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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
PHEASANT POINTE SUBDIVISION,
SECTION I**

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DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR PHEASANT POINTE
SUBDIVISION, SECTION I

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
PHEASANT POINTE SUBDIVISION, SECTION I ("Declaration"), made this Twenty-first
day of January, 1997, by HMM Incorporated (hereinafter referred to as "declarant"),

WITNESSETH THAT:

WHEREAS, Declarant HMM Incorporated is the owner of certain real estate located in
Johnson County, Indiana, more particularly described herein ("Real Estate"); and

WHEREAS, Declarant intends to sell and convey the residential facilities and Lots within
Pheasant Pointe Subdivision and desires to subject the Real Estate to certain covenants, conditions,
and restrictions ("Covenants") in order to ensure that the development and use of the various Lots
on the Real Estate are harmonious and do not adversely affect the value of surrounding Lots on the
Real Estate; and

WHEREAS, Declarant desires to provide for maintenance of the Drainage System and
Common Amenities in or Pheasant Pointe Subdivision, and to that end desires to establish certain
obligations on said Owners and a system of assessments and charges upon said Owners for certain
maintenance and other costs in connection with the operation of the Drainage System and Common
Amenities; and

WHEREAS, Declarant has or will incorporate under the laws of Indiana a non-profit
corporation known as Pheasant Pointe Owners' Association, Inc. to provide an agency for which may
be delegated and assigned the powers of owning, maintaining and administering the Drainage
System and Common Amenities, enforcing these Restrictions, collecting and disbursing the
Assessments and other charges hereinafter created, and promoting the health, safety and welfare of
the Owners of the Lots.

NOW, THEREFORE, Declarant hereby declares that all of the Real Estate as it is now held
and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and
improved, is subject to the following Covenants. All of the covenants shall run with the Real Estate
and shall be binding upon the Declarant and upon the parties having or acquiring any right, title, or
interest, legal or equitable, in and to the Real Estate or any part or parts thereof and shall inure to the
benefit of the Declarant and every one of the Declarant's successors in title to the Real Estate or any
part or parts thereof.

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ARTICLE I

GENERAL PURPOSE OF THIS DECLARATION

The Real Estate is hereby subjected to the Covenants, Conditions and Restrictions herein declared to preserve the value of the Real Estate, to ensure proper use and appropriate improvement of the Real Estate, herein to ensure and provide for adequate and proper maintenance of the Drainage System and Common Amenities in or serving Pheasant Pointe so as to meet the requirements of certain governmental agencies, all for the purpose of benefitting all Lots within Pheasant Pointe and to ensure the maintenance of the Drainage System and Common Amenities as well as to encourage the construction of attractive structures and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may be inharmonious with other improvements on the Real Estate to preserve and maintain proper setbacks from streets and adequate free space between structures, to provide for adequate and proper maintenance of the Real Estate so as to ensure a high quality appearance and condition of the Real Estate and so as to meet the requirements of certain governmental agencies, all for the purpose of preserving the values of all Lots within Pheasant Pointe Subdivision, Section I and to ensure desired high standards of maintenance of the Real Estate, to the benefit of all owners with Pheasant Pointe Subdivision, Section 1.

ARTICLE II

DEFINITIONS FOR ALL PURPOSES OF THIS DECLARATION

The following terms, whenever used in this Declaration, shall have the meanings assigned to them by this Article 2:

SECTION 1. ARCHITECTURAL CONTROL COMMITTEE.

The Architectural Control Committee, or "ACC", means the Architectural Control Committee for Pheasant Pointe to be appointed in accordance with this Declaration.

SECTION 2. ASSESSMENT.

"Assessment" means the share of the Maintenance Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of this Declaration.

SECTION 3. ASSOCIATION.

"Association" means Pheasant Pointe Owners' Association, Inc., a non-profit Indiana Corporation, formed or to be formed for the purpose of determining and collecting the Assessments and overseeing and enforcing the terms of this Declaration.

SECTION 4. BOARD OF DIRECTORS.

"Board of Directors" means the Board of Directors of the Association elected pursuant to the Articles and Bylaws of the Association.

SECTION 5. PHEASANT POINT.

The term "Pheasant Point" means all sections of the Real Estate as platted and recorded by Declarant in accordance with the provisions of this Declaration.

SECTION 6. DECLARANT.

"Declarant" means HMM Incorporated, an Indiana Corporation, or any other person, firm, corporation or partnership which succeeds to the interest of HMM Incorporated as developer of Pheasant Point

SECTION 7. COMMON AMENITIES.

"Common Amenities" shall mean any landscaping, decorative signage, lighting or other such common amenities provided by the Association within the Streets, Easements or Lakes Areas.

SECTION 8. COVENANTS.

"Covenants" means those covenants, conditions and restrictions affecting the Real Estate as established by Declarant in this Declaration.

SECTION 9. DRAINAGE SYSTEM.

"Drainage System" means the detention area, open ditches, swales storm sewers, subsurface drainage tiles, pipes and structures, and other structures, fixtures, properties, equipment and facilities or other such drainage improvements located in, upon, or under the Easements, Streets, or the Lake, and all appurtenances thereto relating to the purpose of controlling the drainage of surface and subsurface waters from, over, and across Pheasant Pointe.

