

870066703

23 54  
14

DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

OF  
TROPHY CLUB

WAYNE TOWNSHIP  
ASSESSOR  
PLAT APPROVED

Date: June 10, 1987

THIS DECLARATION is made this 7th day of April, 1987, by P ENTERPRISES, INC., d/b/a R.P. MILHOUSE, a California corporation (hereinafter referred to as "Developer"), and PHILIP D. HINKLE, ASSESSOR.

WITNESSES:

WHEREAS, Developer is the owner of all of the lands contained in the area described in Exhibit A, attached hereto and made a part hereof, which lands will be subdivided and known as "Trophy Club" (together with any additions thereto as herein provided, hereinafter referred to as the "Real Estate" or the "Development"), and will be more particularly described on the plats of the various sections thereof recorded and to be recorded in the Office of the Recorder of Marion County, Indiana and making reference hereto; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of lots and lands in the Development and future owners thereof.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as described in Exhibit A, to exclude any real estate as shown from the Development, or to include additional real estate.

1. DEFINITIONS.

A. The following are the definitions of the terms as they are used in this Declaration.

(i) "Association" shall mean "Trophy Club Homeowners Association, Inc.", or an organization of similar name, its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for security control, snow removal, liability insurance, landscape easement maintenance, fertilizing and weed control and Common Area facilities' operation and maintenance.

RECEIVED FOR RECORDING  
WITH PLAT  
RECORDER OF MARION CO.

JUN 10 11 55 AM '87

RECEIVED FOR TAXATION  
JUN 10 10 17 AM '87  
MARION COUNTY AUDITOR

(ii) "Builder" shall mean the person constructing the first residence on each Lot (which may be the Developer for one or more Lots).

(iii) "Committee" shall mean the Trophy Club Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of Developer until such time as the subdivision is completely developed, at which time the Association shall appoint from its membership this Committee.

(iv) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the plat.

(v) "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, including the Common Area and which is located in, upon, or under the Common Area, easements, or streets within the Development. Without limiting the generality thereof, Common Property shall include, to the extent not publicly dedicated, all streets, curbs, water mains, fire hydrants, the drainage system, the sewage system, street lights and street signs, public sidewalks, lakes, retention ponds, parks, and open spaces together with landscaping therein.

(vi) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Marion County, Indiana.

(vii) "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(viii) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

B. Approvals, Etc. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing signed, with respect to Developer by an authorized officer or agent thereof, and with respect to the Committee by two members thereof.

## 2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. All tracts of land located within the Development which have not been designated by numbering as residential building lots in the recorded plats shall be Common Area and shall be used in a manner consistent with the zoning and use designated in a master plan by Developer, including recreational facilities.

B. Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots without the advance written approval of the Committee.

870066703

C. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Lot Size and Living Space Areas. The minimum lot size shall be five thousand seven hundred (5,700) square feet. All dwellings will have at least two (2) bedrooms, a two-car attached garage and a minimum of one thousand two hundred (1,200) square feet of living area.

B. Residential Setback Requirements.

(i) In General. Unless otherwise provided herein or on the recorded plat, no dwelling or above-grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.

(ii) Definitions. "Side line" means a lot boundary line that extends from the road on which a Lot abuts to the rear line of said Lot. "Rear line" means the Lot boundary line that is farthest from, and substantially parallel to, the road on which the Lot abuts, except that on corner Lots, it may be determined from either abutting road.

(iii) Front Yards. The front building setback lines shall be all as set forth upon the plats of the Development, but the minimum building setback distance from all right-of-way lines will be twenty (20) feet to all garages and fifteen (15) feet to any portion of the living space of any unit.

(iv) Cul-de-sacs. If the particular Lot abuts a cul-de-sac, the front building setback line shall be as shown on the plat of that Lot.

(v) Side Yards. The side yard setback lines shall maintain a minimum distance between buildings of not less than ten (10) feet. Site plans submitted for the Improvement Location Permit on each Lot shall show the building line of improvements on adjacent lots, if any.

(vi) Rear Yards. The rear setback line shall be as set forth on the plats of the Development, and if not designated on the plat, the rear yard setback lines shall be twenty (20) feet, unless Common Area when combined with such rear yards results in at least forty (40) feet between buildings with abutting rear yards separated by Common Areas.

870066703

(vii) Zero Lot Line Easements. An easement of five (5) feet is created pursuant to Section 4(e) hereof in favor of zero lot line residences to accommodate entry on adjacent lots for building maintenance and related purposes.

C. Fences, Light Fixtures, Etc., Mailboxes, Lawns and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence, light fixture, basketball goal or similar structure must be approved by the Committee as to size, location, height and composition before it may be installed. Any fencing in the Development will first be approved in advance by the Committee; no fence will be higher than six (6) feet; no fencing will extend forward of the furthest front corner of the home. Fencing style and color will be consistent with the Development as determined by the Committee. The Builder shall finish grade and seed or sod the Lot.

D. Exterior Construction. The following requirements shall be applicable unless the Committee shall approve otherwise: (i) All utility facilities in the Development will be underground, except where required to be placed above-ground by the individual utility supplier; (ii) Each driveway in the Development will be of concrete or asphalt material and will not exceed in width the side boundaries of the garage associated therewith; (iii) No additional parking will be permitted on a Lot other than in the existing driveway; (iv) Each dwelling will have a continuous concrete sidewalk from the driveway to the front porch; (v) All garage doors in the Development will be of a hard-board or wood material; (vi) whenever possible, all utility meters and HVAC units in the Development will be located in places unseen or screened from the fronts of the dwellings; (vii) No outside fuel storage tanks will be permitted above ground and no gasoline storage will be permitted above or below ground in the Development; (viii) All windows in the Development will be factory or on the job painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break; (ix) All gutters and downspouts in the Development will be factory or on the job painted; (x) all roofing in the Development will be of a shingle-type material with weight no less than two hundred thirty-five (235) pounds per square and rating of Class A; (xi) All roof pitches will be four to twelve (4:12) or greater; (xii) No metal, fiberglass or similar type material awnings or patio covers will be permitted in the Development; (xiii) No above-ground swimming pools will be permitted on any Lot in the Development; and (xiv) Modular-type construction is not permitted in the Development.

E. Heating Plants. Every dwelling in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the dwelling. Heating plants shall have ductwork capable of handling central air conditioning.

F. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

G. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any numbered Lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or

870066703

placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

H. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

(i) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and weeds.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(iv) Cut down and remove dead trees:

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

I. Lot Access. All Lots shall be accessed from the interior streets of the Development. No direct access to Lots shall be permitted from Dandy Trail.

J. Sight Obstructions. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the adjoining street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street Lot lines and a line connecting points twenty-five (25) feet from the intersection of said street Lot lines (or in the case of a rounded property corner, from the intersection of the street Lot lines extended to form a corner). The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street Lot line with the edge of a driveway pavement or alley line. As to any trees or other plants located within said sight line areas, the Owner thereof shall maintain the foliage line of such trees or other plants at a sufficient height to prevent obstruction of such sight lines.

K. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth in paragraphs 2, 3 or 5 hereof, and in the further event that such failure is not cured within thirty (30) days after written notice of the same is given by the Association, the Association and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Association shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs incurred by the Association in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure shall be payable by the defaulting Owner upon demand by the Association, and shall immediately become a lien against his Lot, subject to payment and collection in the manner provided for collection of assessments by the Association. The rights in the Owners and the Association

870066703

under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

4. PROPERTY RIGHTS.

A. Rights to Common Property. Title to all Common Property shall be held in the Association, and each Owner shall have, as non-exclusive, reciprocal easements appurtenant to his Lot, a right of access to his Lot over all streets and the right to the use of all Common Areas and Common Property for their intended purposes; provided, however, that no Owner's use of any Common Areas or Common Property shall materially interfere with any other Owner's use thereof.

B. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees, and to establish reasonable rules and regulations for the use of any recreational facility situated upon the Common Areas;

(ii) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(iii) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument agreement to such dedication or transfer signed by a majority of each class of members of the Association has been recorded.

C. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas and facilities of the Association to the members of his family, his tenants, or contract purchasers who reside on the property.

D. Utility Easements. There is hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the property, to be perpetual hereof, from the date of this instrument by the Developer, its successors and assigns, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), and such other further public service facilities as Developer may deem necessary in any easement areas as shown on the plats of the Development. Provided, however, the disturbed area shall be restored as nearly as is possible to the condition in which it was found. No

870066703

permanent structures shall be constructed within an easement area.

E. Limited Common Area. There is hereby reserved by the Developer for the benefit of the owner of any Lot, a limited common area for the purpose of entering and encroaching upon an adjoining Lot as designated on the plat hereof. Said limited common area is reserved for the limited purpose of performing maintenance and repair work on the dwelling benefited by such easement, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the adjacent dwelling. The owner of any dwelling built within three (3) feet of a side-yard property line, shall have an express right of access and use for the limited purposes described above, in the limited common area as measured from the side-yard property line. Said easement area shall be five (5) feet in width as measured from said side-yard property line unless otherwise designated on the plat hereof. Any persons entering upon a Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of the area.

5. Miscellaneous Provisions and Prohibitions.

A. Mortgagee's Rights. The Mortgagees, individually and collectively, have the right, but not the obligation, to pay any taxes or other charges or assessments which are or may become a lien against the Common Area, in the event the same are not paid by the Association when due. The Mortgagees also have the right, but not the obligation, to pay any overdue premiums on hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefor to the Association.

B. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development.

Neither Developer, any officer, agent, employee or contractor thereof, Association, nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.

C. Construction of Sewage Lines. All sanitary sewage lines on the Lots shall be designed and constructed in accordance with the provisions and requirements of the Metropolitan Department of Public Works. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service shall be submitted in duplicate to the Committee at the time of the submission of all other

870066703

plans or documents required for the obtaining from said Committee of permission to proceed.

D. Signs. No signs or advertisements shall be displayed or placed on any Lot or structures in the Development without the prior written approval of the Committee.

E. Animals. No animals shall be kept or maintained on any Lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance.

F. Vehicle Parking. No campers, trailers, recreational vehicles, boats, commercial vehicles or similar vehicles other than ordinary family passenger vehicles shall be parked on any street or Lot in the Development, unless the same shall be parked in the garage with the garage door closed such that it is not visible to the occupants of other Lots in the Development or the users of any street in the Development; except for temporary periods not exceeding 48 hours and except as the Committee may otherwise approve.

G. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burying out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in subparagraph H below. All dwellings built in the Development shall be equipped with a garbage disposal unit.

H. Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made.

I. Model Homes. No Owner of any Lot in the Development other than a Builder shall build, or permit the building upon said Lot of, any dwelling that is to be used as a model home or exhibit house.

J. Temporary Structure. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot except for such temporary structures as the Developer may approve for construction, sales or related purposes, nor shall any overnight camping be permitted on any Lot.

K. Ditches and Swales. It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Committee.

L. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by Developer. All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

870066703



M. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the Committee. No septic tanks shall be installed on any of the Lots.

N. Antennas. Exposed antennas shall require approval by the Association. The maximum height of such antennae shall not exceed five (5) feet above the roof peak.

O. Solar Heat Panels. Unless otherwise approved by the Committee no solar heat panels shall be allowed on roofs so as to be visible from the front or rear of any residence in the Development. Such panels may be installed on the ground if enclosed within a fenced area within the specific Lot boundary and located to the rear of the dwelling, as approved by the Committee.

6. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(i) In General. No dwelling, building structure or improvement of any type or kind shall be repainted, constructed or placed on any Lot in the Development, and no existing trees shall be removed, without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one inch (1") equals ten feet (10'), or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

(ii) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

(b) the design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or

870066703

(c) the proposed improvement, or any part thereof, or proposed tree removal, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

(iii) Developer Improvements. The Committee shall have no powers with respect to any improvements or structures erected or constructed by the Developer (or any Builder if Developer has approved the plans therefor).

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) 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 for such disapproval.

C. Liability of Committee. Neither the Committee nor any agent thereof, nor Developer, 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.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the Development.

8. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any homeowner within Trophy Club, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Metropolitan Development Commission of Marion County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance 58-AO-3, as amended, or any conditions attached to approval of the plat of the various Sections of the Trophy Club subdivision by the Plat Committee.

870066703

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

9. EFFECT OF BECOMING AN OWNER.

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of the such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners, covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

10. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

11. DURATION AND AMENDMENT.

A. This Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken.

Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Developer hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within the Development; provided that Developer 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 these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner.

12. RIGHTS OF MORTGAGEES.

Except to the extent otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of

870066703

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 these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to these Restrictions 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.

13. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

14. HOMEOWNERS ASSOCIATION.

The Association will be created as a not-for-profit corporation under the laws of the State of Indiana. A Supplemental Declaration of Covenants and Restrictions pertaining to the Association has been or will be recorded in the office of the Recorder of Marion County, Indiana, and shall be binding with respect to all land contained within the Development. The Association will be responsible for controlling all maintenance and other activities for all Common Areas and Common Property.

15. DEDICATED STREETS.

The streets are hereby dedicated to the public.

IN WITNESS WHEREOF, witness the signature on behalf of the Developer this 7 day of APRIL, 1987.

R & P ENTERPRISES, INC.,  
d/b/a R.P. MILHOUSE

By Kathy L. Henderson  
(Signature)

KATHY L. HENDERSON, ASST. SECRETARY  
(Printed Name and Title)

870066703

STATE OF INDIANA  
COUNTY OF MARION

)  
) SS:  
)

Before me, a Notary Public in and for said County and State,  
personally appeared Phillip L. Henderson the  
Assistant Secretary of R & P ENTERPRISES, INC.,  
d/b/a R.P. MILHOUSE, a California corporation, who acknowledged  
execution of the foregoing Declaration of Covenants and Restric-  
tions as such officer acting for and on behalf of Grantor, and  
who, having been duly sworn, stated that the representations  
therein contained are true.

WITNESS my hand and Notarial Seal this 7 day of  
April, 1987.

Signature Susan Elaine Donadio  
Printed Susan Elaine Donadio  
NOTARY PUBLIC

My Commission Expires:

9-2-90

County of Residence:

Madison

This instrument was prepared by Phillip J. Stoffregen, ICE MILLER  
DONADIO & RYAN, One American Square, Box 82001, Indianapolis,  
Indiana 46282; Telephone: (317) 236-2100.

870068703

EXHIBIT A

Part of the Northeast Quarter of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence South 00°17'48" West along the West line of said Northeast Quarter 1080.49 feet; thence South 89°35'12" East 19.94 feet to the Eastern right-of-way line of Dandy Trail as shown on State Highway plans for Project 1-74-2(22) 69; thence South 23°20'10" East along said right-of-way line 40.85 feet; thence North 90°00'00" East parallel with the North line of said Northeast Quarter 33.65 feet to the Point of Beginning; thence continuing North 90°00'00" East parallel with said North line 1339.69 feet; thence South 10°49'57" East 130.91 feet; thence South 01°34'12" East 196.33 feet; thence South 22°41'37" West 303.28 feet; thence South 21°59'32" West 420.31 feet; thence North 55°44'37" West 817.17 feet; thence North 74°47'58" West 491.79 feet to a point on a curve concave Westerly having a central angle of 14°48'16" and a radius of 1212.04 feet; thence Northerly along said curve an arc distance of 313.14 feet (said arc being subtended by a chord having a bearing of North 07°48'54" East and a length of 312.28 feet) to the Point of Tangency of said arc; thence North 00°24'48" East 142.27 feet; thence North 00°17'48" East 12.69 feet to the Point of Beginning, containing 22.572 acres, more or less; subject to highways, rights-of-way, and easements.

EXHIBIT A

870066703

870066709

CROSS REFERENCE

WAYNE TOWNSHIP  
ASSESSOR  
PLAT APPROVED

24  
13

SUPPLEMENTAL DECLARATION OF COVENANTS  
AND RESTRICTIONS OF TROPHY CLUB

Date: JUNE 10, 1987  
By: [Signature]  
PHILLIP D. HINKLE  
ASSESSOR

THIS SUPPLEMENTAL DECLARATION (herein called "this Supplemental Declaration") is made this 7th day of April, 1987, by R & P ENTERPRISES, INC., d/b/a R. P. MILHOUSE, a California corporation (hereinafter referred to as "Developer"), and

WITNESSES:

WHEREAS, Developer and/or those persons executing the consents attached hereto and recorded herewith is/are the sole owner(s) in fee simple of all of the lands contained in the area described in Exhibit A, attached hereto and made a part hereof, (the "Real Estate"); and

WHEREAS, Developer is developing the Real Estate and certain surrounding lands within the tract described in the attached Exhibit B, upon which Developer or its assigns may, but is not obligated to, construct residential facilities, which shall be known as "Trophy Club Subdivision" ("Trophy Club" or the "Development") and which shall be platted by Developer in sections from time to time; and

WHEREAS, the Real Estate has been platted by Developer as Section I of Trophy Club, recorded on JUNE 10, 1987 as Instrument No. 87-66704 in the Office of the Recorder of Marion County, Indiana along with the Declaration of Covenants, Easements and Restrictions which run with the land comprising Trophy Club which was recorded on JUNE 10, 1987 as Instrument No. 87-66703 in the Office of the Recorder of Marion County, Indiana (which shall be incorporated by reference in the plats of Declarations to be recorded additional Sections in Trophy Club, and, as so incorporated are herein referred to as the "Plat Declarations"); and

WHEREAS, Developer desires to subject the Development (including the Real Estate) to certain covenants and restrictions in addition to those set forth in the Plat Declarations (the "Restrictions") in order to further insure that the development and use of the various lots in the Development are harmonious and do not adversely affect the value of surrounding Lots on the Development; and

WHEREAS, Developer desires to provide for maintenance of the Common Areas and improvements located or to be located in Trophy Club, which are of common benefit to the Owners of the various Lots within said 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 Trophy Club.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted from time to time are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated thereon. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part of parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to the Development, or any part thereof. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as described in Exhibit B, to exclude any real estate as shown from the Development, or to include additional real estate.

1. DEFINITIONS.

The following are the definitions of the terms as they are used in this Declaration.

- (1) "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of paragraph 7 herein.

RECEIVED MAR 10 1987  
MARION COUNTY RECORDER

JUN 10 12 02 PM '87

Cliff Z. Conrad  
MARION COUNTY AUDITOR

JUN 10 87 017170

DULY EXAMINED  
FOR TAXATION

(ii) "Association" shall mean "Trophy Club Homeowners Association, Inc.", or an organization of similar name, its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for liability insurance, fertilizing and weed control, snow removal and trash removal (as provided for herein when applicable) and Common Area facilities' operation and maintenance and such other services as may be desired for the common benefit of all Owners.

(iii) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the plat.

(iv) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, snow removal and trash removal (to the extent, if any, provided by the Association), real estate taxes or personal property taxes assessed against any Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property, and shall also include the costs of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, street lights, or other improvements constructed by Developer.

(v) "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, including the Common Area and which is located in, upon, or under the Common Areas, easements, or streets within Trophy Club. Without limiting the generality thereof, Common Property shall include, to the extent not publicly dedicated, all streets, curbs, water mains, fire hydrants, the drainage system, the sewage system, street lights and street signs, public sidewalks, lakes, retention ponds, parks, and open spaces.

(vi) "Declarations" means this Supplemental Declaration and the Plat Declarations, collectively.

(vii) "Developer" or "Declarant" means R & P Enterprises, Inc., d/b/a R. P. Milhouse, a California corporation or any other person, firm, corporation or partnership which succeeds to the interest of R & P Enterprises, Inc., d/b/a/ R. P. Milhouse as developer of Trophy Club.

(viii) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Marion County, Indiana.

(ix) "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(x) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation; provided, however, that the Declarant shall be deemed for all purposes hereof relating to payment of Assessments not to be an Owner with respect to any Lot during the period of initial construction of a residence thereon and the period prior to the initial sale thereof during which the residence is not being used for residential purposes.

## 2. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, may be members in any one or more umbrella or joint homeowner's associations, if any, composed of associations and/or members from surrounding areas.

B. Classes of Membership. The Association shall have one class of voting membership which shall be comprised of all Owners who 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

570033709



among themselves determine, but in no such event shall more than one vote be cast with respect to any Lot.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

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

E. Responsibilities 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 Common Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the 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 terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or for any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable. In the event the Association enters into contracts for snow removal while Declarant controls the Association, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

F. Transfer of Control of Association. Developer must transfer control of the Association to the Owners no later than the earlier of (a) four (4) months after three-fourths (3/4) of the Lots in Trophy Club have been conveyed to Owners or (b) five (5) years after the first Lot is conveyed to an Owner in Trophy Club.

