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HOWARD COUNTY RECORDER

2002 MAR 20 A 9:44

MARILYN J. SHIRLEY

**FIRST AMENDMENT TO
DECLARATIONS OF EASEMENTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR LOTS 2 THROUGH 7 PERKINS PLACE**

THIS FIRST AMENDMENT TO THE DECLARATION, made on the date hereinafter set forth by John M. Cardwell, III and Armstrong Properties, LLC (hereinafter called "Declarant"), of Howard County, Indiana, having its principal office at 4400 West Columbus Boulevard, Kokomo, Indiana 46901, amends the Declarations Of Easements, Covenants, Conditions, And Restrictions for Lots 2 Through 7 Perkins Place, recorded as Instrument Number 0234001951, recorded in the office of the Howard County Recorder at 11:38 a.m. on January 23, 2002.

ARTICLE V, Section 5.1, shall be amended so that the second sentence therein shall hereinafter read as follows: Such exterior maintenance shall not include replacement or repair of glass surfaces, screens, window fixtures, other hardware and patios located on each Tract, which shall be the sole responsibility and expense of Owner.

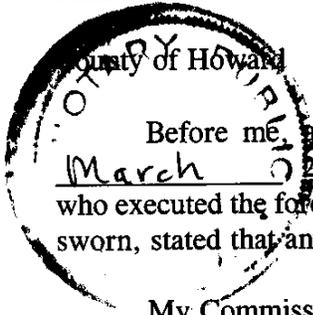
Each and all provisions of the Declarations as previously stated are hereby confirmed, ratified, and remain in effect without modification or amendment.

ARMSTRONG PROPERTIES, LLC

By: [Signature]
Robin G. Armstrong, Member

[Signature]
John M. Cardwell, III

State of Indiana)
) SS:
County of Howard)



Before me, a Notary Public, in and for said State and County, this 19th day of March 2002, personally appeared Robin G. Armstrong and John M. Cardwell, III, who executed the foregoing instrument as their voluntary act and deed and who, having been duly sworn, stated that any representations therein contained are true.

My Commission Expires:
2/16/2009

[Signature]
Thomas J. Trauring, Notary Public, Resident
of Howard County, Indiana

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MARILYN J. SHIRLEY

**DECLARATIONS OF EASEMENTS,
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR LOTS 2 THROUGH 7 PERKINS PLACE**

THIS DECLARATION, made on the date hereinafter set forth by John M. Cardwell, III and Armstrong Properties, LLC (hereinafter called "Declarant"), of Howard County, Indiana, having its principal office at 4400 West Columbus Boulevard, Kokomo, Indiana 46901.

WITNESSETH:

WHEREAS, Declarant is the owner/developer of Lots 2 through 7 in Perkins Place, a subdivision located in the City of Kokomo, Howard County, Indiana, which is more particularly described on Exhibit "A" attached hereto and made a part hereof. The real estate described on Exhibit "A" is hereinafter called "Properties;" and

WHEREAS, the Declarant intends to develop the Properties into "Tracts" that are to be used for residential purposes and will contain maintenance easements to, on, and across the Properties that will be owned by a Homeowner's Association to which the owner of a dwelling in the Properties must belong and pay lien supported maintenance assessments; and

WHEREAS, prior to the conveyance of any portion of the first Tract to an owner, the Declarant intends to convey certain maintenance easements, described in Article II, herein, to, on, and across the Properties, to the Association for the use and enjoyment of the Association for the benefit of the Owners (subject to the terms of this Declaration), and which easements are intended to enable the Association to carry out its obligations under this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the real estate described on Exhibit "A" shall be held, sold, and conveyed subject to the following maintenance easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real estate and be binding on all parties having any right, title or interest in the described Properties, or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
Definitions

Section 1.1 "Declarant" shall mean and refer to Armstrong Properties, LLC and John M. Cardwell, III, the executors, administrators, successors, and assigns of each, and shall inure to the benefit of each owner thereof.

Section 1.2 "Association", "Homeowner's Association" or "Corporation" shall mean and refer to Perkins Place Association, Inc., its successors and assigns.

