:

- A. Until January 1 of the year immediately following the conveyance of the first Lot located within the Land to an Owner, the maximum Maintenance Assessment on any such Lot shall be Seventy Dollars (\$70.00) per Lot per month;
- B. From and after January 1 of such year, the Maintenance Assessment may be increased each calendar year not more than twenty percent (20%) above the assessment for the previous year without a vote of the members of the Exterior Maintenance Association.
- C. From and after January 1 of such year, the Maintenance Assessment may be increased each calendar year by more than twenty percent (20%) above the Maintenance Assessment for the previous year, with the approval of two-thirds ( $\frac{2}{3}$ ) of the votes entitled to be cast by those members of the Exterior Maintenance Association who cast votes in person or by proxy at a meeting duly called for this purpose.



- D. Written notice of any meeting called for the purpose of taking any action hereunder shall be sent to all members of the Exterior Maintenance Association, no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members of the Exterior Maintenance Association 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 (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- E. In addition, upon the employment and engagement by the Exterior Maintenance Association of a professional manager or management company to assist the Maintenance Board in the management and administration of the Association, there shall immediately and automatically be added to the Maintenance Assessment the cost of such professional management, without a vote of membership.

**Section 3.4 Uniform Rate of Assessment.** The Maintenance Assessment must be fixed at a uniform rate for all Lots located within the Land, except that: (a) no assessments shall be due for vacant Lots; and (b) Declarant and any individual or entity purchasing a Lot or Lots solely for the purpose of construction of a for-sale Dwelling Unit thereon (a "Builder") shall pay twenty-five percent (25%) of the maintenance Assessments, but not until a Dwelling Unit is fully constructed upon a Lot, by Declarant or a Builder, and ready for sale. Once the Lot and Dwelling Unit have been conveyed to an Owner intending to occupy or rent said Dwelling Unit as a residence, or leased to an individual or entity as a residence, the full Maintenance Assessment shall commence and be due.

**Section 3.5 Date of Commencement of Maintenance Assessment, Due Dates.** Subject to Section 3.4 above, the Maintenance Assessment provided for herein shall commence as to each Lot located within the Land upon recordation of a Plat of part or all of the Land and the completion of the construction of a Duplex on such Lot. The Maintenance Board shall fix any increase in the amount of the monthly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Maintenance Assessment, and such other assessment notices as the Maintenance Board shall deem appropriate, shall be sent to every Owner of a Lot located within the Land. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise), shall be established by the Maintenance Board. The Exterior Maintenance Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Exterior Maintenance Association setting forth whether the Maintenance Assessments on a specified Lot located within the Land have been paid. A properly executed certificate from the Exterior Maintenance Association regarding the status of such assessments for any Lot located within the Land shall be binding upon the Exterior Maintenance Association as of the date of its issuance.

**Section 3.6 Effect of Nonpayment of Assessment: Remedies of the Exterior Maintenance Association.** If any Maintenance Assessment (or periodic installment of such assessment, if applicable) or Special Assessment is not paid on the due date established therefor pursuant to this Supplemental Declaration, then the entire unpaid assessment (together with interest thereon, costs and attorneys' fees) shall become delinquent and shall constitute a continuing lien on the Lot located within the Land 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 Maintenance Assessment or Special Assessment is not paid within thirty (30) days after the due date, such assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Exterior Maintenance Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the applicable Lot located within the Land, 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.

**Section 3.7 Special Assessments.** In addition to the Maintenance Assessment authorized above, the Maintenance Board 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 Exterior Maintenance Association is required to maintain, or to recover any operating deficits which the Exterior Maintenance 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 of the Exterior Maintenance Association who cast votes in person or by proxy at a meeting duly called for this purpose.

**Section 3.8 Subordination of the Lien to Mortgages; Sale or Transfer.** The lien of the assessments provided for in this Supplemental Declaration shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot located within the Land pursuant to the foreclosure of any first mortgage on such Lot located within the Land (without the necessity of joining the Exterior Maintenance 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 located within the Land (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot located within the Land from liability for any assessments thereafter becoming due from the lien thereof, and, except as hereinabove provided, the sale or transfer of any Lot located within the Land 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 Exterior Maintenance Association, issued pursuant to this Supplemental Declaration, as to whether or not such assessments have been paid.