SECTION 10. EASEMENTS.

"Easements" mean to those areas reserved as easements, on the Plat or Plats of Pheasant Pointe.

SECTION 11. LAKE.

"Lake" means the wet storm water retention ponds existing within the Lake Area.

SECTION 12. LAKE AREAS.

"Lake Area" means those areas reserved as Lake Area easements, on the Plat or Plats of Pheasant Pointe.

SECTION 13. LAKE LOT OWNERS.

"Lake Lot Owners" means the Owners of Lots numbered 4, 5, 31, 32, 33, 34, & 35 shown on the Plat or Plats of Pheasant Pointe Section One.

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SECTION 14. LOT.

"Lot" means any of the separate parcels numbered and identified on the Plat or Plats of Pheasant Pointe, as the same may be recorded from time to time.

SECTION 15. MAINTENANCE EXPENSE.

"Maintenance Expense" means the actual or estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of the Drainage System and Common Amenities and any other cost or expense incurred by the Association for the benefit and perpetuation of the Drainage System and Common Amenities.

SECTION 16. MORTGAGEE.

The term "Mortgagee" means any holder, insurer, or guarantor of any first mortgage on any Lot.

SECTION 17. OWNER.

"Owner" means any person or persons who acquire, after the date of this Declaration, legal and/or equitable title to any Lot; provided, however, that "Owner" shall not include any holder of any mortgage of all or any part of any Lot, so long as such holder does not hold both legal and equitable title thereto.

SECTION 18. PLAT

"Plat" means the final Plat or Plats of Pheasant Pointe as the same may be recorded from time to time in the Office of the Recorder of Johnson County, Indiana.

SECTION 19. STREETS.

"Streets" means all of the public and private roadways to the respective right-of-way lines thereof, as shown on the Plat or Plats of Pheasant Pointe, as the same may be recorded from time to time, which have been or hereafter are constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots.

ARTICLE III.

GENERAL RESTRICTIONS

SECTION 1. FIELD TILE.

Any field tile or underground drainage which is encountered in construction or any improvement within this subdivision shall be perpetuated, and all owners of Lots in this subdivision and their successors shall comply with the Indiana Drainage Code of 1965.

SECTION 2. DRAINAGE SWALES.

Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written permission of the Johnson County. Property owners must maintain these swales as sodded grass ways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by Johnson County.

SECTION 3. MAINTAINING DRAINAGE SWALES.

Any property owner who alters, changes, damages or fails to maintain these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice by certified mail to repair said damage, after which time if no action is taken, the Pheasant Pointe Home Owner's Association, Inc. will cause said repairs to be accomplished and the bill for said repairs will be sent to the affected property owner for immediate payment. Failure to pay will result in a lien against the property. Each property owner shall maintain the storm drainage system for this subdivision. Said maintenance shall include but shall not be limited to, the maintenance of all inlet pipes, open ditches, pipes and swales. The costs and expenses of such maintenance shall be assessed against the property owner of the lot upon which said maintenance or repair is made and shall be secured by a lien against said lot. Sump pumps, gravity drains and other drains serving individual residences on lots shall outfall only into drainage swales or storm structures included in the storm drainage system for the subdivision.

SECTION 4. DRAINAGE AND UTILITY EASEMENT.

Areas designated as utility easements on this plat are dedicated as easements for the installation and maintenance of public utilities reasonably and conveniently required. Such utilities include but are not limited to lines, ducts, gas or water mains or sewer mains and laterals, electric lines, telephone lines and cable television lines, not including transportation and transmission company lines. No structures shall be erected on or maintained within such areas. Maintenance of the easement area is the responsibility of the property owner where said easement is located.

SECTION 5. MAINTENANCE OF PREMISES.

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 Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All property owners will maintain their lots and any improvements situated thereon in such a manner as to prevent the Lot or improvements from being unsightly and in good condition to the curb line of the street.

Owner shall:

- A.) Maintenance and upkeep is the sole responsibility of the individual Lot owner of any street lighting, mailboxes, erosion control during and after construction and landscaping situated on each Lot.
- B.) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds. Grass allowed to grow to a height in excess of six inches (6") shall be deemed unsightly.

- C.) Cut down and remove dead trees.
- D.) Keep the exterior of all improvements in such state of repair or maintenance so as to avoid their becoming unsightly.
- E.) Prevent the existence of any other condition that reasonably tends to detract from or diminish the appearance of the Lot and/or Pheasant Pointe.

In the event that a property owner fails to maintain their property in a manner that detracts from the community, the Architectural Control Committee or Association can maintain the property at an expense to the owner. If the owner does not pay the expense incurred by the Architectural Control Committee or similar community organization, a lien may be placed upon the property.

SECTION 6. RESIDENTIAL PURPOSE.

No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any Lot other than a dwelling not to exceed two (2) stories in height. A dwelling shall have an attached garage of a size to accommodate at least two (2) cars.

SECTION 7. BUILDING MATERIALS.

