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DECLARATION

COVENANTS AND RESTRICTIONS OF THE PROPERTY OWNERSHIP FOR

SOUTHWIND ESTATES II SECTIONS I AND II

A SINGLE FAMILY RESIDENTIAL SUBDIVISION IN WHITE RIVER TOWNSHIP JOHNSON COUNTY, INDIANA

DECLARANT

INTANDY DEVELOPERS, INC.
348 Lake Drive
Greenwood, Indiana 46142

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DECLARATION OF COVENANTS AND
RESTRICTIONS OF THE PROPERTY OWNERSHIP IN

SOUTHWIND ESTATES II
SECTIONS I AND II

THIS DECLARATION made this 6th day of February, 1995, by Intandy Developers, Inc., an Indiana corporation, the developer and fee simple owner of the real estate hereinafter described, being hereinafter referred to as "Declarant."

W I T N E S S E T H :

WHEREAS, the following circumstances exist effecting the real estate described herein:

A. Declarant is the sole fee simple owner of certain real estate located in White River Township, Johnson County, Indiana, which said real estate is particularly described in the attached Exhibit "A", which Exhibit "A" is hereby incorporated herein by this reference and the real estate shall be hereinafter referred to as the "Property" or "Southwind Estates II"; and

B. Declarant, by execution and recordation of this Declaration, assures that all properties conveyed which are part of the Property shall be conveyed subject to the terms, conditions and restrictions contained herein, which shall run with the Property and be binding upon all parties or persons having any right, title or interest in the Property, or any part thereof, their heirs, representatives, successors and assigns, and shall inure to the benefit of each such party or person.

NOW, THEREFORE, in furtherance thereof, the Declarant hereby makes this Declaration as follows:

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

(a) "Property" means the real estate described in paragraph A above and such portions of additional real estate as may be included and subjected to the provisions of this Declaration, as provided herein.

(b) "Applicable Date" means the date determined pursuant to paragraph 8 of this Declaration.

(c) "Article" or "Articles of Incorporation" means the Articles of Incorporation of the corporation a/k/a Homeowners Association (HOA), as hereinafter defined.

The Articles of Incorporation are incorporated herein by reference.

(d) "Board of Directors" means the governing body of the corporation elected by the members in accordance with the By-Laws of the corporation.

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

(f) "Corporation" also known as HOA means Southwind Estates II Homeowners Association, Inc., its successors and assigns, a not-for-profit corporation, whose members shall be the owners of lots, or appointees as provided in paragraph 6 of this Declaration.

(g) "Declarant" shall mean and refer to Intandy Developers, Inc., and any successors and assigns of it whom it designates in one or more written recorded instruments, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(h) "Dwelling Unit" means one of the living units located upon a lot.

(i) "Lot" means any plot of ground designated as such upon the recorded final plat of Southwind Estates II, Sections I and II, or upon the recorded final plat, if any, of any additional real estate or any part thereof and upon which one (1) Dwelling Unit is constructed, is to be constructed or has existed. When Lot is used, it shall be deemed to include the Dwelling Unit, if any, located thereon.

(j) "Member" means an owner who is thereby a member of the Corporation.

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

(l) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(m) Easements. Easements for various purpose and use are either designated on the final plat of the Property or will be designated on the final plat. Title to the real estate on which easements are imposed will remain with the Lot owner on which the easement appears.

The Easements are herein differentiated and distinguished as to any maintenance obligation with the easements inuring to the Declarant until the Applicable Date and thereafter to the Corporation.

D & UE

a/k/a Drainage and Utility Easement. The integrity and maintenance of the surface of these areas shall be the responsibility of the title owner of the easement area. To the extent that any of the D & UE areas are part of the storm water management for the Property, the Declarant, prior to the Applicable Date and thereafter, the Corporation shall be liable for subsurface maintenance within such D & UE areas.

(n) "Common Expense" means expenses for administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement as detailed in Item (m), and all sums lawfully assessed against the Members of the Corporation

(o) "Storm and Surface Water Drainage Facilities" means and shall include all subsurface storm water facilities, open ditches and swails, concrete based swails, and retention areas, all within the Property.

2. Declaration. Declarant hereby expressly declares that the "Property", and all lots and portions thereof, shall be owned, held, conveyed and transferred subject to and in accordance with the terms, provisions, conditions and restrictions of this Declaration.

3. Description of the Property. The Property is comprised of the approximate 21.690 acres in White River Township, described particularly in Exhibit "A" hereto, to be platted and developed as Sections I and II of Southwind Estates II, a single family subdivision in Johnson County, Indiana. Section I shall contain Lots 1 through 17 and Lots 27 through 32. Section II shall contain Lots 18 through 26, and Lots 33 through 48 ("Lot or Lots"). The plat of each section shall be recorded in the office of the Recorder of Johnson County, Indiana, with this Declaration referenced thereon and made a part thereof.