**Section 3.9 Reserve Fund.** The Maintenance Board shall establish and maintain a reserve fund by allocation and payment to such reserve fund of an amount determined annually by the

Maintenance Board to be sufficient to meet the periodic costs of fulfilling the Exterior Maintenance Obligations. In determining the amount the Maintenance Board shall take into consideration the expected useful life of what is required to be maintained and repaired, projected increases in the cost of materials and labor, interest to be earned by such fund, and the advice of Declarant and such consultants as the Maintenance Board may employ. The reserve fund shall be deposited in a special account with a lending institution the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Maintenance Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. Such fund shall hereafter be referenced to as the "Reserve Fund".

**Section 3.10 One-time Assessment.** Upon the closing of the initial conveyance of each Lot by Declarant, the purchaser of such Lot shall pay to the Exterior Maintenance Association, in addition to any other amounts then owed or due to the Exterior Maintenance Association, as a contribution to its working capital and start-up fund, an amount of Two Hundred Dollars (\$200.00), which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed the Exterior Maintenance Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Exterior Maintenance Association (i) for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Exterior Maintenance Association for its early period of operation of the Exterior Maintenance Association and the Land, (ii) to enable the Association to have cash available to meet unforeseen expenditures, (iii) to acquire additional equipment or services deemed necessary by the Maintenance Board, or (iv) for the Reserve Fund.

## ARTICLE IV

### Insurance

**Section 4.1 Maintenance of Insurance.** Commencing not later than the time of the first conveyance of a Lot located within the Land to an owner other than Declarant, the Exterior Maintenance Association shall maintain, to the extent reasonably available, the following insurance with respect to Lots and Dwelling Units located within the Land.

- A. Master or blanket type policy of fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage (if appropriate), debris removal, cost of demolition, malicious mischief, windstorm and water damage) insuring the Dwelling Units located on each Lot located within the Land (including all of the fixtures installed therein as of the date thereof, and specifically including, without limiting the generality of the foregoing, interior walls, interior doors, built-in cabinets and counters and electrical and plumbing conduits, pipes and fixtures initially installed by the Declarant, and any fixtures, equipment or other property within a Dwelling Unit which is to be financed by a first mortgagee, and including also common personal property, supplies, building service equipment, but not including carpeting, drapes, wall coverings, appliances, fixtures, furniture, furnishings, or other personal

property supplied or installed by Owners or tenants and also not including land, foundations, excavation and other items normally excluded from coverage) and covering the interests of the Exterior Maintenance Association and its directors and all Owners and their mortgagees, as their interests may appear, for full insurable replacement cost, as determined annually by the Maintenance Board. If permitted by the insurance company writing the policy, improvements and betterments not part of the Dwelling Unit as originally constructed may, at the direction and sole cost and expense of the Owner of the subject Lot, be issued under a rider to the master policy, that part of the premium allocable to such improvements and betterments being chargeable against the specific Lot to which it applies. Said policy shall afford, as a minimum, protection against the following:

1. loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;
2. all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available. The name of the insured under such policies must be set forth therein substantially as follows: "Wildwood Farms Exterior Maintenance Association, Inc. for the use and benefit of the Individual Owners". The policies may also be issued in the name of an authorized representative of the Exterior Maintenance Association, including any Insurance Trustee with whom the Exterior Maintenance Association has entered into an insurance trust agreement (the "Insurance Trust Agreement"), or any successor to such trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Exterior Maintenance Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's first mortgagee. Each Owner and each such Owner's first mortgagee, if any, shall be beneficiaries of the policy with respect to each Dwelling Unit, in proportion to the insurable value of such Dwelling Units compared to the aggregate insurable value of all Dwelling Units. Evidence of insurance shall be issued to each Owner and first mortgagee upon request. Policies must provide for the recognition of any Insurance Trust Agreement.

If reasonably available, such policies shall include:

- (1) Agreed Amount Endorsement (or like endorsement);
- (2) Inflation Guard Endorsement;
- (3) Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement) if the project is subject to a construction code provision which would become operative and require

- changes to undamaged portions of the improvements, thereby imposing significant costs in the event of partial destruction of the project by an insured peril; and
- (4) Steam Boiler Coverage (if applicable) for loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000 per accident per location.
  - (5) Miscellaneous All such Policies must provide for the following: recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Owners individually so that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and that the policy is primary in the event the Owner has other insurance covering the same loss.
- B. Workmen's compensation, occupational disease and like insurance (if the Exterior Maintenance Association has eligible employees);
- C. Comprehensive public liability insurance in such amounts and with such coverage as the Maintenance Board shall from time to time determine, but at least:
1. insuring each officer and member of the Maintenance Board and each Owner and with cross liability endorsement to cover liabilities of the Owners as a group to an Owner and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an Owner for the negligent act of another Owner, occupant or the Exterior Maintenance Association; and
  2. in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use; provided, however, that such coverage shall be for at least One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence.
- D. Such other insurance as the Maintenance Board may determine.