G. Mortgagees' Rights. The Mortgagees, individually and collectively, have the right, but not the obligation, to pay any taxes or other charges or assessments which are or may become a lien against the Common Area, in the event the same are not paid by the Association when due. The Mortgagees also have the right, but not the obligation, to pay any overdue premiums on hazard insurance policies required to be maintained by the Association, or to secure new hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefor to the Association.

H. Snow Removal. The cost of snow removal in excess of amounts budgeted therefor shall be paid by the Owners on a pro-rata share basis by a Special Assessment. In the event the Association enters into contracts for snow removal while Declarant controls the Association, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

I. Trash Removal. In order to preserve the value of Lots in the Development and to promote the health and safety of the Owners, the Association shall designate a trash collection day and/or designate a trash collection service to be used by the Owners. Unless Declarant elects otherwise, the cost of such trash collection service shall be borne by the individual Owners in the Development, but in any event after Declarant turns over control of the Association the Owners may agree to a master contract for such service by the Association with the cost thereof to be paid for through regular assessments.

870066709

3. INSURANCE.

A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with any and all of the Common Property, in an amount not less than Three Million Dollars (\$3,000,000.00) per occurrence for personal injury and One Million Dollars (\$1,000,000.00) per occurrence for property damage.

B. The Association shall also maintain in force adequate fire and extended coverage insurance for all Common Property for the benefit of all Owners and Mortgagees in Trophy Club, insuring against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full insurable value of such Common Property, and shall contain the following endorsements, if and to the extent obtainable at a reasonable cost in the judgment of the Association in the State of Indiana: (i) replacement cost; (ii) inflation guard; (iii) demolition cost, contingent liability, and increased construction cost in connection with building code requirements; and (iv) steam boiler and machinery coverage (if applicable). The insurer's minimum liability per accident under boiler and machinery coverage must equal the insurable value of the building housing such boiler or machinery or Two Million Dollars (\$2,000,000.00), whichever is less. In the event that all or any part of the Common Property is determined to be in a flood hazard area, the Association shall also obtain a master policy of flood insurance on all structures and improvements on any Common Property within such flood hazard zone, in an amount at least equal to the lesser of one hundred percent (100%) of the current replacement cost of all insurable property within the flood hazard area, or the maximum coverage available for such property under the National Flood Insurance Program. The amounts of coverages under the foregoing master policies shall be increased from time to time to cover all additions to Trophy Club. Deductibles may not exceed the lower of Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the applicable amount of coverage. Funds for such deductibles must be included in the Association's reserves and be so designated.

C. The Association also shall obtain comprehensive public liability insurance together with Workmen's Compensation insurance, employers liability insurance, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate. All such 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, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name FHLMC and all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

D. The Association shall obtain a fidelity bond indemnifying the Association, the Board of Directors, and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee or officer of the Association or of any other person handling the funds of the Association or the Owners. The coverage must equal the maximum amount of funds in the Association's custody at any one time but must be no less than the sum of three (3) months of assessments on the entire project plus reserves.

E. All policies of insurance maintained by the Association pursuant to this section shall provide such coverages and be in such amounts as may be required from time to time by FNMA, FHLMC, FHA or VA. All policies shall contain a clause whereby the insurer agrees to provide written notice to the Association, to

870066709

F.H.L.M.C., and to any other lending institution or agency requesting or requiring the same, prior to any cancellation or material modification thereof. The Association shall notify all Mortgagees of which it has notice of any lapse, cancellation, or material modification of any insurance policy.

F. The Association shall also carry any additional coverage commonly required by private mortgage investors for developments similar in construction, location, and use, including the following where applicable and available:

- (i) contingent liability from operation of building laws;
- (ii) comprehensive automobile liability;
- (iii) bailee's liability;
- (iv) elevator collision liability;
- (v) garage keeper's liability;
- (vi) host liquor liability;
- (vii) workers' compensation and employer's liability; and
- (viii) contractual liability.

G. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

H. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

I. Insurance policies required to be carried by the Association by this paragraph shall be subject to the following additional requirements:

(i) (a) the insurer has a current Best's Insurance Reports rating of A/V or better; (b) the insurer must be reinsured by a company rated B/VI or better by Best's Insurance Reports. In this case, both the insurer and reinsurer must execute an Assumption of Liability Agreement or a similar endorsement providing for one hundred percent (100%) reinsurance of the issuer's policy and requiring the reinsurer to give the borrower, mortgagees, and the insurer at least ninety (90) days' written notice before cancelling or otherwise terminating the reinsurance (this agreement must be attached to the insurance policy); or (c) coverage must be underwritten by Lloyd's of London or by a Fair Access to Insurance Requirements (FAIR) or beach and windstorm plan.

(ii) Each insurer and any reinsurer shall be specifically licensed or authorized by law to transact business within the State of Indiana.

(iii) Policy contracts shall provide that no assessments may be made against the Federal Home Loan Mortgage Association (or its designee) and that any other assessments may not become a lien on the Development superior to the first mortgage.

(iv) All policies of hazard insurance shall contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Development is located. The mortgagee clause must provide that the insurance carrier will notify the first mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

#### 4. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Trophy Club, as the same may be platted from time to time, and promoting the

870066709

health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, fencing, repairing, operating, and maintenance of the Common Area, including, but not limited to, the payment of taxes and insurance thereon, for the cost of labor, equipment, material, and management furnished with respect to the Common Area, and any and all other Common Expenses. Each Owner hereby covenants and agrees to pay to the Association:

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

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

B. Pro-rata Share. The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by dividing one by the total number of Lots shown on the plat or plats of Trophy Club, as the same may be recorded from time to time.

C. Liability for 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 upon each Lot from and after the due date thereof in favor of the Association. 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. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer 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.

D. 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 anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association.

E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of two-thirds (2/3) of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

F. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in Trophy Club shall commence on the first day of the first month following the month in which Declarant first conveys ownership of any Lot in such section to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefor as provided herein. The first annual Assessment within each section shall be made for the balance of the fiscal year of the Association in which such Assessment is made and with respect to particular Lots shall become due and payable on the date of initial

870066709

transfer of title to a Lot to the Owner thereof. 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 Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments.

G. Duties of the Association.

(i) 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 (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause audited financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. 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. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent 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.

(ii) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee 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 any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(iii) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this Declaration by any Owner which is not cured within sixty (60) days; (b) of any condemnation or casualty loss that affects either a material portion of Trophy Club or the Lot securing its mortgage; (c) of any lapse, cancellation, or material modification of any insurance policy or fidelity bond required to be maintained by the Association; and (d) and proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

H. Non-payment of Assessments; Remedies of Association.

(i) 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.

(ii) If any Assessment upon any Lot is not paid within thirty (30) 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 a rate of eighteen percent (18%) per annum and the Association may bring an action in any court having jurisdiction against the delinquent

870066709

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.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year, except that so long as the Declarant controls the Association, Declarant may, in its sole discretion, make up such deficit; provided, however that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 8% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners. Thereafter, such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. After Declarant turns over control of the Association as required herein, in the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, 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); provided, that Declarant shall first be reimbursed for deficits previously paid as required above before such excess shall be so credited to Owners.

J. Initial Assessments. During the first year following the date of recordation of the Declaration for Section I of Trophy Club, the total Assessments per Lot per year shall not exceed One Hundred Eighty Dollars (\$ 180.00 ). In each year thereafter, the total Assessments per Lot per year shall not be increased by more than the twelve percent (12%) over the prior year, until such time as the Declarant relinquishes control of the Association. In no event shall the annual Assessments exceed Three Hundred Dollars (\$ 380.00 ) per year per Lot without the approval of a majority of the Owners; provided, however, that said maximum amount may be increased by no more than five percent (5%) per year by the Board of Directors without such consent.

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Associations shall be sent to all Owners 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 Owners or of proxies entitled to cast sixty percent (60%) of all the votes 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. Nothing contained in this paragraph shall be construed to limit the ability of the Developer or the Board of Directors to increase Assessments up to the amounts permitted by paragraph 4(J) hereof.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

5. EXPANSION OF SUBDIVISION.

A. Method and Scope of Expansion. Developer, at its option, and from time to time, may expand Trophy Club to include all or any parts of the tract described in the attached Exhibit B, by the addition of further sections consisting of one (1) or more Lots and any Common Property which in the discretion of Developer is appropriate for addition with such sections. Such further sections, if added, shall be added by the recordation of a plat of such section, consistent in detail and layout

870066709

with the plats of sections previously recorded, and by imposing upon such section covenants substantially similar in form and substance to the Declarations, either by incorporating the provisions thereof by reference or otherwise. Developer hereby covenants that the total number of Lots in Trophy Club shall not exceed eighty (80), and that no real estate shall be added thereto which is not within that described in Exhibit B.

B. Time for Expansion. No additional sections shall be added after the date which is seven (7) years after the date on which the plat for Trophy Club - Section I was recorded.

C. Future Improvements. The streets, sewage system, drainage system, and utility lines and mains within each section shall be substantially constructed or installed prior to recordation of the plat and declaration for such section. All buildings, streets, and other improvements in all additional sections shall be consistent in quality of construction with the section(s) already in Trophy Club as of the date of this Supplemental Declaration.

#### 6. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any Owner within Trophy Club, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Metropolitan Development Commission of Marion County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance 58-AO-3, as amended, or any conditions attached to approval of the plats of Trophy Club by the Plat Committee.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

7. EFFECT OF BECOMING AN OWNER. The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of the such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

8. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

9. DURATION AND AMENDMENT. This Supplemental Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Supplemental Declaration, in which case this Supplemental Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all

870066709

assessments created or reserved by this Supplemental Declaration shall be perpetual unless otherwise expressly indicated herein.

A. The Association shall have the right to amend this Supplemental 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 seventy-five percent (75%) of the Lots and ninety percent (90%) of the Mortgagees; provided, however, that any such amendment of this Declaration shall require prior written approval of the Developer so long as Developer owns any Lots within Trophy Club. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Developer when their 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 Marion County.

B. Developer hereby reserves the right to make such amendments to this Supplemental Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Supplemental Declaration or Trophy Club into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within Trophy Club; provided that Developer 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 Supplemental Declaration to any Owner or substantially increases the obligations imposed by this Supplemental Declaration on any Owner.