The Owner will construct such residences of high quality wood, masonry, Dry-Vit, (or similar stucco type product), and roofing materials, (interior and exterior) consistent with the standards of the developer and will submit, upon request, samples of such material to the Architectural Control Committee for approval prior to the issuance of an improvement location permit.

SECTION 8. EXTERIOR.

The exterior facade of dwellings placed on Lots in this subdivision shall be comprised of seventy-five percent (75%) masonry, Dry-Vit, (or similar stucco type product). Only comparable wood or horizontal vinyl will be permitted in conjunction with masonry for the exterior facade of any building. No roof shall be less than a 6/12 pitch.

SECTION 9. INOPERATIVE, OR UNLICENCED VEHICLES.

At no time shall any unlicensed or inoperative vehicle be permitted on any Lot, street or easement unless kept entirely within an attached garage.

SECTION 10. TRUCKS, BOATS, RECREATIONAL VEHICLES.

No semi-truck, trailer, mobile home, or recreational vehicle, or any similar equipment shall be permitted on any Lot, Common Area, street or easement or be kept or stored including within an attached garage. Boats and or boat trailers are permitted but must be completely contained entirely within an attached garage.

SECTION 11. NUISANCES.

No noxious, obnoxious or offensive activity shall be carried on upon any Lot, common area, street or easement nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. This prohibition includes but is not limited to prohibit extremely loud music or activities.

SECTION 12. OUTDOOR STORAGE.

No large machinery, equipment, semi-truck, trailer, mobile home, or recreational vehicle of any kind shall be permitted to be kept or stored on any lot including within an attached garage. Boats and or boat trailers are permitted but must be completely contained entirely within an attached garage.

SECTION 13. SIGNS.

No sign of any kind shall be displayed to the public view on any lot, except one (1) professionally manufactured sign of not more than five square feet advertising the property for sale or rent.

SECTION 14. MINING OPERATION.

No oil drilling, oil development operation, oil refining quarrying, or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

SECTION 15. ANIMALS.

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not bred, kept or maintained for any commercial use and are housed within the Dwelling. Further, any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property subject to these restrictions upon three (3) days written notice signed by at least 25% of the property owners.

SECTION 16. RUBBISH.

Rubbish, trash, garbage or any other waste shall not be allowed to be compiled, accumulated or clumped on any Lot. Garbage and trash shall be kept in appropriate containers which are not visible from the street, except on collection day.

SECTION 17. CORNER LOT.

No fence, wall, hedge, tree or shrub planting or other similar item which obstructs sight lines at elevation between two and one-half (2 1/2) and twelve (12) feet above the street, shall be permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 35 feet from the intersection of said street lines (35 feet for minor streets and 50 feet for arterial streets), or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.

The same sight line limitations shall apply to any Lot within 10 feet from the intersection of a street right-of-way line with the edge of a driveway pavement or alley line. No driveway shall be located within 35 feet of the intersection of two street center lines or within 70 feet for corner lots.

SECTION 18. MINIMUM LIVING SPACE.

The minimum footage of living space of dwellings within this subdivision, Section 1, exclusive of porches, garages or basements shall be no less than:

- (a) a minimum 1,600 square feet for single story dwelling; and
(b) a minimum 1,000 square feet for the ground floor of two-story dwelling with a minimum of 2,000 total square feet on a two-story.

SECTION 19. OUTBUILDINGS.

No outbuildings of any kind, detached garages, sheds, shacks or tents shall be maintained on any Lot. No structure of temporary character, trailer, tenant, storage tanks, or shacks shall be maintained on any Lot, nor shall any garage or other building except a permanent residence, be used on any Lot at any time as a residence or sleeping quarters for more than seventy-two (72) hours.

SECTION 20. DRIVEWAYS AND CARPORTS.

All driveways must be paved with concrete. No carports are permitted. No additional parking will be permitted on a lot other than in the existing driveway. Each residence will have a continuous concrete sidewalk from the driveway to the front entry porch. All garage doors in the development will be of Fiberglass, aluminum, steel or wood material.

SECTION 21. COMMUNICATION DEVICES.

Satellite dishes, free standing antennas, Hamm Radio antennas or any other such visible communication receiving or transmitting devices are prohibited, excepting antennas attached to the dwelling which do not rise above the peak of the roof. An RCA 18" disc or equivalent is permitted. This disc must be mounted on the dwelling. All power and telephone lines are to be underground.

SECTION 22. MAIL BOXES.

All mailboxes in this subdivision, Section I shall be uniform in appearance. The Mailboxes shall be provided by HMM Incorporated to the Lot Owner for installation. HMM Incorporated shall be reimbursed for the cost of the aforementioned fixtures. The style, type and location shall be determined by the Architectural Control Committee.

SECTION 23. LANDSCAPING.