All such policies must provide that they may not be canceled or substantially modified by any party without at least ten (10) days prior written notice to the Exterior Maintenance Association and to each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the insurance policy.

**Section 4.2 Owners' Individual Liability and Casualty Policies.** *Each Owner should carry, and shall be responsible for carrying, at his or her sole cost and expense, insurance for his or her own benefit insuring (i) his or her personal liability, and (ii) his or her carpeting, wall covering, fixtures, furniture, furnishings, and other personal property, and fixtures and other property*

*supplied or installed by him or her or a previous Owner or tenant; provided that all such policies must, if obtained, contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Exterior Maintenance Association shall not be affected or diminished by reason of any such additional insurance carried by any Owner.*

**Section 4.3 Additional Coverages.** In addition and supplement to the foregoing powers, and not in limitation thereof, the Maintenance Board shall have the authority at all times without action by the Owners to obtain and maintain all coverages and endorsements required by any first mortgagee, for the acceptance of mortgages on Dwelling Units, as such requirements are amended from time to time.

**Section 4.4 Insurance Trustee.** Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Exterior Maintenance Association, the Exterior Maintenance Association's authorized representative, including any trustee with whom the Exterior Maintenance Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance.

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

- A. All insurance proceeds paid to Exterior Maintenance Association or Insurance Trustee (hereinafter sometimes referred to merely as "Trustee") shall be deposited in escrow with a title insurance company or other depository acceptable to the Trustee and a majority of first mortgagees of record.
- B. The Owner of the Dwelling Units with respect to which the insured loss occurred shall, within thirty (30) days after insurance proceeds are deposited in accordance with paragraph (A) above, enter into a firm contract with a qualified builder providing for the reconstruction or remodeling of the Dwelling Unit, to substantially the same condition as existed immediately prior to the insured loss; provided, however, that no contract shall be entered into by the Owner for an amount in excess of the insurance proceeds then held by the Trustee for said Dwelling Unit, until additional funds are deposited by the Owner sufficient to cover all construction costs

as determined by the Trustee and first mortgagee. Said reconstruction or remodeling shall be commenced and completed with due diligence and in no event shall said work be completed later than one hundred eighty (180) days after said insurance proceeds are deposited in escrow as aforesaid. The Exterior Maintenance Association and first mortgagees of record of the Dwelling Units affected and the Lots underlying the same shall have the right, but not the obligation, to deposit such additional funds in excess of insurance proceeds as may be required to permit construction as herein provided and any such advances shall be a lien upon the Lot or Lots subordinated, however, to the interests of first mortgagees of record.

- C. In the event the Owner fails to enter into a contract as provided in subparagraph (B) above, or in the event that reconstruction or remodeling is not commenced or completed as provided above, then the Trustee or the first mortgagee of record, with the consent of the Trustee, shall have the right, but not the obligation, to enter into those contracts which it deems necessary to complete said reconstruction or remodeling of the Dwelling Unit, and the Trustee or first mortgagee shall have the right to have said insurance proceeds applied in satisfaction of any obligation incurred pursuant to said contracts, without liability of any kind to the Owner, including, but not limited to, interest on said insurance proceeds. The Trustee may employ any bonded party or parties as its agents in exercising those functions given to it in this Section 4.4. The Trustee shall be empowered to pay said agent a reasonable fee for the services rendered by said agent and to collect said charge from the Owner or Owners, as the case may be, and in the same manner as that which is provided herein for the collection of a Maintenance Assessment.
- D. Disbursement of funds on deposit pursuant to this Section 4.4 shall be made by a title insurance company or other agent ("Agent") selected by Trustee and the affected first mortgagees of record, subject to the following:
  - 1. Receipt by Agent of such sworn construction statements, lists of subcontractors, lien waivers and receipts as it shall determine to be appropriate. Disbursements may be by periodic or progress payments, and Agent may make such inspections and withhold such payments as it deems necessary to insure completion in compliance with plans and specifications. Agent shall be entitled to a reasonable fee for the services rendered by it, and the Trustee may collect such fee from the Owner or Owners, as the case may be, and in the same manner as that which is provided herein for the collection of insurance premiums paid by the Exterior Maintenance Association.
  - 2. In the event a contract is entered into pursuant to subparagraph (B) of this Section 4.4, the written consent of the Owner to said payment or payments.
- E. In the event that a remodeling or reconstruction contract is, for any reason, not

entered into pursuant to the provisions of subparagraphs (B) and (C) of this Section 4.4, within one hundred eighty (180) days after deposit of insurance proceeds in escrow for a damaged or destroyed Dwelling Unit, as herein provided, or in the event there are excess funds after reconstruction or remodeling, the proceeds or excess, as the case may be, shall be disbursed to each Owner and mortgagee of record of the affected Lot as their interests appear.