C. Subject to the other requirements of this paragraph 16, unless at least two-thirds (2/3) of the Mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Developer) of the Lots have given their prior written approval, the Association shall not be entitled to:

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Property by the Association shall not be deemed a transfer within the meaning of this clause);

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(iii) by act or omission change, waiver or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the residences, the exterior maintenance of the residences, the maintenance of the Common Property, or the upkeep of lawns and plantings in the Development;

(iv) fail to maintain fire and extended coverage on the Common Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

(v) use hazard insurance proceeds for losses to any of the Common Property other than for the repair, replacement or reconstruction of the Common Property.

10. **RIGHTS OF MORTGAGEES.** Except to the extent otherwise provided in paragraph 3(L), no breach of this Supplemental Declaration shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of the Development; provided, however, that if all or any portion of said Development 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 Supplemental Declaration. Notwithstanding any other provision of this Supplemental Declaration, neither the Owners nor the Association shall have any right to make any amendment to the Declarations or Articles and By-Laws of the Association which materially impairs the

870066709



rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Development at the time of such amendment.

11. SEVERABILITY. Every provision of this Supplemental Declaration is hereby declared to be independent of, and severable from, the other provisions hereof and of and from every combination of the provisions hereof. Therefore, if any of the provisions hereof shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the provisions hereof.

IN WITNESS WHEREOF, witness the signature of Developer this 7 day of APRIL, 1987.

R & P ENTERPRISES, INC.,  
d/b/a R. P. Milhouse

By: Kathy L. Henderson  
(Signature)

KATHY L. HENDERSON, ASST. SECRETARY  
(Printed Name and Title)

STATE OF INDIANA )  
COUNTY OF MARION ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Kathy L. Henderson, the Assistant Secretary of R & P Enterprises, Inc., d/b/a R. P. Milhouse, who acknowledged execution of the foregoing Supplemental Declaration of Covenants and Restrictions as such officer acting for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 7 day of April, 1987.

Susan Elaine Davenport  
Signature

Susan Elaine Davenport  
Printed Name NOTARY PUBLIC

My Commission Expires:

9-2-90

My County of Residence:

Madison

This instrument was prepared by Phillip J. Stoffregen, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

870066709

EXHIBIT A

Part of the Northeast Quarter of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence South  $00^{\circ}17'48''$  West along the West line of said Northeast Quarter 1080.49 feet; thence South  $89^{\circ}35'12''$  East 19.94 feet to the Easterly right-of-way line of Dandy Trail as shown on State Highway plans for Project 1-74-2(22) 69; thence South  $23^{\circ}20'10''$  East along said right-of-way line 40.85 feet; thence North  $90^{\circ}00'00''$  East parallel with the North line of said Northeast Quarter 33.65 feet to the Point of Beginning; thence continuing North  $90^{\circ}00'00''$  East parallel with said North line 1339.69 feet; thence South  $10^{\circ}49'57''$  East 190.91 feet; thence South  $01^{\circ}34'12''$  East 196.33 feet; thence South  $22^{\circ}41'37''$  West 303.28 feet; thence South  $21^{\circ}59'33''$  West 420.31 feet; thence North  $55^{\circ}44'37''$  West 817.17 feet; thence North  $74^{\circ}47'58''$  West 491.79 feet to a point on a curve concave Westerly having a central angle of  $14^{\circ}48'16''$  and a radius of 1212.04 feet; thence Northerly along said curve an arc distance of 313.14 feet (said arc being subtended by a chord having a bearing of North  $07^{\circ}48'54''$  East and a length of 312.28 feet) to the Point of Tangency of said arc; thence North  $00^{\circ}24'43''$  East 142.27 feet; thence North  $00^{\circ}17'48''$  East 12.69 feet to the Point of Beginning, containing 22.572 acres, more or less; subject to highways, rights-of-way, and easements.

EXHIBIT A

870066709

EXHIBIT B

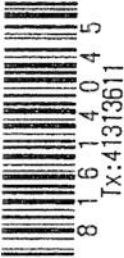
Part of the Northeast Quarter of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence South  $00^{\circ}17'48''$  West along the West line of said Northeast Quarter 1080.49 feet; thence South  $89^{\circ}35'12''$  East 19.94 feet to the Easterly right-of-way line of Dandy Trail as shown on State Highway plans for Project 1-74-2(22) 69; thence South  $23^{\circ}20'10''$  East along said right-of-way line 40.85 feet; thence North  $90^{\circ}00'00''$  East parallel with the North line of said Northeast Quarter 33.65 feet to the Point of Beginning; thence continuing North  $90^{\circ}00'00''$  East parallel with said North line 1339.69 feet; thence South  $10^{\circ}49'57''$  East 190.91 feet; thence South  $01^{\circ}34'12''$  East 196.33 feet; thence South  $22^{\circ}41'37''$  West 303.28 feet; thence South  $21^{\circ}59'33''$  West 420.31 feet; thence North  $55^{\circ}44'37''$  West 817.17 feet; thence North  $74^{\circ}47'58''$  West 491.79 feet to a point on a curve concave Westerly having a central angle of  $14^{\circ}48'16''$  and a radius of 1212.04 feet; thence Northerly along said curve an arc distance of 313.14 feet (said arc being subtended by a chord having a bearing of North  $07^{\circ}48'54''$  East and a length of 312.20 feet) to the Point of Tangency of said arc; thence North  $00^{\circ}24'48''$  East 142.27 feet; thence North  $00^{\circ}17'48''$  East 12.69 feet to the Point of Beginning, containing 22.572 acres, more or less; subject to highways, rights-of-way, and easements.

87C066709

EXHIBIT B

08/03/2017 3:28 PM  
KATHERINE SWEENEY BELL  
MARION COUNTY IN RECORDER  
FEE: \$ 35.00  
PAGES: 31  
By: CJ



THIS DOCUMENT IS PROVIDED FOR SOLI USE OF DEPT. OF NAT'L TITLE SUP AND IS NOT LIABLE FOR RE-SALE UNDER 36.2.1

AMENDED AND RESTATED DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS  
OF  
TROPHY CLUB

THIS DECLARATION is made this 6<sup>th</sup> day of June, 2017.

WITNESSES:

WHEREAS, on April 7, 1987, Philip D. Hinkle P. Enterprises, Inc. d/b/a R.P. Milhouse ("Developer") was the owner of all the land attached hereto as Exhibit A and "Trophy Club" (together with any additions thereto hereinafter referred to as the "Real Estate" or the "Development") and was particularly described on the plats of the various sections that were recorded in the Office of the Recorder of Marion County, Indiana and making reference hereto; and

WHEREAS, on April 7, 1987 Developer entered into the Declaration of Covenants, Easements and Restrictions of Trophy Club (the "Original Declaration" or the "Restrictions"), which was recorded with the Office of the Marion County Recorder on the 10<sup>th</sup> day of June, 1987 as Instrument No. 87-66703;

WHEREAS, the Original Declaration was for the improvement for the benefit and complement of lots and lands in the Development and future home owners thereof;

WHEREAS, on or about the 7<sup>th</sup> day of April, 1987, the Developer entered into the Supplemental Declaration of Covenants and Restrictions of Trophy Club (the "Supplemental Declaration") which was recorded with the Office of the Marion County Recorder as Instrument No. 87006679;

WHEREAS, the Association wishes to amend and restate the Original Declaration as well as the Supplemental Declaration with this Amended and Restated Declaration of Covenants, Easements and Restrictions of Trophy Club ("Amended Declaration"); and

WHEREAS, pursuant to Section 9(A) of the Original Declaration, at least seventy-five percent (75%) of the Owners of Lots have approved this Amended Declaration which was presented at a meeting duly called for that purpose;

NOW, THEREFORE, according to the Original Declaration, all of the platted lots and lands located within the Development are subject to the Original Declaration and Supplemental Declaration and now this Amended Declaration and shall run with the land and shall be binding

(31)

THIS DOCUMENT IS PROVIDED FOR THE BENEFIT OF THE NATIONAL TITLE GROUP, INC. (NATIONAL TITLE GROUP, INC.)

upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part of parts thereof subject to such Amended Declaration.

1. DEFINITIONS. The following are the definitions of the terms as they are used in this Declaration.
  - A. "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined, and levied pursuant to the provisions of this Amended Declaration.
  - B. "Association" shall mean "Trophy Club Homeowners Association, Inc.", or an organization of similar name, its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for security control, snow removal, liability insurance, landscape easement maintenance, fertilizing and weed control and Common Area facilities' operation and maintenance.
  - C. "Committee" shall mean the Trophy Club Development Control Committee, composed of three (3) members, appointed by the Board of Directors for the Association.
  - D. "Common Area" shall mean those areas owned by the Association, as shown on the plat.
  - E. "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement and replacement of Common Property, snow removal and trash removal (to the extent, if any, provided by the Association), real estate taxes or personal property taxes assessed against any Common Property, and any other costs, or expense incurred by the Association for the benefit of the Common Property, and shall also include the costs of insurance as required herein.
  - F. "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, including the Common Area and which is located in, upon, or under the Common Areas, easements, or streets within the Development. Without limiting the generality thereof, Common Property shall include, to the extent not publicly dedicated, all streets, curbs, water mains, fire hydrants, the drainage system, the sewage system, street lights and street signs, public sidewalks, lakes, retention ponds, parks, and open spaces together with landscaping therein.
  - G. "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the office of the Recorder of Marion County, Indiana.
  - H. "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

THIS DOCUMENT IS PROVIDED FOR SOLE USE OF THE BUYER AND IS NOT BEING OFFERED TO ANY OTHER PERSON.

- I. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

2. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

- A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot. Additionally, the Association, and or members therein, may be members in any one or more umbrella associations, if any, composed of associations and members from surrounding areas.
- B. Classes of Membership. The Association shall have one class of voting membership which shall be comprised of all Owners who shall be entitled to one vote for each Lot owned. 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.
- C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's Amended Bylaws. The Board of Directors shall manage the affairs of the Association.
- D. Professional Management. No contract or agreement of the Association for professional management of the Association shall be in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.
- E. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf, and in the name, place and stead of the individual Owners in all matters pertaining to the maintenance, repair and replacement of the Common Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by this Amended Declaration for the 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 terms, covenants conditions and restrictions contained in the Amended Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Amended Declaration or for any failure to take any action called for by this Amended Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful,

THIS DOCUMENT IS PROVIDED FOR RESALE PURPOSES AND IS NOT INTENTIONALLY SUBJECT TO ANY RIGHTS OR INTERESTS OF ANY PARTY.

intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable.