Three (3) two-inch (2") caliper trees will be planted. One two-inch (2") caliper Green Ash shall be planted in the front yard (corner lots shall plant two, one on each street side) approximately centered between the street curb and the front edge of the sidewalk and centered on the front lot line if drive permits. This is done to effectively result in uniform tree lined streets. At least six (6) shrubs will be planted at the front of the house. The effect is to be visually pleasing and enhance the privacy between homes and reduce sound transmission from adjoining streets and within the development. A Landscaping Plan must be submitted to the Architectural Control Committee for approval. Refusal of approval of plans based on any reason, including purely aesthetic grounds, in the sole and absolute discretion of the Architectural Control Committee. Declarant shall not be responsible for any defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

SECTION 24. SIDEWALKS.

The Builder must construct a four-foot (4') concrete sidewalk on each lot as per the approved plan of Pheasant Pointe Subdivision, Section I parallel with the streets that adjoin the Lot. All sidewalks are to be set back Six (6') feet from the edge of the lot side of the concrete street curb.

SECTION 25. STREET SIDE LIGHTING.

Each dwelling shall have dusk to dawn yard pole lighting. The Street side lighting shall be provided by HMM Incorporated to the Lot Owner for Installation. HMM Incorporated shall be reimbursed for the cost of the aforementioned fixtures. All yard pole light shall be uniform in appearance. The style, type and location shall be determined by the Architectural Control Committee.

SECTION 26. REPAIRS.

All owners and their builder and/or contractors shall be responsible for and repair or restore any damage during construction whether or not inadvertent or unavoidable including but not limited to curbs, sidewalks, gutters, street, common areas, stone drainage area, utilities or other improvement.

SECTION 27. WELLS AND SEPTIC TANKS.

No water wells shall be drilled on any Lot. Septic tanks shall be prohibited.

SECTION 28. UTILITIES.

All lines, pipes and other materials necessary for electricity, telephone, gas, cable television, etc. shall be underground. Primary lines may be overhead only where required by the respective utility company. Any meters or utility connections to the residence shall not be permitted on the front or street side of the house. Where possible meters and connections should be located at the rear of the house.

SECTION 29. SWIMMING POOLS.

Above ground pools are prohibited. All in ground pools must have a fence, wall or barrier enclosing the pool with a gate that locks. The fence is subject to the approval of the sole and absolute discretion of the Architectural Control Committee. Declarant shall not be responsible for any defects in such plans or specifications or in any building or structure erected according to such plans and specifications. All approved pools must comply with local ordinances and regulations.

SECTION 30. CONSTRUCTION, EARTH-MOVING, EXCAVATION.

No construction, significant earth-moving, or excavation work of any nature may be conducted on any Lot not directly related to the erection of the primary residence. No construction shacks or outhouses shall be erected or situated on any lot herein. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be permitted to remain on any lot or used on any lot at any time as a residence, either temporarily or permanently. All job sites must remain neat and clean during construction. Each Lot Owner is responsible for erosion control and street cleaning associated improvements of their lot(s). No materials from the construction shall be buried in a lot and is the responsibility of the property owner and its builder to remove it from the premises. If the Developer or Architectural Control Committee is not satisfied with the appearance of a construction site, after ten (10) days notice thereof to the owner of the respective Lot, the Developer or Architectural Control Committee may cause the site to be cleaned and may assess such charges specifically against the owner thereof.

SECTION 31. FENCES, WALLS, BARRIERS.

All fences, walls, barriers or like structures must be approved in writing by the Architectural Control Committee or similar community organization prior to their construction. No such structures shall exceed six feet (6') in height. No such structure shall be placed closer to the front Lot line than the front building setback line. No fences of any kind will be allowed in certain areas of Pheasant Pointe Subdivision, Section I.

SECTION 32. PROSECUTION OF VIOLATIONS.

It shall be lawful for the, Architectural Control Committee, Developer, similar community organization or any other person owning any real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant, conditions, provisions, or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these and restrictions shall be the financial responsibility of the property owner or owners found to be in violation.

SECTION 33. COMPLETION OF CONSTRUCTION.

All construction commenced on any lot within the development shall be completed within one hundred eighty (180) days unless circumstances beyond the reasonable control of the builder and/or owner prevent completion. The undersigned and/or Architectural Control Committee shall have standing authority to seek an injunction or order for the removal of any materials and partially completed structures in violation of this covenant.

SECTION 34. SETBACKS.

No building shall be located on any lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the recorded Plat. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

SECTION 35. EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat

SECTION 36. CHILDCARE SERVICES.

No pre-school, babysitting business or such childcare services for more than six (6) children shall be allowed to operate upon any Lot.

ARTICLE IV

LAKE AREAS

SECTION 1. LAKE DRAINAGE EASEMENT.

The Association shall have a permanent easement over, across and under all Lake Areas for the purpose of improving, altering, maintaining, dredging, regrading, reconstructing and/or repairing the Lake Areas, and all facilities, improvements and appurtenances thereto, as may be necessary for the Lake Areas to properly function, serve and provide its intended storm water retention and related or drainage benefits to Pheasant Pointe, ("Drainage Easement").

SECTION 2. LAKE USE.