- F. In the event the Owner whose property is damaged fails to make satisfactory arrangements for the repair and reconstruction of the damaged property and, in the event the Trustee decides to repair and reconstruct the damaged property and it is determined by it that the insurance proceeds are not sufficient for all costs and expenses associated therewith, the Exterior Maintenance Association or the first mortgagee may deposit, arrange for and disburse funds over and above the insurance proceeds to complete the repair and reconstruction and to pay the costs associated and related therewith. Upon completion of the work, the Maintenance Board may levy a Special-Charge Assessment against the Owner, which Special-Charge Assessment shall be a lien against the Lot having the effect of an assessment lien under Article III hereof, but superior to all other annual and special assessments, and which lien may be enforced in the same manner as provided herein for other assessment liens. The Special-Charge Assessment shall be in the amount expended by the Trustee over and above the insurance proceeds received by the Trustee to repair and reconstruct the Owner's premises, including necessary costs, expenses and fees associated with the work.
  
- G. Betterments or improvements made subsequent to the date of initial conveyance of a Lot by Declarant to an Owner other than Declarant by any Owner to his Lot shall be the responsibility of the Owner to insure separately (or by rider as above provided) if he desires the same insured. If the Trustee or first mortgagee undertakes the reconstruction or remodeling of a Dwelling Unit as above provided, the same need be restored only to substantially the same condition as the Dwelling Unit was as of the completion of original construction thereof.

**Section 4.5 Insurance Premiums.** Insurance premiums for any blanket property insurance coverage and the other insurance coverages purchased by the Exterior Maintenance Association, shall be common expenses to be paid by assessments levied by the Exterior Maintenance Association, and such assessments shall be held in a separate escrow account of the Exterior Maintenance Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.



## ARTICLE V

### Exterior Maintenance Association Membership and Voting

**Section 5.1** Initially, the person(s) who serve as incorporators of the Exterior Maintenance Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Exterior Maintenance Association until the Exterior Maintenance 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 located within the Land shall be a member of the Exterior Maintenance Association. Apart from the Initial Member(s), a membership in the Exterior Maintenance Association shall be appurtenant to and may not be separated from ownership of any Lot in Murphy's Landing.

**Section 5.2** Classes of Membership and Voting Rights. The Exterior Maintenance Association shall have the following two classes of voting membership:

Class A. Class A members of the Exterior Membership Association shall be all Owners of Lots located within the Land with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned located within the Land. When more than one person holds an interest in any Lot located within the Land, 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 of the Exterior Maintenance Association shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned located within the Land. For purposes of this calculation, it shall be assumed that Declarant owns all Lots located within the Land, which number shall be reduced as such Lots are conveyed by the Declarant to an Owner. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) 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; or (b) December 31, 2010.

**Section 5.3** Professional Management. The Exterior Maintenance Association may, in its sole and subjective discretion, engage or employ a professional manager or management company, possessing experience in the management of homeowners associations, to assist the Maintenance Board in the management and administration of the Exterior Maintenance Association. No contract or agreement for professional management of the Exterior Maintenance Association, nor any other contract between Declarant and the Exterior Maintenance 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.

## ARTICLE VI

### Architectural Control

**Section 6.1** Section 6.2 of the Declaration shall be inapplicable to Lots, Dwelling Units, and improvements located upon the Land and, instead, architectural control with respect to Dwelling Units and Lots located within the Land shall be as follows:

No building, outbuilding, mailbox, fence, 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 Lots located within the Land, nor shall any exterior addition to or change or alteration therein, other than by or on behalf of the Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to an approved in writing as to harmony of external design and located in relation to surrounding structures and topography by the Declarant, until the end of the Development Period, and thereafter by the Maintenance Board. After the Development Period, the Maintenance Board may appoint three (3) or more representatives to an Architectural Committee. Any change in the appearance or the color of any part of the exterior of a Dwelling Unit shall be deemed a change thereto and shall require the approval therefor as above provided. However, there shall be no such approval of the planting of hedges, walls, fences, structures and/or other improvements prohibited under Section 3.8 of the Declaration, 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.