F. Mortgagees' Rights. The Mortgagees, individually and collectively, have the right, but not the obligation, to pay any taxes or other charges or assessments which are or may become a lien against the Common Area, in the event the same are not paid by the Association when due. The Mortgagees also have the right, but not the obligation, to pay any overdue premiums on hazard insurance policies required to be maintained by the Association, or to secure new hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefore to the Association.

G. Snow Removal. The cost of snow removal in excess of amounts budgeted therefore shall be paid by the Owners on a pro-rata basis by a Special Assessment.

H. Trash Removal. In order to preserve the value of Lots in the Development and to promote the health and safety of Owners, the Association shall designate a trash collection day and/or designate a trash collection service to be used by the Owners. The cost of such trash collection service shall be borne by the Individual Owners in the Development, or the Owners can agree to a master contract for such service by the Association with the cost thereof to be paid for through regular assessments.

3. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. All tracts of land located within the Development which have not been designated by numbering as residential building lots in the recorded plats shall be Common Area and shall be used in a manner consistent with the zoning and use designated in a master plan, including recreational facilities.

THIS DOCUMENT IS PROVIDED UNDER THE NATIONAL TRUST ACT AND IS NOT ELIGIBLE FOR PROTECTION UNDER SECTION 512.1

- B. Accessory Outbuildings Prohibited. No Accessory outbuildings shall be erected on any of the residential lots without the advance written approval of the Committee.
- C. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.
- D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

4. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLINGHOUSES AND OTHER STRUCTURES.

- A. Minimum Lot Size and Living Space Areas. All dwellings will have at least two (2) bedrooms, a two-car attached garage and a minimum of one thousand two hundred (1,200) square feet of living area.
- B. Residential Setback Requirements.
  - (i.) In General. Unless otherwise provided herein or on the recorded plat, no dwelling or above-grade structure shall be constructed or placed on any residential lot in the Development except as provided here.
  - (ii.) Definitions. "Side line" means a lot boundary line that extends from the road on which a Lot abuts to the rear line of said Lot. "Rear line" means the Lot boundary line that is farthest from, and substantially parallel to, the road on which the Lot abuts, except that on corner Lots, it may be determined from either abutting road.
  - (iii.) Front Yards. The front building setback lines shall be all as set forth upon the plats of the Development, but the minimum building setback distance from all right-of-way lines will be twenty (20) feet to all garages and fifteen (15) feet to any portion of the living space of any unit.
  - (iv.) Cul-de-sacs. If the particular Lot abuts a cul-de-sac, the front building setback line shall be as shown on the plat of that Lot.
  - (v.) Side Yards. The side yard setback lines shall maintain a minimum distance between buildings of not less than ten (10) feet. Site plans



- submitted for the Improvement Location Permit on each Lot shall show the building line of improvements on adjacent lots, if any.
- (vi.) Rear Yards. The rear setback line shall be as set forth on the plats of the Development, and if not designated on the plat, the rear yard setback lines shall be twenty (20) feet, unless Common Area when combined with such rear yards results in at least forty (40) feet between buildings with abutting rear yards separated by Common Areas.
- (vii.) Zero Lot Line Easements. An easement of five (5) feet is created in favor of zero lot line residences to accommodate entry on adjacent lots for building maintenance and related purposes.
- C. Fences, Light Fixtures, Etc., Mailboxes, Lawns and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence, light fixture, basketball goal or similar structure must be approved by the Committee as to size, location, height and composition before it may be installed. Any fencing in the Development will first be approved in advance by the Committee; no fence will be higher than six (6) feet; no fencing will extend forward of the furthest front corner of the home. Fencing style and color will be consistent with the Development as determined by the Committee.
- D. Exterior Construction. The following requirements shall be applicable unless the Committee shall approve otherwise: (i.) All utility facilities in the Development will be underground, except where required to be placed above-ground by the individual utility supplier; (ii.) Each driveway in the Development will be of concrete or asphalt material and will not exceed in width the side boundaries of the garage associated therewith; (iii.) No additional parking will be permitted on a Lot other than in the existing driveway; (iv.) Each dwelling will have a continuous concrete sidewalk from the driveway to the front porch; (v.) Whenever possible, all utility meters and HVAC units in the Development will be located in places unseen or screened from the fronts of the dwellings; (vi.) All windows in the Development will be factory or on the job painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break; (vii.) All gutters and downspouts in the Development will be factory or on the job painted; (viii.) All roofing in the Development will be of a shingle-type material with weight no less than two hundred thirty-five (235) pounds per square and rating of Class A and in a color approved by the Committee; (ix.) All roof pitches will be four to twelve (4:12) or greater; (x.) No metal, fiberglass or similar type material awnings or patio covers will be permitted in the Development; (xi.) No

THIS DOCUMENT IS FILED IN THE PUBLIC RECORDS OF THE COUNTY OF SAN FRANCISCO, CALIFORNIA, ON 06/27/2017 AT 10:00 AM BY THE COUNTY CLERK'S OFFICE.

above-ground swimming pools will be permitted on any Lot in the Development; and (xiv.) Modular-type construction is not permitted in the Development.

E. Damaged Structures. No improvement which has been partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

F. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any numbered Lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

G. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot of improvements from becoming unsightly and specifically, such Owner shall:

- (i.) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and weeds;
- (ii.) Remove all debris or rubbish;
- (iii.) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.
- (iv.) Cut down and remove dead trees.
- (v.) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

H. Lot Access. All Lots shall be accessed from the interior streets of the Development. No direct access to Lots shall be permitted from Dandy Trail.

I. Sight Obstructions. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the adjoining street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street Lot lines and a line connecting points twenty-five (25) feet from the intersection of said street Lot lines (or in the case of a rounded property corner, from the intersection of the street Lot lines extended to form a corner). The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street Lot line with the edge of a driveway pavement or alley line. As to any trees or other plants located within said sight line areas, the Owner thereof shall maintain the foliage line of such trees or other plants at a sufficient height to prevent obstruction of such sight lines.

J. Remedies to Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth in this Amended Declaration or the Amended Bylaws of the Association then the Association and/or any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure,

THIS DOCUMENT IS PROVIDED FOR THE USE OF THE NATIONAL TITLE BRUI... BUT ELIMINATE RESALE UNDER FC 36.01

and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Association shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs, including attorneys fees and court costs, incurred by the Association in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure shall be payable by the defaulting Owner upon demand by the Association, and shall immediately become a lien against the Lot, subject to payment and collection in the manner provided for collection of assessments by the Association. The rights in the Owners and the Association under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

5. PROPERTY RIGHTS.

- A. Rights to Common Property. Title to all Common Property shall be held in the Association, and each Owner shall have, as non-exclusive, reciprocal easements appurtenant to his Lot, a right of access to his Lot over all streets and the right to the use of all Common Areas and Common Property for their intended purposes, provided however, that no Owner's use of any Common Areas or Common Property shall materially interfere with any other Owner's use thereof.
- B. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
  - (i.) the right of the Association to charge reasonable admission and other fees, and to establish reasonable rules and regulations for the use of any recreational facility situated upon the Common Areas;
  - (ii.) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of this Amended Declaration and/or its published rules and regulations;
  - (iii.) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an

THIS DOCUMENT IS PROVIDED FOR SALE UNDER IC 26-1-7

instrument agreement to such dedication or transfer signed by a majority of each class of members of the Association has been recorded.

- C. Delegation of Use. Any Owner may delegate, in accordance with the Amended Bylaws of the Association, his right of enjoyment to the Common Areas and facilities of the Association to the members of his family, his tenants, or contract purchasers who reside on the property.
- D. Utility Easements. There is hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the property, to be perpetual hereof, from the date of the Original Declaration, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), and such other further public service facilities as Developer may deem necessary in any easement areas as shown on the plats of the Development. Provided, however, the disturbed area shall be restored as nearly as possible to the condition in which it was found. No permanent structures shall be constructed within an easement area.
- E. Limited Common Area. There is hereby reserved for the benefit of the owner of any Lot, a limited common area for the purpose of entering and encroaching upon an adjoining Lot as designated on the plat hereof. Said limited common area is reserved for the limited purpose of performing maintenance and repair work on the dwelling benefitted by such easement, and for the encroachment, if any, of the roofs, gutters, overhangs or other improvements resulting from the original construction of the adjacent dwelling. The owner of any dwelling built within three (3) feet of a side-yard property line, shall have an express right of access and use for the limited purposes described above, in the limited common area as measured from the side-yard property line. Said easement area shall be five (5) feet in width as measured from said side-yard property line unless otherwise designated on the plat hereof. Any persons entering upon a Lot under the rights granted hereunder shall be responsible for repair of any damage resulting from the use of the area.

6. Miscellaneous Provisions and Prohibitions.

- A. Mortgagee's Rights. The Mortgagees, individually and collectively, have the right, but not the obligation, to pay any taxes or other charges or assessments which are or may become a lien against the Common Area, in the event the same are not paid by the Association when due. The Mortgagees also have the right, but not the obligation, to pay any overdue premiums on hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making

THIS DOCUMENT IS PROVIDED BY SPANISH COURTESY OF THE LEGAL GROUP

- any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefore to the Association.
- B. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the Lot, and may be collected, in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. Neither Association nor any Owner shall be liable for any damage which may result from failure to enforce the provisions of this paragraph.
- C. Construction of Sewage Lines. All sanitary sewage lines on the Lots shall be designed and constructed in accordance with the provisions and requirements of the Metropolitan Department of Public Works. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining from said Committee of permission to proceed.
- D. Signs. No signs or advertisements shall be displayed or placed on any Lot or structures in the Development without the prior written approval of the Committee except for political signs which may be displayed for thirty (30) days prior to an upcoming election and five (5) days after such election.
- E. Animals. No animals shall be kept or maintained on any Lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance.
- F. Vehicle Parking. No campers, trailers, recreational vehicles, boats, commercial vehicles or similar vehicles other than ordinary family passenger vehicles shall be parked on any street or Lot in the Development, unless parked such that it is not visible to the occupants of other Lots in the Development or the users of any street in the Development; except for temporary periods not exceeding 48 hours and except as the Committee may otherwise approve.