Section 1.3 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Tract which is a part of the Properties, including a contract purchaser, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.4 "Properties" shall mean and refer to Lots 2 through 7 in the real estate described on Exhibit "A", also known as Perkins Place, and appurtenant easements, dwellings, other improvements on, and all property of every kind and nature, whatsoever, real, personal or mixed, located on said real estate and used in conjunction with the operation, use and enjoyment of Lots 2 through 7 in Perkins Place.

Section 1.5 "Tract" shall mean and refer to the division of a Lot upon the property into parcels of ground upon which a Dwelling Unit has been constructed as designated on Lots 2 through 7 the recorded plat of Perkins Place. The Declarant has planned a minimum of eight (8) Tracts on the Properties with one (1) or two (2) or more Tracts on each Lot.

Section 1.6 "Dwelling" or "Dwelling Unit" shall mean and refer to a single family residence erected on a Tract and shall be used by Owner or a contract purchaser, and his or her immediate family. A Dwelling may share a party wall with another Dwelling on an adjacent Tract.

Section 1.7 "Maintenance Easement" shall mean the easements owned by the Association to be used for the benefit of the Owners to enable the Association to carry out its obligations under this Declaration, which easement is more particularly described in Article II, herein.

Section 1.8 "Articles of Incorporation" means the Articles of Incorporation of the Association. The Articles of Incorporation are incorporated herein by reference.

Section 1.9 "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the By-Laws of the Corporation.

Section 1.10 "By-Laws" shall mean the By-Laws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation. A copy of the By-Laws are incorporated herein by reference.

Section 1.11 "Member" means a member of the Corporation.

Section 1.12 "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Tract.

Section 1.13 "Plat" means a survey of the Properties prepared by Wyatt Johnson, P.E., L.S., ^{recorded} under date of October 30, 2001, and recorded in Plat Book _____, Page _____, ^{Instrument} number 0134019916, 2001, in the Office of the Recorder of Howard County, Indiana.

ARTICLE II Property Rights

Section 2.1 *Association Easements of Use.* The Association shall have all rights in and to the Maintenance Easement which shall be a covenant running with the land and to the Association. The title to every Tract shall be subject to the Maintenance Easement. The Association shall have, among other rights granted it under this Declaration, the right to:

- (a) Use the Maintenance Easement for the benefit of the Owner; and
- (b) Suspend the voting rights of an Owner for any period during which any assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.

Section 2.2 *Property Subject to Declaration.* The Properties which are, and shall be, held, conveyed, hypothecated, or encumbered, sold, leased, rented, used, occupied, and improved subject to this Declaration are located in Howard County, Indiana, and are more particularly described as Lots 2 through 7 on Exhibit "A" attached hereto and by this reference made a part hereof.

Section 2.3 *Title to Maintenance Easements.* The Declarant shall convey the Maintenance Easements to the Association, at or before the time of the first conveyance of a Tract; such conveyance to be subject to taxes for the year of conveyance, and to restrictions, conditions, limitations and easements of record.

Section 2.4 *Easements for Utilities, Public and Quasi Public and Additional Purposes.* All suppliers of utilities serving the Properties are herein granted the right to install, lay, construct, operate, maintain, renew, repair, or replace conduits, cables, pipes and/or wires or other equipment into, over, under, along, and on any portion of the Properties for the purpose of providing utility services together with the reasonable right of ingress and egress for said purposes; provided, however, the location of such easements shall be subject to the approval of the Board of Directors of the Association. The Declarant, Board of Directors of the Association, or the Association grants unto itself and may hereafter grant unto others additional easements for utility purposes and for other purposes including such easements as the Declarant may, from time to time, request and each Owner hereby grants the Declarant, Board of Directors of the Association, or Association an irrevocable power of attorney to execute, acknowledge, and record

for and in the name of such Owner, such instruments as may be necessary to effect the foregoing. Easements are also hereby declared and granted to install, lay, operate, maintain, repair, and replace any pipes, wires, ducts, flues, shafts, conduits, public utility lines, or components of the communication systems.

All public and quasi public vehicles, including, but not limited to, police, fire, and other emergency vehicles, trash and garbage collection, post office vehicles, and privately owned delivery vehicles shall have the right to enter upon each Tract in performance of their duties.

The easements granted herein shall in no way affect any other recorded easement on the Property.