## ARTICLE VII

### *Boundaries*

"Plans", as that term is used herein, shall mean and refer to the floor and building plans of any Duplex and the two Dwelling Units contained therein and located within the Land, together with any surveys, elevation plans of the real estate and Duplexes, duly certified by a registered architect or licensed professional engineer. In the event that any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective walls, floor, ceiling, driveway or roof of any Dwelling Unit because of inexactness of construction, settling after constructions, or for any other reason, then the boundary lines of each Dwelling Unit and its respective walls, floor, ceiling, driveway or roof shall be deemed to be, and treated for purposes, of

occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual and existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to the space line outside of the boundary lines of the Dwelling Unit and its respective walls, floor, ceiling, driveway, or roof as indicated on the plans, but within the walls, floors, ceilings, driveway or roof of the Dwelling Unit as the same may actually exist.

## ARTICLE VIII

### Amendment

**Section 8.1** Section 10.3 of the Declaration specifies the manner in which the Declaration can be amended. Section 10.3 of the Declaration is hereby supplemented to provide as follows for the amendment of this Supplemental Declaration:

Notwithstanding anything herein to the contrary, until January 1, 2017, this Supplemental Declaration can be amended or modified by an instrument recorded in the Office of the Recorder of the County in which the Property is located, proved and signed by at least seventy-five percent (75%) of the then Owners of Lots located within the Land. Provided, however, that none of the rights or duties of the Declarant reserved or set out in this Supplemental Declaration may be amended or changed without the Declarant's prior written approval. Provided, further, that this Supplemental Declaration may also be amended by the Declarant, if it then has any ownership interest in the Land, at any time within four (4) years after the recordation of the Supplemental Declaration.

## ARTICLE IX

### Party Walls

**Section 9.1 General Rules of Law to Apply.** Each wall which is built as a part of the original construction of any Duplex located upon the Land and which connects two (2) or more Dwelling Units, or forms part of walls in two (2) or more Dwelling Units, shall constitute a party wall (any such wall being herein referred to as a "Party Wall") and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions shall apply thereto.

**Section 9.2 Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners of Lots located within the Land who make use of such Party Wall, proportionately.

**Section 9.3 Destruction by Fire or Other Casualty.** If any Party Wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance

maintained by any of the Owners of Lots located within the Land who make use of such Party Wall or by the Exterior Maintenance Association, and repaired out of the proceeds of same, any Owner of a Lot located within the Land who has used the Party Wall may restore it, and if the other Owners of Lots located within the Land thereafter make use of the Party Wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners of Lots located within the Land to call for a larger contribution from the others under any rule of law regarding liability for negligent, intentional or willful acts or omissions.

**Section 9.4 Weatherproofing.** Notwithstanding any other provision of this Article IX, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner of a Lot located within the Land who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 9.5 Right to Contribution Runs with Land.** The right of any Owner of a Lot located within the Land for contribution from any other Owner of a Lot located within the Land under this Article 11 shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 9.6 Arbitration.** In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article IX, each party shall choose one arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten days after written request therefor from another party, the Maintenance Board shall select an arbitrator for the refusing party).

All terms, conditions, privileges, obligations and provisions of the Declaration, as hereby amended, supplemented and corrected shall remain in full force and effect.

FIVE POINTS ROAD DEVELOPMENT COMPANY, LLC  
an Indiana limited liability company

BY: CROSSMANN COMMUNITIES PARTNERSHIP  
an Indiana general partnership, member

BY: BEAZER HOMES INVESTMENT CORP.,  
A Georgia corporation, Member

By: 

Steven M. Dunn, President


STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION     )

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Steven M. Dunn, as President of Beazer Homes Investment Corp., a Georgia corporation, Member of Crossmann Communities Partnership, an Indiana general partnership, Member of Five Points Road Development Company, LLC, an Indiana limited liability company, and having been duly sworn, acknowledged execution of this Second Supplement to the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms.

Witness my hand and Notarial Seal this 6th day of May, 2002.