THIS DOCUMENT IS A COPY OF THE RECORDS OF THE FEDERAL BUREAU OF INVESTIGATION AND IS NOT TO BE USED FOR RESEARCH OR RESEARCH UNDER IC 8-1-1

G. Garbage, Trash and Other Refuse. No Owner of a lot in the Development shall burn or permit the burying out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in subparagraph H below. All dwellings built in the Development shall be equipped with a garbage disposal unit.

H. Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made.

I. Temporary Structure. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot.

J. Ditches and Swales. It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Committee.

K. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by Committee. All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

L. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the Committee. No septic tanks shall be installed on any of the Lots.

M. Antennas. Exposed antennas shall require approval by the Committee. The maximum height of such antennae shall not exceed five (5) feet above the roof peak.

N. Satellite Dishes. All placement of satellite dishes must be placed in the least conspicuous place and must be first approved by the Committee.

O. Solar Heat Panels. Unless otherwise approved by the Committee, no solar heat panels shall be allowed on roofs so as to be visible from the front or rear of any residence in the Development. Such panels may be installed on the ground if enclosed within a fenced area within the specific Lot boundary and located to the rear of the dwelling, as approved by the Committee.

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT LEGAL ADVICE AND SHOULD NOT BE RELIED UPON FOR REASONING OR REASONING.

7. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

- (i.) In General. No dwelling, building structure or improvement of any type or kind shall be repainted, constructed or placed on any Lot in the Development, and no existing trees shall be removed, without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include lot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans shall be drawn to a scale of one inch (1") equals ten feet (10'), or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.
- (ii.) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:
- (a) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of this Amended Declaration;
  - (b) The design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or
  - (c) the proposed improvement, or any part thereof, or proposed tree removal, would, in the sole opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

THIS DOCUMENT IS PROVIDED IN CONFIDENCE AND IS NOT TO BE DISSEMINATED OUTSIDE THE PROJECT WITHOUT THE WRITTEN PERMISSION OF THE PROJECT MANAGER.

B. 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 for such disapproval. If no response from the Committee within thirty (30) days then such request shall be deemed denied.

C. Liability of Committee. Neither the Committee nor any agent thereof 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.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Amended Declaration and applicable regulations.

E. Approvals. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing signed, by two members of the Committee.

8. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER. Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Amended Declaration to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the Development.

9. COVENANT FOR MAINTENANCE ASSESSMENTS

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Trophy Club, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, fencing, repairing, operating, and maintenance of the Common Area, including, but not limited to, the payment of taxes and insurance thereon, for the cost of labor, equipment, material, and management furnished with respect to the Common Area, and any and all other Common Expenses. Each Owner hereby covenants and agrees to pay to the Association:

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



- (iii) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.
- B. Pro-rata Share. The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by dividing one by the total number of Lots shown on the plat or plats of Trophy Club, as the same may be recorded from time to time.
  - C. Liability for 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 upon each Lot from and after the due date thereof in favor of the Association. 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. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer 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.
  - D. 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 anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association.
  - E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of two-thirds (2/3) of the Owners, and shall be due and payable on the date(s) determined

THIS DOCUMENT IS FOR INFORMATION ONLY. NOT TO BE USED FOR RESALE UNDER C-8.7

- by such Owners, or if not so determined, then as may be determined by the Board of Directors.
- F. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall follow the calendar year and may be changed from time to time by action of the Association. 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 Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments.
- G. Duties of the Association
  - (i.) 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 (or duly 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. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent 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 with thirty (30) days after the date of actual mailing of such notice.
  - (ii.) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee a certificate in writing signed by an office of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.

- (iii.) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this declaration by any Owner which is not cured within sixty (60) days; (b) of any condemnation or casualty that affects either a material portion of Trophy Club or the Lot securing its mortgage; (c) of any lapse, cancellation, or material modification of any insurance policy or fidelity bond required to be maintained by the Association; and (d) and proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.
- H. Non-payment of Assessments; Remedies of the Association
  - (i.) 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.
  - (ii.) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, the Owner shall be required to pay all costs of collection thereof, including attorneys' fees, court costs, and a late fee determined by the Board of Directors, 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.
- I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Thereafter, such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal

THIS DOCUMENT IS FILED IN PUBLIC RECORDS OF THE COUNTY OF FIDELITY WITH A TITLE GUARANTEE AND DOES NOT ELIMINATE THE NEED FOR A FIDELITY AND SECURITY EXAMINER IC 36.2.7

- year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, it shall be the Board's sole discretion whether to transfer that amount to the reserve account or if 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).
- J. Initial Assessments. In no event shall the annual Assessment exceed Three Hundred Dollars (\$300.00) per year per Lot without the approval of a majority of the Owners; provided, however, that said maximum amount may be increased by no more than ten percent (10%) per year by the Board of Directors without such consent.
  - K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Association shall be sent to all Owners 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 Owners of proxies entitled to cast fifty percent (50%) of all the votes 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. Nothing contained in this paragraph shall be construed to limit the ability of the Board of Directors to increase Assessments up to the amounts permitted by paragraph (J) hereof.
  - L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceeding or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

#### 10. REMEDIES.

- A. In General. Any party to whose benefit these Amended Declaration insure, including the Association and any homeowner within Trophy Club, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Amended Declarations, but the Association shall be liable for damages of

THIS DOCUMENT IS PROVIDED FOR SCHEISS GROUP AND IS NOT BINDABLE OR RESALEABLE.

any kind to any person for failing to abide by, enforce or carry out any of these Amended Declarations.

- B. Government Enforcement. The Metropolitan Development Commission of Marion County, Indiana, its successors and assigns, shall have right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance 58-AO-3, as amended, or any conditions attached to approval of the plat of the various Sections of the Trophy Club subdivision by the Plat Committee.
- C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of the provisions within this Amended Declaration or the Amended Bylaws shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of the Amended Declaration or the Amended Bylaws.

#### 11. INSURANCE.

- A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on in connection with any and all of the Common Property, in an amount not less than Three Million Dollars (\$3,000,000.00) per occurrence for personal injury and One Million Dollars (\$1,000,000.00) per occurrence for property damage.
- B. The Association shall also maintain in force adequate fire and extended coverage insurance for all Common Property for the benefit of all Owners and Mortgagees in Trophy Club, insurance against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full insurable value of such Common Property, and shall contained the following endorsements, if and to the extent obtainable at a reasonable cost in the judgment of the Association in the State of Indiana: (i) replacement cost; (ii) inflation guard; and (iii) demolition cost, contingent liability and increased construction cost in connection with building code requirements. In the event that all or any part of the Common Property is determined to be a flood hazard area, the Association shall also obtain a master policy of flood insurance on all structures and improvements on any Common Property within such flood hazard zone, in an amount at least equal to the less of one hundred

THIS DOCUMENT IS FROM THE FLOOD HAZARD MITIGATION AND RISK REDUCTION PROGRAM. PLEASE USE CAREFULLY IN THE FUTURE.

percent (100%) of the current replacement cost of all insurable property in the flood hazard area, or in the maximum coverage available for such property under the National Flood Insurance Program. The amounts of coverage under the foregoing master policies shall be increased from time to time to cover all additions to Trophy Club. Deductibles shall not exceed the lower of ten thousand dollars (\$10,000.00) or one percent (1%) of the applicable amount of coverage. Funds for such deductibles must be included in the Associations' reserves and so designated.

C. The Association also shall obtain comprehensive public liability insurance together with Workmen's Compensation Insurance, employers' liability insurance, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate. All such 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, the Board of Directors, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of Individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or Insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name FHLMC and all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

D. The Association shall obtain a fidelity bond indemnifying the Association, the Board of Directors, and the Owners for loss of funds resulting from fraudulent, or dishonest acts of any employee or officer of the Association or of any other person handling the funds of the Association or the Owners. The coverage must equal the maximum amount of funds in the Association's custody at any one time but must be no less than the sum of three (3) months of assessments on the entire project plus reserves.

THIS DOCUMENT IS PROVIDED FOR RESIDENTS OF THE DISTRICT OF COLUMBIA. TITLE GUARANTEE AND FIDELITY BOND COVERAGE IS NOT AVAILABLE FOR RESIDENTS OF THE DISTRICT OF COLUMBIA.

E. All policies of insurance maintained by the Association pursuant to this section shall provide such coverages and be in such amounts as may be required from time to time by FNMA, FHLMC, FHA or VA. All policies shall contain a clause whereby the insurer agrees to provide written notice to the Association, to FHLMC, and to any other lending institution or agency requesting or requiring the same, prior to any cancellation or material modification thereof. The Association shall notify all Mortgagees of which it has notice of any lapse, cancellation, or material modification of any insurance policy.

F. The Association shall also carry any additional coverage commonly required by private mortgage investors for developments similar in construction, location, and use, including the following where applicable and available:

- (i.) contingent liability from operation of building laws;
- (ii.) comprehensive automobile liability;
- (iii.) bailee's liability;
- (iv.) elevator collision liability;
- (v.) garage keeper's liability;
- (vi.) host liquor liability;
- (vii.) workers' compensation and employer's liability; and
- (viii.) contractual liability.

G. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

H. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

I. Insurance policies required to be carried by the Association by this paragraph shall be subject to the following additional requirements

- (i.) (a) the Insurer has a current Best's Insurance Reports rating of A/V or better; (b) the Insurer must be reinsured by a company rated B/VI or better by Best's Insurance Reports. In this case, both the Insurer and reinsurer must execute an Assumption of Liability Agreement or a similar endorsement providing for one hundred percent (100%) reinsurance of the Issuer's policy and requiring the reinsurer to give the borrower, mortgagees, and the insurer at least ninety (90) days written notice before canceling or otherwise terminating the reinsurance (this agreement must be attached to the insurance policy); or (c) coverage must be underwritten

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IS NOT ELIGIBLE FOR FILING UNDER IC 36-3-7

- by Lloyd's of London or by a Fair Access to Insurance Requirements (FAIR) or beach and windstorm plan.
- (ii.) Each insurer and any reinsurer shall be specifically licensed or authorized by law to transact business within the State of Indiana.
- (iii.) Policy contracts shall provide that no assessments may be made against the Federal Home Loan Mortgage Association (or its designee) and that any other assessments may not become a lien on the Development superior to the first mortgage.
- (iv.) All policies of hazard insurance shall contain or have attached the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Development is located. The mortgagee clause must provide that the insurance carrier will notify the first mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

12. EFFECT OF BECOMING AN OWNER. The Owners of any Lot subject to this Amended Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every provisions within this Amended Declaration, the Amended Bylaws, and agreement herein contained. By acceptance of such deed or execution of the such contract, the Owner, for themselves, their heirs, personal representatives, successors and assigns, covenant and agree and consent to and with all current and subsequent Owners of each of the Lots affected by this Amended Declaration and Amended Bylaws to keep, observe, comply with and perform such agreements.
13. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of this Amended Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of this Amended Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.
14. DURATION AND AMENDMENT. Any amendment to this Amended Declaration must be presented a meeting duly called the purpose of approving the amendment and approved by two thirds (2/3) of the Owners.