ARTICLE III Membership and Voting Rights

Section 3.1 Every Owner of a Tract (which is subject to assessment, as defined in Article IV, Section 4.1) shall be a Member of the Association.

Section 3.2 The Association shall have two (2) classes of Membership, described as follows:

(a) Class A. Every person, group of persons, or entity, excluding the Declarant, who is a record Owner of a fee interest in any Tract which is or becomes subject, by covenants or record, to assessment by the Association, shall automatically be a Class A Member of the Association; provided, however, that any such person, group of persons, or entity who holds such interest solely as a security for the performance of an obligation shall not be a Member until and unless he shall become an Owner through completed foreclosure of his security and the acquisition of title. Membership shall be appurtenant to and may not be separated from ownership of any Tract which is subject to assessment. Members shall be entitled to one (1) vote for each Tract in which they hold the interest required for membership. In the event that more than one person, group or persons, or entity is the record owner of a fee interest in any Tract, then the vote for the membership appurtenant to such Tract shall be exercised as they among themselves determine; but in no event shall more than one (1) vote be cast with respect to any Tract.

(b) Class B. The Class B Member shall be Declarant and those designated in writing by Declarant. Declarant shall be entitled to ten (10) votes for each Tract owned. The Class B Membership shall cease and terminate upon the first to occur of (1) the date upon which the written resignation of the Class B Member as such is delivered to the Resident Agent of the Corporation; provided, however, if Declarant, at such time, still owns a Tract, such membership shall be

converted to a Class A Membership; (2) the date Declarant no longer owns any Tract; or (3) December 31, 2010 (the applicable date of the above being herein referred to as the "Applicable Date").

ARTICLE IV

Covenant for Annual and Special Assessments

Section 4.1 *Creation of the Lien and Personal Obligation of Assessments.* The Owner of any Tract 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: (1) Annual assessments or charges, including assessments to establish and maintain a replacement reserve fund, as provided for by the Board of Directors of the Association; and (2) special assessments for capital improvements, such assessment to be established and collected as hereinafter provided. The annual, reserve, and special 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 Property against which each such assessment is made. 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 such property at the time when the assessment fell due, and the personal obligation for delinquent assessments shall pass to his successors in title. Where the Owner is more than one (1) person or entity, the liability therefor shall be joint and several.

Section 4.2 *Purpose of Assessments.* The assessments levied by the Association on a Tract shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for such improvements and maintenance on the Properties, as required under Article V of this Declaration.

Section 4.3 *Date of Commencement of Annual Assessments; Due Dates.* The annual assessments for a Tract owned by a Member shall commence on the first day of the month following the initial conveyance of a Tract to a Member by Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment for Members against each Tract at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment for Members shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer indicating the assessments on a specified Tract have been paid. A properly executed certificate of the Association as to the status or assessment on a Tract is binding upon the Association on the date of its issuance.

Section 4.4 *Uniform Rates of Assessment.* Both annual and special assessments for Members shall be levied on each Tract on an equal basis. As a convenience to the Association, assessments may be collected on a monthly or other convenient basis.

Section 4.5 *Special Assessments for Capital Improvements.* In addition to the annual assessments authorized above, the association may levy, in any assessment year, a special assessment applicable that year only for the purpose of defraying, in whole or in part, the cost of the initial constructions of a capital improvement, any construction, reconstruction, repair or replacement of a capital improvement upon the Tracts, including fixtures, landscaping, and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4.6 *Notice and Quorum for any Action Authorized Under Section 4.5.* Written notice of any meeting called for the purpose of taking any action authorized under Section 4.5 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 all the votes of the Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.7 *Effect of Non-payment of Assessments; Remedies of the Association.* Any assessment for a Member not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Tract. No Owner may waive or otherwise escape liability for the assessments provide for herein by non-use of the Common Area or abandonment of his Tract. The personal obligation for delinquent assessments shall pass to his successors in title.

Section 4.8 *Subordination of the Lien to Mortgages.* The lien of the assessments provided for in this Article shall be subordinate to the lien of any first mortgage. Sale or transfer of any Tract shall not affect the assessment lien. However, the sale or transfer of any Tract pursuant to mortgage foreclosure of any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Tract from liability for any assessments thereafter to become due or from the lien thereof.