Recreational use of the Lake Areas shall be prohibited until residential structures have been built upon more than three-fourths ($\frac{3}{4}$ ths) of the Lots. Thereafter, the Association shall adopt, by no less than a two-thirds ($\frac{2}{3}$ rds) vote of all Lake Lot Owners, rules and regulations relating to the recreational, if any, use by the Lake Lot Owners. No use by the Owners or Lake Lot Owners may interfere with the Drainage System of which the Lake Areas are a part, and such uses are at all times subject to the Association's easement for the maintenance of the Drainage System as provided herein and on the Plat. "Lake Lot Owners" shall mean all Owners of Lots which are encumbered by Lake Area Easements.

SECTION 3. BOARD OF MANAGERS.

Upon the Declarant to relinquish control of the Association pursuant to this Declaration, the Lake Lot Owners shall form an association in which each Lake Lot Owner shall have one vote in the selection of a Board of Managers which shall consist of not less than three nor more than nine members. Thereafter, on the first Saturday in March of each calendar year, the voting Lake Lot Owners shall elect the Board of Managers for the ensuing year to a term commencing April 1st and expiring March 31st.

SECTION 4. RULES AND REGULATIONS.

The Lake Lot Owners shall specifically adopt rules and regulations relating to landscaping, tiering terracing, sea walls or other shoreline protection or decoration, docks, lighting and other such water and shoreline structures or facilities. No such structures or facilities shall be installed, placed or constructed without the prior approval of detailed plans submitted to the Board of Managers. The Board of Managers shall in no case approve any facilities or structures which in any way negatively affect the drainage functions of the lake or the Drainage Easement rights held by the Association.

SECTION 5. RECREATIONAL USE EASEMENT.

All Lake Lot Owners will take title subject to an easement in favor of the other Lake Lot Owners to utilize the Lakes in a manner consistent with all properly promulgated rules and regulations relating to recreational use. The rights of a Lake Lot Owners using the Lakes for a recreational use, pursuant to this easement right, shall be subordinate to the rights of the Lake Lot Owners upon whose Lot such using Lake Lot Owner is at any point in time physically located.

SECTION 6. NON-LIABILITY OF BOARD OF MANAGERS.

The Board of Managers shall not be held as an entity, collectively, individually or personally liable in the discharge of their official duties.

SECTION 7. NON-DISTURBANCE OF LAKE AREAS.

Lake Lot Owner or third party shall do or permit to be done any action or activity which could result in pollution of the Lake Area, diversion of water, change in elevation of lake level, earth disturbance resulting in silting, or any conduct which could result in an adverse affect upon drainage of the subdivision, proper Lake Area management, or water quality. Enforcement of Lake Area Rules. The Board of Managers, in behalf of all Lake Lot Owners, or any individual Lake Lot Owner, shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of, or violation of, any properly promulgated, rules and regulations or damage caused to the Lake Area, recreational or aesthetic improvements together with any damages incurred, and upon recovery of judgment shall be entitled to costs together with reasonable attorneys' fees.

ARTICLE V

**PHEASANT POINTE SECTION I ARCHITECTURAL
CONTROL COMMITTEE**

**SECTION 1. APPOINTMENT OF ARCHITECTURAL CONTROL
COMMITTEE.**

Declarant shall appoint an Architectural Control Committee to be composed of a minimum of three (3) members who shall serve at the discretion of the developer.

SECTION 2. CONSTRUCTION APPROVALS.

Only approved builders shall be permitted to construct dwellings during the development of Pheasant Pointe Section I. Builders are approved by the Architectural Control Committee. All approved builders or agents thereof do hereby agree to abide by the conents and the ruling of the Architectural Control Committee regarding construction and landscaping. No construction of any building or structure of any kind including additions, alterations, fences, screens and walls shall begin within Pheasant Pointe Subdivision, Section I until the plans and specifications, locations and plot plan thereof, in detail and to scale have been submitted to and approved by the Architectural Control Committee. The plans and specifications of and location of all construction shall be in compliance with all applicable regulatory codes, including but not including to those relating to building, plumbing, and electrical requirements and shall also comply to all zoning covenants and restrictions which are applicable to the Real Estate. Approval of plans is in the sole and absolute discretion of the Architectural Control Committee. Declarant shall not be responsible for any defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

The plans and specifications submitted to Architectural Control Committee shall contain a plot plan to scale with adequate provision for landscaping including the planting of trees and shrubs. The

determination of whether adequate provision has been made for landscaping shall be in the sole discretion of the Architectural Control Committee. The required landscaping and driveways shall be completed at the time of completion of the building or as soon as weather and season permit. Approval by the Architectural Control Committee in no way confers any liability upon the Architectural Control Committee and no person should rely upon said approval for any purpose other than said plans comply with the requirement that the plans be submitted for approval before the structure may be built.

SECTION 3. DUTIES OF COMMITTEE.

The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing and in the event that such notification is one of disapproval, it shall specify the reason or reasons.

SECTION 4. LIABILITY OF COMMITTEE.

Neither the Architectural Control Committee nor any agent thereof, nor Declarant, shall be responsible in any way for any defects in any plans specifications or other materials submitted to it, nor for any defects in any work done according thereto.

SECTION 5. INSPECTION.