My Commission Expires: May 21, 2009


Residing in Madison County

  
Notary Public



Shinley J. White  
Printed Name

Prepared By:

 **Charles D. Frankenger**  
NELSON & FRANKENBERGER  
3021 East 98th Street, Suite 220  
Indianapolis, Indiana 46280  
(317) 844-0106

(A)

MARTHA A. WOMACKS  
MARION COUNTY AUDITOR

537743 JUL 29 8

DULY ENTERED FOR RE-RECORDATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

**THIRD SUPPLEMENT TO THE DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
WILDWOOD FARMS**

THIS THIRD SUPPLEMENT, dated July 29, 2004, is made by FIVE POINTS DEVELOPMENT COMPANY, LLC, an Indiana limited liability company (the "Declarant").

**Recitals:**

A. On August 3, 1999, Declarant recorded a document entitled "Declaration of Covenants, Conditions and Restrictions of Wildwood Farms," in the Office of the Recorder of Marion County, Indiana as Instrument No. 1999-0146908 (the "Declaration"). On August 20, 2001, Declarant recorded the Secondary Plat of Moeller Estates at Wildwood Farms, Section Four, in the Office of the Recorder of Marion County, Indiana, as Instrument No. 01046963 (the "Plat"). On May 16, 2002, Declarant recorded a document entitled "Second Supplement to the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms," in the Office of the Recorder of Marion County, Indiana, as Instrument No. 2002-0092977 (the "Supplement").

B. The Supplement sets forth certain covenants and restrictions with respect to a Duplex, as such term is defined in the Supplement.

C. Article VIII of the Supplement provides that the Supplement may be amended by Declarant, if it has any ownership interest in the Land (as defined therein), at any time within four (4) years after the recordation of the Supplement.

D. Declarant has an ownership interest in the Land, and desires to amend the Supplement as set forth herein.

**Terms:**

NOW THEREFORE, Declarant hereby amends the Supplement as follows:

1. Section 3.2 B. of the Supplement is amended and restated to read as follows:

"B. Snow Removal and Lawn Care. The Exterior Maintenance Association shall provide for snow removal from driveways, sidewalks and paved portions of

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Inst # 2004-0148829

the street. The Exterior Maintenance Association shall pay for lawn cutting and fertilizing. With respect to the "Irrigated Lots," as such term is defined in Section 3.11, below, the Exterior Maintenance Association shall also pay for the costs of irrigating such lots, as well as the costs associated with the maintenance, repair and replacement of the irrigation system upon such lots."

2. Section 3.3 of the Supplement is hereby amended to read as follows:

**"Section 3.3 Exterior Maintenance Assessment.** Section 5.3 of the Declaration provides for Regular Yearly Assessments on any Lot located upon the Property. In addition the Regular Maintenance Assessment, and in order to provide funds for the insurance obligations specified in Article IV below and the Exterior Maintenance Obligations, each owner of a Lot located within the Land shall also be assessed and shall pay an additional maintenance/insurance assessment as determined by the Maintenance Association from time to time (the "Maintenance Assessment"). Until changed by the Maintenance Association, the Maintenance Assessment shall be the sum of \$ 50.00 per lot per month."

Subsections D and E of Section 3.3 of the Supplement are redesignated as subsections A and B, respectively.

3. Section 3.4 of the Supplement is hereby amended by inserting the phrase "Except as provided in Section 3.11, below..." at the beginning of such Section, so that it shall read, "Except as provided in Section 3.11, below, the Maintenance Assessment must be fixed at a uniform rate...."

4. A new Section 3.11 is hereby added to the Supplement, which shall read as follows:

"Section 3.11 Irrigated Lots. Any Lot which contains an underground irrigation system shall be referred to as an "Irrigated Lot." The Maintenance Assessment for an Irrigated Lot shall be increased by an amount equal to the estimated costs associated with the irrigation of such Lot, and the maintenance, repair and replacement of the irrigation system upon such lot (such additional amount referred to as the "Irrigation Assessment'). The Irrigation Assessment shall be in addition to the Maintenance Assessment, but for all other purposes shall be deemed to be a part of the Maintenance Assessment for an Irrigated Lot. Until changed by Declarant or

the Exterior Maintenance Association, the Irrigation Assessment shall be in the amount of \$ 10.00 per Irrigated Lot, per month. Any special assessments (as contemplated by Section 3.7 of the Supplement) or reserve funds (as contemplated by Section 3.9 of the Supplement) which relate solely to the maintenance, repair or replacement of the irrigation system serving the Irrigated Lots shall be levied solely against the Irrigated Lots.”

5. Except as provided in Sections 1 through 4, above, the Supplement shall remain in full force and effect in accordance with its terms.