ARTICLE V Maintenance and Other Expense

Section 5.1 *Exterior Maintenance.* The Association shall provide maintenance to the exterior of the Dwelling Unit and improvements as originally constructed and existing on the date of this Declaration and upon the grounds located upon each Tract which is subject to assessment hereunder as follows: Paint, repair, replacement and care of the roofs, gutters, fences, downspouts, exterior building surfaces, trees, shrubs, grass, walks, driveways, and other exterior

improvements located on the Tracts; provided, however, the Association shall have the discretion to determine the priority and necessity for such exterior maintenance. Such exterior maintenance shall not include replacement or repair of glass surfaces, screens, window fixtures, other hardware and patios, and snow removal on walks and driveways located on each Tract, which shall be the sole responsibility and expense of Owner. In the event the need for maintenance or repair of the Common Area Tract or the improvements thereon is caused through the willful or negligent act of the Owner, his family, guests or invitees, such maintenance or repair shall be added to become a part of an assessment to which such Tract is subject.

Section 5.2 *Maintenance by Dwelling Owner.* Except as otherwise provided in Section 5.1, above, each Dwelling Owner shall furnish and be responsible for, at his own expense:

(a) All maintenance, repairs and replacements within his own Dwelling, including the doors, glass surfaces, screens, window fixtures and patios, and all installations such as refrigerators, ranges, and/or kitchen appliances, lighting fixtures and other electrical fixtures, plumbing fixtures or installations, and any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling, and ventilating systems or equipment situated within or servicing the dwelling only, commencing at a point where such installations enter the exterior walls of the Dwelling Unit, walls constituting party walls or interior walls. Maintenance, repairs and replacements as may be required for the bringing of water, gas and electricity to the exterior walls of the Dwelling, shall be furnished by the Association as part of the common expenses. Each Owner shall promptly perform all maintenance and repair in his Dwelling which, if neglected, might adversely affect any other Dwelling or the value of the property.

(b) All of the decorating within an Owner's Dwelling as may be required, from time to time, including, but not limited to, painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting, and other furnishings and decorating.

Section 5.3 *Real Estate Taxes.* Real estate taxes are to be separately assessed and taxed to each Tract.

Section 5.4 *Utilities.* Each Owner shall pay for his or her own Dwelling Unit utilities which are separately metered.

Section 5.5 *Casualty and Restoration.* In the event of damage or destruction of any Dwelling by fire or other casualty, the Owner thereof shall cause such Dwelling Unit to be promptly repaired and restored. The proceeds of insurance carried for the benefit of the Association, Owner, and Owner's Mortgagee for such purpose shall be applied to the cost of such restoration. In the event insurance proceeds are inadequate to cover the costs of reconstruction or in the event there are no proceeds, the Owner or Owners of the Dwelling Units directly affected

by the damage shall pay the cost for restoring the Dwelling Unit. A Dwelling Unit shall be deemed directly affected if and only if a part of such Dwelling Unit, including, but not limited to, any party shall of such Dwelling Unit, is damaged or destroyed. If any Owner fails or refuses to reconstruct his Dwelling when required, the Corporation may pursue whatever legal means are available to cause such restoration, including, but not limited to, the Corporation completing the restoration and paying the cost thereof, with the cost attributable to the Owner or Owners who refuse or fail to make the restoration when required becoming a lien on such defaulting Owner's Tract and subject to foreclosure in the same manner as provided for a lien for common expense.

The restoration referred to in this Section 5.5 shall mean construction or rebuilding of the Dwelling Units in the same condition as they existed immediately prior to the destruction or damage and with the same type of architecture. Notwithstanding any other provisions in this Declaration, all Dwellings which are destroyed or damaged shall be restored pursuant to the provisions of this paragraph, unless a majority vote of the Members of the Association decide that such restoration is not necessary, and all improvements in the Common Area which are damaged or destroyed shall be restored by the Association unless two-thirds (2/3) of the Members of the Association and two-thirds (2/3) of all first Mortgagees decide not to make such restoration or to make such restoration in a different manner.