The Committee or its agent may inspect work being performed to assure compliance with the approved plans and this Declaration; however, this provision does not require that said inspection be made.

SECTION 6. COVENANTS RUN WITH THE LAND.

The right to enforce these provisions by injunction, together with the right to cause the removal of any structure or part thereof, is hereby dedicated to the public and the Architectural Control Committee and reserved to the property owners of the several lots in this subdivision and to their heirs and assigns.

The foregoing covenants and restrictions are to run with the land and shall be binding on all parties and persons claiming them until January 1, 2020, at which time said covenants and restrictions shall be automatically extended for successive ten year periods unless a majority of the then current owners of the Lots vote to change such covenants and restrictions in whole or in part.

These restrictions and covenants are severable and if any covenant is deemed invalid by a court of competent jurisdiction said invalidation shall in no way affect the validity of the remaining covenants.

SECTION 7. AMENDMENTS.

The Developer, Architectural Control Committee or (similar community organization upon completion of Section I), reserves the right to amend, attach to, detract from, alter or change these amendments without notice in order to maintain the standards of the Pheasant Pointe Subdivision, Section 1.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

SECTION 1. PURPOSE OF THE ASSESSMENT.

The Assessments levied by the Association shall be used for the purpose of maintenance of the Drainage System and Common Amenities serving Pheasant Pointe, as the same may be platted from time to time, including, but not limited to, the payment of any necessary insurance thereon and for the cost of labor, equipment, material, and management furnished with respect to the Drainage System and Common Amenities provided that the Association shall not be responsible for the replacement, repair or maintenance of any part of the Drainage System and Common Amenities which is or hereafter may be dedicated to the public. Each Owner hereby covenants and agrees to pay to the Association:

SECTION 2. PRO-RATA ANNUAL.

A pro-rata share (as hereinafter defined) of the annual Assessments fixed, established, and determined from time to time as hereinafter provided.

SECTION 3. PRO-RATA SPECIAL.

A pro-rata share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

SECTION 4. LIABILITY OF ASSESSMENTS.

Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a Lien from and after the due date thereof in favor of the Association upon each Lot. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No such sale or transfer shall relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

SECTION 5. PRO-RATA SHARE.

The pro-rata share of each Owner for purposes of this section shall be the percentage obtained by dividing one by the total number of Lots shown on the Plat or Plats of Pheasant Pointe as the same may be recorded from time to time ("Pro-Rata Share").

SECTION 6. BASIS OF ANNUAL ASSESSMENTS.

The Board of Directors of the Association shall establish an annual budget prior to the

beginning of each fiscal year, setting forth all Maintenance Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be delivered to each Owner within thirty (30) days to the beginning of each fiscal year of the Association.

SECTION 7. BASIS OF SPECIAL ASSESSMENTS.

Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied with respect to such year are insufficient to pay the Maintenance Expenses for such year, the Board of Directors of the Association may, at any time, and from time to time, levy such special Assessments as it may deem necessary for meeting the Maintenance Expenses. In addition, the Board of Directors of the Association shall have the right to levy at any time, and from time to time, one or more special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Maintenance Expense not provided for by the annual Assessments.

SECTION 8. FISCAL YEAR; DATE OF COMMENCEMENT OF ASSESSMENTS; DUE DATES.

The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The annual Assessments provided for herein shall commence as to all Lots in Pheasant Pointe on the first day of the month following the Declarant's transfer of control of the Association to the Owners pursuant to Section 10.13 below. Declarant shall not be obligated to pay any assessments prior to said transfer, but shall be obligated to pay all maintenance expenses prior to said transfer. The first annual Assessment for each Lot shall be prorated for the balance of the fiscal year of the Association in which such Assessment is made. The annual Assessment for each year after the first Assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Association may from time to time by resolution authorize the payment of such Assessments in installments.

SECTION 9. DUTIES OF THE ASSOCIATION.

A.) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept in the office of the Association and shall be available for the inspection and copying by each Owner for duty authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

B.) The Association shall promptly furnish to any Owner or Mortgagee upon request a

certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been Levied and paid with respect to such requesting Owner's or Mortgagee's Lot. As to any persons relying thereon, such certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

C.) The Association shall notify any Mortgagee from which it has received a written request for notice of any default in the performance by any Owner of any obligation under the By-Laws of the Association or this Declaration which is not cured within sixty (60) days.

SECTION 10. NON-PAYMENT OF ASSESSMENTS; REMEDIES OF ASSOCIATION.

A.) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

B.) If any Assessment upon any Lot is not paid within fifteen (15) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at the annual interest rate allowable on judgments rendered in the State of Indiana at the time such Assessment is due, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

SECTION 11. ADJUSTMENTS.

In the event that the amounts actually expended by the Association for Maintenance Expenses in any fiscal year exceed the amounts budgeted and assessed for Maintenance Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Maintenance Expenses in any fiscal year exceed the amount actually expended by the Association for Maintenance Expenses for that fiscal year, a Pro-Rata Share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s).