IN WITNESS WHEREOF, the undersigned has caused this Third Supplement to be executed as of the date written above.

FIVE POINTS ROAD DEVELOPMENT COMPANY, LLC  
BY: ANTHONY DEVELOPMENT CORPORATION,  
its sole member

By Thomas A. Grant  
Thomas A. Grant, President

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared Thomas A. Grant, a Member of Five Points Road Development Company, LLC, an Indiana limited liability company, who, having been duly sworn, executed the foregoing Third Supplement to the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms for and on behalf of said entity, and stated that the representations contained therein are true.

Witness my hand and Notarial Seal this 29th day of July, 2004.

( Susie N. Hartman ) Notary Public  
Susie N Hartman

My Commission Expires:  
June 6, 2007

My County of Residence is:  
Hamilton

This Instrument prepared by Lewis E. Willis, Jr., Esq., and upon recording should be returned to:

Michelle Cooper  
4670 Haven Point Boulevard  
Indianapolis, Indiana 46280

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2  
MARTHA A. WOMACKS  
MARION COUNTY AUDITOR

615330 JAN 19 2006

DUTY ENLARGED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

**DESIGNATION OF SUCCESSOR DECLARANT**  
**UNDER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF WILDWOOD FARMS**

Cross-Reference: Declaration of Covenants, Conditions and Restrictions of Wildwood Farms, Instrument No. 1999-0146908; First Amendment to the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms, Instrument No. 1999-0178134; Secondary Plat of Moeller Estates at Wildwood Farms, Section Four, Instrument No. 01046963; Second Supplement to the Declaration of Covenants Conditions and Restrictions of Wildwood Farms, Instrument No. 2002-0092977; Third Supplement to the Declaration of Covenants Conditions and Restrictions of Wildwood Farms, Instrument No. 2004-0148829; Secondary Plat of Moeller Estates at Wildwood Farms, Section Five, Instrument No. 2004-220916

**THIS DESIGNATION OF SUCCESSOR DECLARANT UNDER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WILDWOOD FARMS**, is executed this 1<sup>st</sup> day of January, 2006, FIVE POINTS DEVELOPMENT COMPANY, LLC, an Indiana limited liability company, successor in interest to CROSSMANN COMMUNITIES PARTNERSHIP, an Indiana general partnership ("Original Developer"), and accepted and consented to by C.P. MORGAN COMMUNITIES, L.P., an Indiana limited partnership ("Morgan").

**Recitals:**

A. On August 3, 1999, the Original Developer recorded a document entitled "Declaration of Covenants, Conditions and Restrictions of Wildwood Farms," in the office of the Recorder of Marion County, Indiana as Instrument No. 1999-0146908 (the "Declaration"). On September 21, 1999, the Original Developer recorded a document entitled "First Amendment to the Declaration of Covenants, Conditions and Restrictions of Wildwood Farms" in the office of the Recorder of Marion County, Indiana, as Instrument No. 1999-0178134 (the "First Amendment"). On May 16, 2002, the Original Developer recorded a document entitled "Second Supplement to the Declaration of Covenants Conditions and Restrictions of Wildwood Farms" in the office of the Recorder of Marion County, Indiana, as Instrument No. 2002-0092977 (the "Second Supplement"). On July 29, 2004, the Original Developer recorded a document entitled "Third Supplement to the Declaration of Covenants Conditions and Restrictions of

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Wildwood Farms" in the office of the Recorder of Marion County, Indiana, as Instrument No. 2004-0148829 (the "Third Supplement").

B. Morgan has purchased or will purchase from Original Developer all or part of the real estate which is subject to the Declaration, and in connection therewith, the Original Developer desires to name Morgan as the "Declarant" under the terms of the Declaration, First Amendment, Second Supplement and Third Supplement.

**Terms:**

NOW THEREFORE, the Original Developer and Morgan hereby agree as follows:


1. The Original Developer hereby designates Morgan as the successor Declarant, as such term is defined in Section 2.7 of the Declaration, and Morgan shall hereafter have all rights of Declarant thereunder.