In the event the Association has insurance proceeds which are to be used for the benefit of the Owners, no distribution of such insurance proceeds shall be made by the Board of Directors directly to an Owner where there is a Mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittance shall be to the Owner and his Mortgagee jointly.

ARTICLE VI Party Walls

Section 6.1 *General Rules of Law to Apply.* Each wall which is built as a part of the original construction of Dwelling Units upon the Properties and placed on the dividing line between the Lots shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law of the State of Indiana regarding party walls and liability for property damage due to negligence of willful acts or omissions shall apply thereto and each Tract is subject to all rights in the party wall of the owner of the adjoining property.

Section 6.2 *Sharing of Repair and Maintenance.* Owners are prohibited from adding to, or detracting from, the party wall in any manner whatsoever; if it shall become necessary to repair or replace the party wall from any cause, other than the negligence of either Owner, the expense shall be borne by the Owners of the adjacent Dwelling Units in equal proportions, and whenever the party wall, or any portion thereof, shall be rebuilt, it shall be erected in the same place where it stood and be of the same size as when originally erected. If either Owner's fault shall cause damage to, or destruction of, the party wall, the owner at fault shall bear the cost of repair or reconstruction.

Section 6.3 *Weatherproofing.* Notwithstanding any other provisions of this Article, an Owner 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 6.4 *Right to Contribute Runs With Land.* The right of any Owner to a contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6.5 *Arbitration.* In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be a majority of all the arbitrators.

ARTICLE VII Mortgagee's Rights

Section 7.1 *Notice of Rights of Mortgage of a Tract.* Any Owner who places a first mortgage lien upon his Lot or the Mortgagee shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws, or otherwise, shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise. Upon written request by a Mortgagee to the Association, a Mortgagee of a Tract shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of the Tract of any obligation of the Owner under the Declaration, the By-Laws of the Association, or the Articles of Incorporation of the Association. The request for notification can be made by any Mortgagee of a Tract, its successors or assigns. The notification shall be sent not later than the 65th day after the occurrence of an uncured default.

Section 7.2 *Rights of Mortgagee.* Unless at least eighty percent (80%) of the first Mortgagees (based upon one vote for each first mortgage owned) have given their prior written approval, the Association shall not:

- (a) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Tract or Owner.
- (b) By act or omission change, waive, or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or exterior appearance of the Tracts, the exterior maintenance of the Lots, the maintenance of

the party walls or common fences, driveways, or the upkeep of laws and plantings in the Properties.

(c) Fail to maintain fire and extended coverage insurance on insurable common property on current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

(d) Use hazard insurance proceeds for losses to any property for other than repair, replacement, or reconstruction of such improvements.

Section 7.3 *Right to Examine Books and Records.* Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

ARTICLE VIII Harmony and Environmental Controls

Section 8.1 *Architectural Control Committee.* Except for original construction or as otherwise provided herein, no building, fence, sidewalk, drive, walk, other structure, vegetation, or landscaping shall be erected, placed, altered, maintained, or planted upon the Properties, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives, and parking areas), general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee composed of not less than three (3) Members appointed by said Board of Directors. Refusal of approval of plans, location or specifications by said Board of Directors or architectural control committee may be based upon any ground, including, without limitation, lack of harmony of external design, color, location, or relation to surrounding structures and topography, and purely aesthetic considerations which, in the sole and uncontrolled discretion of said Board of Directors or architectural control committee, shall be deemed sufficient. No alterations may be made in such plans after approval by the Board of Directors or architectural control committee is given except by and with their prior written consent. One copy of all plans, specifications, and related data shall be furnished for the Board of Directors or architectural control committee for its records. In the event the Board of Directors or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 8.2 *Fences.* Except for original construction, no fence, hedges, or wall shall be constructed upon the Properties without the prior written approval of the Board of Directors or architectural control committee.

Section 8.3 *Prohibited Uses and Nuisances.* The following covenants and restrictions on the use and enjoyment of the Tracts and Properties are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, by the Association, its successors and assigns, Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation:

(a) No noxious or offensive trade or activity shall be carried on upon any Tract or within any Dwelling situated upon a Tract. Nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of the Tracts.