SECTION 12. DECLARANT'S/ASSOCIATION'S RIGHT TO GUARANTEE COMPLIANCE

In the event the Owner of any Lot in Pheasant Pointe shall fail to maintain that Lot or any of its improvements situated therein in accordance with the provisions of these Covenants, the

Association, or prior to the Association's incorporation, the Declarant, shall have the right, but not the obligation, by and through its agents and employees or contractors to enter upon said Lot, perform such acts as may be reasonably necessary to make such Lot and improvements thereon, if any, conform to the requirements of these Covenants. The cost thereof to the Association or Declarant shall be collected in any reasonable manner from Owner. Neither Association / Declarant nor any of its agents, employees, or contractors shall be liable for any damage which may result from Execution any maintenance work performed hereunder at the time dwellings are constructed upon.

SECTION 13. ORGANIZATION AND DUTIES OF ASSOCIATION

Organization of Association. The Declarant shall establish the Association to be organized as a mutual benefit and nonprofit corporation under the laws of the State of Indiana, to be operated in accordance with The Articles of Incorporation which have been filed or will be filed by Declarant.

SECTION 14. MEMBERSHIP

The members of the Association shall consist of the Declarant and the Owners of Lots in Pheasant Pointe as the same may be platted from time to time, provided that, in the event that any one Lot shall be owned by more than one person, partnership, trust, corporation or other entity, they shall be treated collectively as one member for voting purposes.

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one 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 they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned, and the first Board of Directors during their respective terms, who shall have no voting rights. 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 votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership: or

(b) On January 1, 2000.

SECTION 15. BOARD OF DIRECTORS

The members shall elect a Board of Directors of the Association as prescribed by the Association By- The Board of Directors shall manage the affairs of the Association.

SECTION 16. GENERAL DUTIES OF THE ASSOCIATION

The Association is hereby authorized to act and shall act on behalf of, and in the name, place and stead of, the individual Owners in all matters pertaining to the maintenance, repair and replacement, of the Drainage System and Common Amenities, the determination of Maintenance

Expenses, the collection of annual and special assessments, for the perpetuation of the Drainage System and Common Amenities and common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the Covenants contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color or authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of Owners or in the nature of willful, intentional, fraudulent or reckless misconduct.

SECTION 17. AMENDMENT OF DECLARATION.

The Association shall have the right to amend this Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least two-thirds of the Lots and the Mortgagees of at least two-thirds of the Mortgagees requesting notice of such actions provided, however, that any such amendment of this Declaration shall not bring about any inequitable Assessments on any particular Owner(s). Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Declarant when its approval is required, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit or addendum thereto a certified copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendment shall not be effective until recorded in the Office of the Recorder of Johnson County. No such amendment shall substantially alter the Drainage System and Common Amenities or effect a modification of any covenants or commitments undertaken in connection with any platting approvals or zoning without the prior approval of the appropriate government authorities.

SECTION 18. INSURANCE.

The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury with the amount of such coverage in no event to be less than One Million Dollars (\$1,000,000.00) For any single occurrence, occurring on or in connection with the Drainage System and Common Amenities. The Association shall also maintain in force adequate casualty and extended coverage insurance, insuring the Drainage System and Common Amenities against casualty, vandalism and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full replacement value of such Drainage System and Common Amenities improvements. The Association shall notify all Mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Board members, the Declarant, any property manager, their respective employees and agents, the Lot Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more insured parties against other insured parties.

The Association shall maintain a fidelity bond indemnifying the Association, the Board of

Directors and the Lot Owners for loss of funds resulting from fraudulent or dishonest acts of any director, officer, employee or 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 fidelity bond should cover the maximum amount of funds which will be in the custody of the Association or its management agent at any time, but in no event shall such fidelity bond coverage be less than the sum of three (3) months' Assessments on all Lots in Pheasant Pointe, plus the Association's reserve funds.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association, and all Mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be canceled or substantially modified for any reason.

SECTION 19. CONDEMNATION; DESTRUCTION.

In the event that any of the Drainage System and Common Amenities shall be condemned or taken by any competent public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any part of the Drainage System and Common Amenities condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, and the balance of such sums shall either be held as a reserve for future maintenance of the Drainage System and Common Amenities or turned over to the Owners in proportion to their Pro-Rata Shares, whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Drainage System and Common Amenities; provided, however, that upon request of any Owner(s), the Association shall pursue such claims on such requesting Owner(s) behalf, and shall turn any recoveries for such Owners over to such Owners directly. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage, or destruction of any part of the Drainage System and Common Amenities.

SECTION 20. MORTGAGEES' RIGHTS.

The mortgagees shall have the right, at their option, jointly or severally, to pay charges which are in default or which may or have become a charge against the Drainage System and Common Amenities, to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Drainage System and Common Amenities, and Mortgagees making such payment shall be owed immediate reimbursement therefor from the Association.

ARTICLE VII

GENERAL PROVISIONS

SECTION 1. COVENANTS RUN WITH THE LAND.

The Restrictions created by this Declaration shall attach to and run with the Real Estate and shall be binding upon every person who may hereafter come into ownership, occupancy or possession of any portion of the Real Estate.

SECTION 2. SCOPE OF COVENANTS.