THIS DOCUMENT IS

15. RIGHTS OF MORTGAGES. Except to the extent otherwise provided herein, no breach of these Amended Declaration or Amended Bylaws shall defeat or render invalid the lien of any mortgage now existing 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 Amended Declaration.

16. SEVERABILITY. Every one of the provisions within this Amended Declaration is hereby declared to be independent of, and severable from, the rest of the Amended Declaration and of and from every other one of the provisions within this Amended Declaration, and of and from every combination of the provisions within this Amended Declaration. Therefore, if any of the provisions within this Amended Declaration shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the provisions within this Amended Declaration.

17. HOMEOWNERS ASSOCIATION. The Association has been created as a not-for-profit corporation under the laws of the State of Indiana. The Association will be responsible for controlling all maintenance and other activities for all Common Areas and Common Property.

18. DEDICATED STREETS. The streets are hereby dedicated to the public.

19. RESOLUTION OF DISPUTES:

A. Disputes: This Section governs any claim or dispute regarding:

- (i.) The interpretation, application, or enforcement of the Articles, this Amended Declaration or the Amended Bylaws;
- (ii.) The rights or duties of the Association or the Board of Directors under the Articles, this Amended Declaration or the Amended Bylaws;
- (iii.) The maintenance of Trophy Club; and/or
- (iv.) Other matters among the parties which involve the Association and/or Trophy Club.

B. Exempt Disputes: The following claims and/or disputes are exempt from this Section:

- (i.) Any claim or action by the Association regarding unpaid dues or assessments;
- (ii.) Any action by any party to obtain a temporary restraining order or other emergency relief;
  - 1. To maintain the status quo and protect the party's ability to enforce the Articles, this Amended Declaration or the Amended Bylaws;and

THIS DOCUMENT IS PROVIDED TO THE HOMEOWNERS ASSOCIATION OF THE TROPHY CLUB

- 2. When an emergency condition exists that jeopardizes the health or safety of any residents within Trophy Club.
- (iii.) A lawsuit regarding a claim or action that cannot be completed within the time frame of this section before the statute of limitations would expire unless the parties have agreed to toll or suspend the statute of limitations in order to complete the grievance procedures in this Section;
- (iv.) A dispute that is required by law, contract, warranty agreement, or other instrument to go through mediation, arbitration, or other form of alternate dispute resolution before a lawsuit is filed; and
- (v.) A claim that is substantively identical to:
  - 1. A previously addressed claim between the parties; or
  - 2. A claim that has already been resolved in court in favor of one of the parties.
- C. Procedure for Dispute or Claim: In the event there is a dispute or claim governed by this Section, a lawsuit or administrative proceeding may not be filed until the following procedures have been satisfied:
- D. Notice: The claimant must provide a notice to the alleged violator that includes the following information:
  - (i.) The nature of the alleged claim or violation, including the date, time, location, persons involved, and the alleged violator's role in the claim or violation;
  - (ii.) The basis or reason for the alleged claim or dispute, including the provision(s) of the Amended Declaration or Amended Bylaws or other authority from which the alleged claim or dispute arises;
  - (iii.) How to resolve or correct the alleged claim or dispute;
  - (iv.) Notification to the alleged violator of the right to meet with the claimant face-to-face to discuss the alleged claim or dispute if such a request is made within ten (10) business days from the date of the notice of the alleged claim or dispute was received by the alleged violator; and
  - (v.) The name and address to send the meeting request under subsection (iv).
- E. Meeting: If a meeting is requested within the time frame required by subsection (iv) then the claimant and the alleged violator shall meet at the agreed upon time and place to discuss the alleged claim or dispute. The parties shall both negotiate in good faith at such meeting. All parties shall also have full access to any property that is part of the alleged claim or dispute for inspection. In the event the corrective action requires access to the other parties' property, such access shall be provided.
- F. Impasse: In the event of an impasse either party has ten (10) days to request mediation or binding arbitration. The party requesting such mediation or binding arbitration shall be responsible for all costs of such mediation or arbitration. An impasse shall be characterized by the following:
  - (i.) The alleged violator does not request the face-to-face meeting;

THIS DOCUMENT IS PROVIDED FOR THE USE OF THE NATIONAL LEGAL CENTER AND IS NOT ELIGIBLE FOR PROTECTION UNDER 17 USC 101.7

- (ii.) Either party fails to appear at the face-to-face meeting that was properly requested; or
  - (iii.) The parties conduct the meeting and cannot agree to settle the alleged claim or dispute.
- G. Further proceedings: If neither party requests a mediation or arbitration within the required time frame after an impasse is reached the claimant may then file a lawsuit or administrative action against the alleged violator. Only after all the above procedures are followed and satisfied may a lawsuit or administrative action be filed by the claimant.
- H. Attorneys fees and Costs: With the exception of the lawsuit allowed herein, the requirement that the requesting party pay for the mediation or arbitration, or except as otherwise provided herein, each party shall bear its own costs for completing the actions under this Section.
- I. Settlement Agreements:
- (i.) In the event an agreement is reached in the meeting held as provided herein, such agreement shall be in writing and signed by both parties.
  - (ii.) In the event either party fails to abide by the terms of the agreement, the non-breaching party may file a lawsuit or administrative action to enforce the terms of the settlement agreement.
  - (iii.) The prevailing party in any lawsuit or administrative action to enforce the settlement agreement shall be entitled to recover its court costs, attorneys fees, and other reasonable costs.
  - (iv.) Authority of Board of Directors
  - (v.) The Board of Directors shall have authority to do all of the following without approval of the Owners:
    - 1. Negotiate settlements of claims, violations, disputes and/or legal proceedings; and
    - 2. Execute settlement agreements, waivers, releases of claims, or other documentation resulting from a proceeding under this Section.
  - (vi.) Operation of Release. Any release which is obtained by an alleged violator only operates as a release regarding the parties to that release and does not release the alleged violator from any other potential claims brought by other parties.

**20. RENTAL RESTRICTION**

- A. In order to insure that the residents within the Development share the same proprietary interest in and respect for the Lots and the Common Areas, the following limitation is imposed on the leasing or rental of Lots:
- (i.) Limit on Number of Leased Lots. No more than ten percent (10%) of the Lots, at any given time, may be leased or rented for exclusive occupancy by one or more non-owner tenants. For purposes of this Section 20, a Lot is exclusively occupied by one or more non-owner tenants, if the Owner

THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT A CONTRACT AND DOES NOT CONSTITUTE AN OFFER.

does not also correspondingly occupy the Lot as his/her principal place of residence. Prior to the execution of any lease, and in addition to the requirements set forth in this Section 20, the Owner must notify the Board of Directors or its agent as to the Owner's intent to lease his/her Lot. After receiving such notice, the Board of Directors or the Board's agent shall advise the Owner if the Lot may be leased or whether the maximum number of Lots within the Development is currently being leased. If the maximum number of Lots is already being leased, the Board of Directors or the Board's agent shall place the Owner on the waiting list in priority order based on the date of notice from the Owner, and shall notify the Owner of that Owner's position on the waiting list. When an existing non-owner occupant vacates a Lot, the Owner of that Lot shall immediately notify the Board of Directors or the Board's agent of such fact and that Lot cannot be re-rented or leased until all prior Owners on the waiting list, if any, have had a chance to rent or lease their Lots. An Owner on the waiting list who obtains the opportunity to rent or lease his/her Lot, must present an executed lease to the Board of Directors or to the Board's agent, within sixty (60) days of the date of notice that he/she may rent or lease the Lot, or that Owner will forfeit his/her position on the waiting list.

- (ii.) General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Lot other than the entire Lot may be leased for any period. No subleasing is permitted. No Owner will be permitted to lease or rent his/her Lot, if the Owner is delinquent in paying any assessments or other charges due to the Association at the time the lease is entered. All leases shall be made expressly subject and subordinate in all respects to the terms of the Amended Declaration, Amended By-Laws and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Corporation and/or any Owner against the tenant with or without joinder of the Owner of such Lot. In addition, the lease shall provide that a violation of the covenants and restrictions of the Declaration, the By-Laws, or the rules and regulations of the Association constitutes a breach of the lease, which may be directly enforced by the Association. All Owners who do not reside in the Lot shall provide the Board of Directors with the name of the tenant(s) and any, other residents living in the Unit. The Owner shall supply copies

of the Amended Declaration, Amended By-Laws and rules and regulations to the tenant prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.

- (iii.) Exceptions During Period of Good Faith Sale or Significant Hardship. The Board of Directors may, in its discretion, grant an exception, for not more than one (1) year at a time, to the limit provided in this Section 20 to an Owner if the Board determines that the Owner is actively and in good faith trying to sell or otherwise dispose of his Lot or if the Board, by majority vote of the entire Board, determines that the Owner has a Significant Hardship. For purposes of this subparagraph, examples of a Significant Hardship may include:
1. death of a Owner;
  2. divorce of an Owner;
  3. temporary, necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of the Tract due to a change of employment or retirement; or
  4. temporary, necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of the Owners.
- (iv.) Twelve Month Waiting Period. In addition to all other provisions, for a period of at least twelve (12) months after an Owner's acquisition of a Lot, the Owner cannot rent or lease that Lot for exclusive occupancy by one or more non-owner tenants. After such time, said Lot will be eligible to be leased if all other conditions are satisfied. In the case of the transfer of ownership of a Lot, which was properly leased under these rules by the previous Owner, the new Owner can continue with such lease only to finish the then current term of not more than one (1) year. When that term ends, the Owner, if he/she wants to lease his/her Lot, must meet all requirements the same as other Owners who are not exempted.
- (v.) Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his/her responsibility to the Association and to the other Owners for compliance with the provisions of the Amended Declaration, Amended By-Laws and any rules and regulations promulgated by the Board, or from the Owner's liability to the Association for payments of assessments.