(b) The maintenance, keeping, boarding, and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Tract or within any Dwelling situated upon the Properties, except that this shall not prohibit the keeping of dogs, cats, and/or caged birds as domestic pets, provided they are not kept, bred or maintained for commercial purposes and they are kept indoors, unless accompanied at all times outdoors by a Member or a member of his or her immediate family.

(c) No burning of any trash and no accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on any Tract, except during initial construction of a Dwelling Unit unless specifically authorized by the Board of Directors of the homeowner's association.

(d) Except as otherwise provided, no junk vehicles, commercial vehicle, trailer, truck, camper, snow vehicle, camper truck, house trailer, boat, or the like shall be kept upon the Properties, nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon.

(e) Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection.

(f) No trees or shrubs shall be removed from any portion of the Properties without written approval of the Association acting through its Board of Directors or duly appointed committee.

(g) Except as may be approved in writing by the Board of Directors or their designated committee, no structure of a temporary character, trailer, tent,

shack, barn or other outbuilding shall be used on any portion of the Property at any time.

(h) Except for entrance signs, directional signs, community "theme" signs and the like, no signs of any character, including yard signs, shall be erected, posted or displayed upon, in, or about any Tract situated upon the Properties; provided, however, if specifically permitted by a written regulation adopted by the Board of Directors.

(i) No structure, planting, or other material, other than driveways or sidewalks, shall be placed or permitted to remain upon any portion of the Properties which may damage or interfere with any easement for the installation or maintenance of utilities or which may change, obstruct, or retard direction or flow of any drainage channels.

(j) Garage doors and the doors of any other storage room or the like shall be maintained in a closed position whenever possible.

(k) Except for a dish not exceeding twenty-four (24) inches in diameter, no outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission shall be maintained upon any Tract without the prior written consent of the Board of Directors.

(l) No awnings, shutters, attachments or add-ons may be attached to any Dwelling Unit unless approved in advance by the Board of Directors.

(m) There shall be no violation of any rules which may from time to time be adopted by the Board of Directors or promulgated among the membership by them in writing, and the Board of Directors is hereby, and elsewhere in the By-Laws, authorized to adopt such rules.

(n) No construction, other than original construction, on the Tract shall be permitted, except by approval of the Board of Directors.

(o) In addition to the foregoing restrictions, all restrictions of the Plat as to the use of the Properties are incorporated by reference herein as restrictions of this Declaration.

Section 8.4 *Right of Association to Remove or Correct Violations of This Article.* The Association may, in the interest of the general welfare of all the Owners of the Tracts, and after reasonable notice to the Owner, enter upon any Tract or the exterior of any Dwelling at reasonable hours on any day for the purpose of removing or correcting any violations or beach of any attempted violation of any of the covenants and restrictions contained in this Article, or for the

purpose of abating anything herein defined as a prohibited use or nuisance; provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board.

Section 8.5 *Perpetual Easement for Encroachments.* If any Tract or any improvements of whatever type shall, for any reason, encroach upon any other Tract or upon any portion of the Common Easement as a result of the construction of the building or improvements, or as a result of settling or shifting of the building or improvements, or for any other reason, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction, and a valid, perpetual easement for the encroachment and for its maintenance is retained by the Declarant for its benefit and for the benefit of the Association and any Owner of a Tract whose Tract is affected thereby and shall exist perpetually.

Section 8.6 *Lease of Dwelling by Owner.* For the purpose of maintaining the congenial and residential character of Perkins Place, and for the protection of the Owners with regard to financially responsible residents, lease of a Dwelling by an Owner, shall be allowed only subject to such rules and regulations as the Board of Directors may, from time to time, enact.

Section 8.7 *Right of Board of Directors to Adopt Rules and Regulations.* The Board of Directors may promulgate such additional rules and regulations regarding the operation of the Property, patios, and other areas not covered by the Dwelling Unit, as it may deem necessary from time to time. Such rules as are adopted may be amended by vote of a majority of the Board, and the Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.