2. With respect to the Wildwood Farms Homeowners Association, Inc., and the Wildwood Farms Exterior Maintenance Association, Inc., each being an Indiana nonprofit corporation which the Original Developer caused to be formed on March 15, 1999, and May 16, 2002, respectively, (collectively, the "Associations"), the Original Developer hereby represents and warrants to Morgan that: (i) The Associations were validly formed and are in existence under the laws of the State of Indiana; (ii) The Associations comply with all HUD or other federal and state guidelines and requirements; (iii) The Original Developer has paid to the Associations any dues or assessments with respect to any Developed Lot for the current calendar year; (iv) The Associations do not have any operating deficits; (v) the Associations are not a party to any contract or agreement, whether written or oral, that cannot be terminated upon 30-days (or less) written notice; (vi) The Associations have no debt and are not subject to any claim, contingent or otherwise; (vii) The Associations are the fee simple owner (free and clear of all liens and encumbrances) of all common areas which were platted as such; and (viii) The Associations have been operated by the Original Developer in accordance with the applicable Articles of Incorporation and Code of By-Laws of such Association, and the applicable Declaration(s).

3. The Original Developer shall indemnify and hold Morgan harmless from and against all costs and damages (including attorneys' fees and court costs) (collectively, "Losses") incurred as a result of any breach of any representation or warranty by the Original Developer. In addition, the Original Developer shall indemnify and hold Morgan harmless from and against all Losses arising from or relating to the Original Developer's negligent acts or omissions in connection with development of the subdivision of which the Real Estate is a part, the construction of any improvements therein (including but not limited to single family residences constructed by the Original Developer or any affiliate thereof), and otherwise in connection with the sale of any lot or residence prior to the date of this Designation and within the subdivision of which the Real Estate is a part. All representations, warranties and indemnities set forth in this Designation shall survive the execution of this Designation.

IN WITNESS WHEREOF, the undersigned has caused this Designation to be executed as of the date written above.

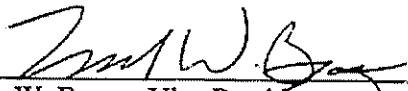
FIVE POINTS DEVELOPMENT COMPANY, LLC  
an Indiana limited liability company

By:   
Printed: Thomas A Grant  
Title: Member

**Acknowledgement and Consent:**

The undersigned hereby acknowledges and consents to the designation of C.P. Morgan Communities, L.P., an Indiana limited partnership, as Declarant under the Declaration, First Amendment, Second Supplement and Third Supplement referenced above.

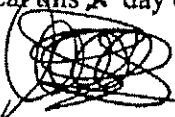
C.P. MORGAN COMMUNITES, L.P.  
By: C.P. Morgan Co., Inc., General Partner

By:   
Mark W. Boyce, Vice President

STATE OF INDIANA     )  
  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared THOMAS A GRANT, MEMBER of Five Points Road Development Company, LLC, an Indiana limited liability company, who, having been duly sworn, executed the foregoing Designation of Successor Declarant for and on behalf of said entity, and stated that the representations contained therein are true.

Witness my hand and Notarial Seal this <sup>21<sup>st</sup></sup> day of <sup>DEC</sup> ~~January~~, <sup>2005</sup> ~~2006~~.

(  ) Notary Public

My Commission Expires:

My County of Residence is:

\_\_\_\_\_



WILLIAM B. OLSEN  
My Comm. Exp : 06-30-08  
Res. of Hamilton Co.

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared Mark W. Boyce, the Vice President of C.P. Morgan Investment Co., Inc., the general partner of C.P. Morgan Communities, L.P., an Indiana limited partnership, who, having been duly sworn, executed the foregoing Designation of Successor Declarant for and on behalf of said partnership and stated that the representations contained therein are true.

Witness my hand and Notarial Seal this <sup>29<sup>th</sup></sup> day of <sup>Dec</sup> ~~January~~, <sup>2005</sup> 2006.

(  )

) Notary Public

My Commission Expires:

My County of Residence is:

\_\_\_\_\_

\_\_\_\_\_



WILLIAM B. OLSEN  
My Comm. Exp: 06-30-08  
Res. of Hamilton Co.

This Instrument prepared by John J. Moore, Attorney-at-Law., Stark Doninger & Smith, Suite 700, 50 South Meridian Street, Indianapolis, Indiana 46204.

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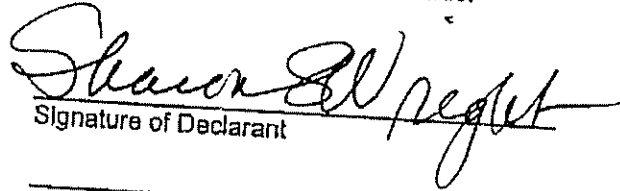
Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.

  
Signature of Declarant

\_\_\_\_\_  
Printed Name of Declarant

SHARON S WRIGHT