THIS DOCUMENT IS PROVIDED FOR INFORMATION ONLY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.

- (vi.) Approval of Form of Lease. Any Owner desiring to enter into a lease for his/her Lot shall submit the form of the proposed lease to the Board of Directors (which form need not include the identity of the tenant or the rental amount) for review for compliance with the requirements of this Subsection (n). The Board of Directors may employ an attorney in connection with any such review, and a reasonable fee may be charged to the applicant to offset the expense so incurred. In the event the Board of Directors fails to approve or disapprove the form of the lease within thirty (30) days after submission by the applicant, the form of the lease shall be deemed approved. A copy of each executed lease by an Owner (which may have the rental amount deleted) shall be provided to the Board of Directors by the Owner within thirty (30) days after execution.
- (vii.) Violations. If any Owner leases or rents his/her Lot in violation of the provisions of this Subsection (n), the Association may bring a legal action to enjoin the improper conduct.
- (viii.) Effective Date of Lease Conditions. These leasing restrictions shall not apply to any Lot of an Owner who, at the time of recording this provision, is renting or leasing said Lot for exclusive occupancy by one or more non-owner tenants, so long as such Lot continues to be owned by the same Owner and is not occupied as a residence by such Owner. In order for this exception to apply, said Owner must deliver a copy of the executed lease, which is in effect at the time to the Board of Directors within thirty (30) days after the recording of this document and shall furnish a copy of any subsequent lease within thirty (30) days after its execution. Such copy may have the rental amount deleted. Failure of such an Owner to timely deliver a copy of any such lease to the Board of Directors shall result in said Owner's Lot being subject to these restrictions. However, in this latter circumstance, these restrictions shall not apply to any lease executed prior to the effective date of these restrictions or to any renewals thereof provided in such lease so long as the occupants remain the same. Any Lot which falls under the exception of this paragraph shall, nevertheless, be counted as one of the ten percent (10%) of Lots that may be rented at any given time even though such maximum does not apply to restrict such excepted Lot.
- (ix.) Institutional Mortgages. The provisions of this Section 20 shall not apply to any institutional mortgage holder of any Lot which comes into possession of the mortgage holder by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or

THIS DOCUMENT IS PROVIDED FOR SOLE USE OF FIDELITY NATIONAL TITLE GROUP AND IS NOT ELIGIBLE FOR RESALE UNDER IC 36.2.7

other judicial sale or as a result of any proceeding, arrangement or deed in lieu of foreclosure.

IN WITNESS WHEREOF, witness the signature on behalf of the Association this 6 day of June, 2017.

The Trophy Club Homeowners Association, Inc.

By: Tina Wilkerson Tina Wilkerson

Tina Wilkerson, President

Attest:

By: Vicki Givens

Vicki Givens, Secretary

STATE OF INDIANA )

) SS:

COUNTY OF Marion )

Before me, a Notary Public in and for said County and State, personally appeared Tina Wilkerson, the President and Vicki Givens, the Secretary of Trophy Club Homeowners Association, Inc. who acknowledged the execution of the foregoing Amended and Restated Declaration of Covenants Restrictions and Easements of Trophy Club

WITNESS my hand and notarial seal this 6 day of June, 2017.

My Commission expires: 11 / 18 / 2024

Tara Betterman

Notary Public

Tara Betterman



THIS DOCUMENT IS PROVIDED FOR SOLE USE

Printed

Residing in Marion County, Indiana

**AFFIDAVIT OF MAILING**  
**NOTICE TO FIRST MORTGAGEES**

STATE OF INDIANA )

) SS:

COUNTY OF Marion )

After being first duly sworn under oath, Vicki Givens, the Secretary of The Trophy Club Homeowners Association, Inc., hereby deposes and says he has mailed a copy of the foregoing Amended and Restated Declaration of Covenants and Restrictions of The Trophy Club by certified United States mail to all holders of first mortgages of record entitled to such notice on this 6 day of June, 2017.

Signed:

6-6-17  
Vicki Givens, Secretary  
Vicki Givens

NOT ELIGIBLE FOR... UNDER IC 36.2.7



THIS DOCUMENT IS PROVIDED FOR SOLE USE OF FIDELITY NATIONAL TITLE GROUP AND IS NOT ELIGIBLE FOR RESALE UNDER IC 36-2.7

Before me, a Notary Public for the above County and State, personally appeared Vicki Givens the Secretary of The Trophy Club Homeowners Association, Inc., and after being duly sworn under oath, acknowledged the execution of the foregoing Affidavit of Mailing Notice to First Mortgagees and stated the statements in said Affidavit are true.

WITNESS my hand and notarial seal this 6 day of June, 2017.

My Commission expires:

11 / 18 / 2024

Tara Betterman

Notary Public

Tara Betterman

Printed

Residing in Marion County, Indiana



I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

Paula B. Conway

THIS DOCUMENT IS PROVIDED FOR SOLE USE OF FIDELITY NATIONAL TITLE GROUP'S CLIENTS OR RESALE UNDER IC 36.2.7

Laura B. Conway

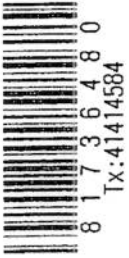
This Instrument Prepared By: Laura B. Conway, Esq., THRASHER BUSCHMANN & VOELKEL, P.C., 151 N. Delaware Street, #1900, Indianapolis, IN 46204.

Return Document To: Laura B. Conway, Esq., THRASHER BUSCHMANN & VOELKEL, P.C., 151 N. Delaware Street, #1900, Indianapolis, IN 46204.

EXHIBIT A

Part of the Northeast Quarter of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence South 00°17'48" West along the West line of said Northeast Quarter 1080.49 feet; thence South 89°20'10" East along said right-of-way line 40.85 feet; thence North 90°00'00" East parallel with the North line of said Northeast Quarter 33.65 feet to the Point of Beginning; thence South 10°49'57" East 190.91 feet; thence South 01°34'12" East 196.33 feet; thence South 22°41'37" West 303.29 feet; thence South 21°59'33" West 420.31 feet; thence North 55°44'37" West 817.17 feet; thence Northerly along said curve an arc distance of 313.14 feet and a length of 312.28 feet) to the Point of Tangency of said arc; thence North 00°24'48" East 142.27 feet; thence North 00°17'48" East 12.69 feet to the Point of Beginning, containing 22.572 acres, more or less, subject to highways, rights-of-way, and easements.



**FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS**

**OF**  
**TROPHY CLUB**

THIS First Amendment to the Amended and Restated Declaration of Covenants, Easements and Restrictions (the "First Amendment") is made this 7 day of December, 2017.

WITNESSES:

WHEREAS, on August 3, 2017, the Amended and Restated Declaration of Covenants, Easements and Restrictions of Trophy Club were recorded with the Office of the Marion County Recorder as Instrument No. 201700087979 (the "Declaration");

WHEREAS, the Association wishes to amend the Declaration; and

WHEREAS, pursuant to Section 14 of the Declaration, at least two thirds (2/3) of the Owners have approved this First Amendment which was presented at a meeting duly called for that purpose.

NOW, THEREFORE, the following amendment is made:

Section 16 (A)(i) is deleted and replaced with the following:

- (i) Limit on Number of Leased Lots. No more than ten percent (10 %) of the Lots, at any given time, may be leased or rented for exclusive occupancy by one or more non-owner tenants. For purposes of this Section 20, a Lot is exclusively occupied by one or more non-owner tenants, if the Owner does not also correspondingly occupy the Lot as his/her principal place of residence. Prior to the execution of any lease, and in addition to the requirements set forth in this Section 20, the Owner must notify the Board of Directors or its agent as to the Owner's intent to lease his/her Lot. After receiving such notice, the Board of Directors or the Board's agent shall advise the Owner if the Lot may be leased or whether the maximum number of Lots within the Development is currently being leased. If the maximum number of Lots is already being leased, the Board of Directors or the Board's agent shall place the Owner on the waiting list in priority order based on the date of notice from the Owner, and shall notify the Owner of that Owner's position on the waiting list. An Owner on the waiting list who obtains the opportunity to rent or lease his/her Lot, must present an executed lease to the Board of Directors or to the Board's agent, within sixty (60) days of the date of notice that he/she may rent or lease the Lot, or that Owner will forfeit his/her position on the waiting list.

THIS DOCUMENT IS PROVIDED FOR SOLE USE OF FIDELITY NATIONAL TITLE GROUP

IN WITNESS WHEREOF, witness the signature on behalf of the Association this 7 day of December, 2017.

The Trophy Club Homeowners Association, Inc.

By: Tina Wilkerson  
Tina Wilkerson, President

Attest:  
By: Vicki Givens  
, Secretary

STATE OF INDIANA )  
) SS:  
COUNTY OF Marion )

Before me, a Notary Public in and for said County and State, personally appeared Tina Wilkerson, the President and Vicki Givens, the Secretary of Trophy Club Homeowners Association, Inc. who acknowledged the execution of the foregoing First Amendment to the Amended and Restated Declaration of Covenants Restrictions and Easements of Trophy Club

WITNESS my hand and notarial seal this 7 day of December, 2017.

My Commission expires: 1 / 2024

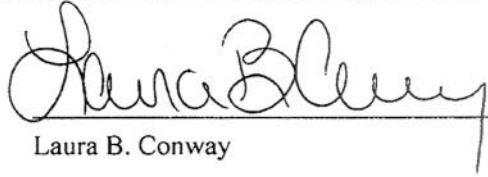
Tara Betterman  
Notary Public

Tara Betterman  
Printed

Residing in Marion County, Indiana

IS NOT ELIGIBLE FOR RESALE UNDER IC 36.2.7

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

  
Laura B. Conway

This Instrument Prepared By: Laura B. Conway, Esq., THRASHER BUSCHMANN & VOELKEL, P.C., 151 N. Delaware Street, #1900, Indianapolis, IN 46204.

Return Document To: Laura B. Conway, Esq., THRASHER BUSCHMANN & VOELKEL, P.C., 151 N. Delaware Street, #1900, Indianapolis, IN 46204.

THIS DOCUMENT IS PROVIDED BY SOLE USE OF FIDELITY NATIONAL TITLE GROUP AND IS NOT ELIGIBLE FOR RESALE UNDER IC 36.2.7