ARTICLE IX Insurance

Section 9.1 *Owners' Requirements.* Each Owner shall be required to obtain, at such Owner's own expense, fire and extended coverage insurance insuring his or her individual Dwelling Unit in an amount equal to the full replacement cost thereof and furnish evidence of such insurance to the Board of Directors; provided, however, all Owners owning Dwelling Units in one or more buildings must obtain such insurance coverage from the same company. The Board of Directors shall determine the company or companies through which the insurance for the buildings shall be obtained, the concurrent policy form, and the minimum replacement cost to be utilized. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Owner's Mortgagee; provided, however, in the event of damage or destruction by fire or other casualty to any Dwelling Unit, the Owner and Mortgagee thereof shall use such insurance proceeds to cause the Dwelling Unit to be promptly repaired and restored. In the event for any reason an Owner does not obtain such insurance coverage, the Corporation may obtain insurance for such Owner and add the cost thereof to such Owner's assessment, to be collected in the same manner as the assessment.

In the alternative, if the Board of Directors shall elect, the Association may purchase for the benefit of all Owners, a master fire and extended coverage insurance policy in an amount equal to the full replacement cost of all Dwelling Units of Owners, naming the Association, each Owner, and, if applicable, the Owner's Mortgagee, as insureds thereunder as their respective interests may appear. The cost of such insurance shall be treated as a common expense of all Owners to be collected in the same manner as the assessment.

Each Owner shall have the right to purchase at his or her own expense any additional insurance he or she may deem necessary, and each Owner shall be solely responsible for homeowner's liability insurance and for the insurance on the contents of his or her Dwelling Unit and his or her personal property stored elsewhere on the Property.

ARTICLE X General Provisions

Section 10.1 Management Agreement. The Board of Directors has entered or will hereafter enter into a management agreement with Declarant (or a Corporation or other entity affiliated with Declarant) for a term not to exceed one (1) year with either party having the right to terminate upon ninety (90) days' notice under which Declarant (or such affiliate of Declarant as appropriate) will provide, and in general perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms.

Section 10.2 Severability. Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.3 Duration. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each.

Section 10.4 Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

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

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by a majority of the votes cast by the Members.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

(d) Adoption. Any proposed amendment to this Declaration must be approved by not less than seventy-five percent (75%) of the votes cast. In the event any Tract is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the Declaration.

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

(f) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in the Articles or in the By-Laws, Declarant shall have the right, acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees, or any other person, to amend or supplement this Declaration from time to time if (1) such amendment is necessary to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or any other public, or quasi-public or private entity, which performs (or may in the future perform) functions similar to those currently performed by such entity, (2) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Tracts and Dwelling Units, or (3) to bring this Declaration into compliance with any statutory requirements, or (4) to correct clerical or typographical errors in this Declaration or any exhibit hereto or any supplement or amendment thereto.

Section 10.5 Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Tracts shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act or occupancy of any Tract shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the

By-Laws, and rules and regulations, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Tract or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Tract or Tracts or any part of the Property in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

Section 10.6 *Costs and Attorneys' Fees.* In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Corporation shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

Section 10.7 *Waiver.* No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver or the use or enjoyment of, or by abandonment of, his Tract.

Section 10.8 *Pronouns.* Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa, as appropriate.

Section 10.9 *Interpretation.* The captions and titles of the various articles, sections, subsections, paragraphs, and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereto.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto set their hands and seals this 15th day of January, 2002.

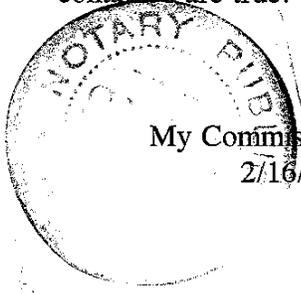
ARMSTRONG PROPERTIES, LLC

By: Robin G. Armstrong, Member
Robin G. Armstrong, Member

John M. Cardwell, III
John M. Cardwell, III

State of Indiana)
) SS:
County of Howard)

Before me, a Notary Public, in and for said State and County, personally appeared Robin G. Armstrong and John M. Cardwell, III, who executed the foregoing instrument as their voluntary act and deed and who, having been duly sworn, stated that any representations therein contained are true.



My Commission Expires:
2/16/2009

Thomas J. Trauring
Thomas J. Trauring, Notary Public, Resident
of Howard County, Indiana

EXHIBIT "A"

Lots 2, 3, 4, 5, 6 and 7 of Perkins Place Subdivision, City of Kokomo,
Howard County, Indiana.