Declarant and each Owner of any Lot by acceptance of a deed therefore whether or not it shall be expressed in such deed, are deemed to have agreed to each and every one of the Covenants contained in this Declaration, and the same shall be of mutual and reciprocal benefit to Declarant and each Owner of each Lot. Declarant and each Owner shall be entitled to enforce this Declaration against any Owner to the full extent permitted herein and under applicable law, and shall have all rights and remedies for such enforcement at law or in equity. Each Owner shall be liable for any failure to fully comply with all of the Covenants contained in this Declaration only so long as each such Owner shall have any interest in any Lot; provided, that the relinquishing of all of such interest shall not operate to release any Owner from liability for a failure to comply with this Declaration which occurred while said Owner had such interest.

SECTION 3. ATTORNEYS' FEES.

As to any legal or equitable proceedings for the enforcement of, or to restrain the violation of this Declaration, or any provision thereof, if the party bringing such action is successful in obtaining any remedy against any defaulting Owner, such defaulting Owner shall pay the reasonable attorneys' fees of such successful party, in such amount as may be fixed by the Court in such proceedings.

SECTION 4. FAILURE TO ENFORCE NOT A WAIVER OF RIGHTS.

The failure of Declarant the Association, or any Owner to enforce any Covenant herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other such Covenant.

SECTION 5. RIGHTS OF MORTGAGEES.

Except to the extent otherwise provided herein, no breach of this Declaration shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to this Declaration. Other provisions herein notwithstanding, neither the Owners nor the Association shall have any right to make any amendment to this Declaration which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

SECTION 6. EFFECT OF INVALIDATION.

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

SECTION 7. SECTION HEADINGS.

Section headings used herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular sections to which they refer.

SECTION 8. NOTICES.

All notices in connection with this Declaration shall be made in writing and shall be deemed delivered (a) upon personal delivery to the individual person, if any, designated in writing by the Owner, as listed in the roster of Owner's names and addresses referred to hereinabove; or (b) seventy-two hours after the deposit thereof in any United States main or branch post office, first class postage prepaid, properly addressed to the addressee thereof at the address listed in the said roster.

SECTION 9. DEED CLAUSE TO IMPLEMENT DECLARATION.

Each Owner covenants and agrees that it will not execute or deliver any deed or conveyance of a fee title interest in any Lot, or any portion thereof, unless such deed or conveyance contains a clause substantially as follows:

"By acceptance and recording of this conveyance, the Grantee herein covenants and agrees to be bound by the Covenants For Pheasant Pointe Drainage System and Common Amenities pertaining to the real estate hereby granted, which is recorded in the Office of the Recorder of Johnson County, Indiana", and properly identifying the instrument number therein. However, the failure to include such clause shall not have any effect on this Declaration or the enforceability thereof against any Owner of any interest in any portion of the Real Estate.

SECTION 10. PROVISION AGAINST MERGER.

Declarant hereby intends that the Real Estate shall be subject to this Declaration, that the Covenants contained herein shall not be merged into the title of the Declarant regardless of whether Declarant is the fee title owner of all or any part of the Real Estate at the time this Declaration is executed or recorded.

SECTION 11. RESERVATIONS OF DECLARANT.

Other provisions herein notwithstanding, Declarant hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant, so long as Declarant owns at least three (3) Lots within Pheasant Pointe without the approval or consent of the Owners or Mortgagees of the Lots provided that Declarant shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Declaration to any Owner, or substantially increases the obligations imposed by this Declaration on any Owner.

SECTION 12. TRANSFER OF CONTROL OF OWNER'S ASSOCIATION.

Declarant shall transfer control of the Owner's Association to the Lot Owners no later than

the earlier of (a) four months after three-fourths (3/4) of the Lots have been conveyed to Lot purchasers or (b) seven (7) years after the first Lot is conveyed.

In Witness Whereof, HMM Incorporated has caused the execution of the foregoing covenants on this Twenty-first (21st) day of January, 1997. Personally appeared before me, the undersigned, a notary public in and for said county and state, Herbert Michael Mann President of HMM Incorporated, who acknowledge the execution of the above and foregoing certificate as his voluntary act and deed for the use and purposes therein expressed.

Herbert Michael Mann

Herbert Michael Mann,
President of HMM Incorporated

STATE OF INDIANA)
COUNTY OF JOHNSON)

Before me the undersigned, A Notary Public for Johnson County, State of Indiana, personally appeared

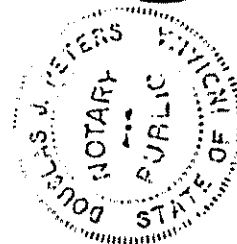
Herbert Michael Mann

Herbert Michael Mann,
President of HMM Incorporated

and acknowledged the execution of this instrument this Twenty-first (21st) day of January, 1997.

Douglas J. Peters
Notary Public/Douglas J. Peters

My Commission expires 11/18/2000



~~~~~  
Douglas J. Peters  
Notary Public, State of Indiana  
Johnson County  
My Commission Exp. 11/18/2000  
~~~~~

PREPARED BY
RICHARD MANN