4. Common Area. There are no common areas within the Property or the plat of Southwind Estates II, except those easements described and dedicated by the plat and/or this Declaration, for the purpose of providing utilities for the Property and accommodating storm and surface drainage upon and within the Property.

5. Easement for Utilities, Installation and Maintenance. An easement is granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including, but not limited to, water, sewers, gas, telephone and electricity on the Property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed and approved by Declarant on the plat or as thereafter may be approved by Declarant or by the Board of Directors. By virtue of this easement, the electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electrical and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the dwelling units ("Dwelling Units"). In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant shall have the right to grant such easement on such Property, without conflicting with the terms of this paragraph. The easements granted herein shall in no way effect any other recorded easement on the Property.

6. Storm and Surface Water Drainage Facilities - Easements and Maintenance. All storm and surface water drainage facilities for the Property shall be constructed within and upon easements designated upon the plat as "D & UE" (Drainage and Utility Easement) and dedicated therein for such purposes. All such drainage facilities shall be maintained hereafter by the Declarant for a period of three (3) years following the recording of the plat of Southwind Estates II, Sections I and II, or until the Applicable Date, whichever date is later, and thereafter all such maintenance required shall be the sole responsibility of the owners of the Property and the Lots therein ("Owner or Owners"), through the Owners Membership Corporation ("Corporation"), as herein provided. The Corporation shall be empowered to perform all maintenance and repair functions necessary to maintain all storm and surface drainage facilities constructed in and upon the Property and shall have such other responsibilities as the Owners, as members, and the Corporation's Board of Directors shall determine appropriate, all as herein provided. The Owners, their Corporation, and their grantees, successors and assigns, are hereby further advised that Johnson County, Indiana, shall not perform maintenance of the said storm and surface drainage facilities, and that such will be the sole responsibility of the Owners and their Corporation.

7. Easements - Use Restrictions. Each Owner of every tract in the Property shall be responsible to insure that no surface or storm water run off, from any source, is permitted to enter the sanitary sewer system serving the Property. No sanitary sewage shall be permitted to be discharged or flow into the storm and surface water drainage facilities serving the Property. Any such prohibited connections determined to exist shall be removed by the Declarant, the Corporation, or its nominee, at the expense of the Owner of the tract effected, and the cost of such removal shall constitute a lien upon the said tract until paid in full. No construction of any permanent improvements shall be permitted within or upon any drainage, utility or sewer easement in the Property, or within required set backs. Any such construction within the said easements shall be at the Owner's risk and may be removed in the discretion of the Declarant, the Corporation, or utilities using the said easements.

8. Corporation; Membership; Voting and Functions.

(a) Formation of and Membership in Corporation. Declarant shall cause to be incorporated the Not-For-Profit Corporation, Southwind Estates Homeowners Association, Inc. Declarant and each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a member of the Corporation ("Member") and shall remain a Member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a Member of the Corporation.

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

(i) Class A. Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the ownership of a particular Lot, all such person shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among

themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) Class B. Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B Member shall be entitled to three (3) votes for each Lot of which it is the Owner in all matters requiring a vote of the Members of the Corporation. The Class B membership shall cease and terminate upon the applicable date ("Applicable Date"), which shall be the first to occur of:

1. the date upon which the written resignation of the Class B Members is delivered to the resident agent of the Corporation;

2. thirty (30) days after the date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or;

3. 6 years after date of recordation of this Declaration.

(c) Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, and administration of the storm and surface drainage facilities serving the Property, and to pay any other necessary expenses and costs in connection with such areas, and to perform such other functions as may be designated by it to perform under this Declaration.

9. Board of Directors.

(a) Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant, as provided in subparagraph (b) of this paragraph 9.

(b) Initial Board of Directors. The Initial Board of Directors shall be composed of the person designated by the Articles, to-wit: Andrew L. Arbuckle and Inta Celmins (hereinafter referred to as the "Initial

Board"), both of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of this Declaration, the Articles or the By-Laws (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the applicable date, determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a Member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type or judicial acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which Members of the Corporation are entitled to vote under the Declaration, the Articles, the By-Laws or otherwise; provided, however, this right to vote granted to Declarant shall not extend to votes of Members (if a vote is required) on matters of special assessments or consolidation of the Corporation with another corporation. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each person serving on the Initial Board, whether as an original Member thereof or as a Member thereof appointed by Declarant to fill a vacancy, shall be deemed a Member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a Member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a Member of the Corporation).

(c) Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

(d) Terms of Office and Vacancy. The Initial Board, per subparagraph (b) hereof, shall be deemed to be elected

and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable date there shall be no less than three (3) directors and no more than five (5) with one (1) director each being exclusively elected from each platted Section of the Southwind Estates II subdivision (hereinafter referred to as "Subdivision Directors") with the balance of Directors (hereinafter referred to as "At Large Directors") being elected from all subdivisions subject to this Declaration. Each member of this Board of Directors who is a Subdivision Director, shall be elected for a term of three (3) years, with At Large Directors to be elected at the first election after the Applicable Date so that one At Large member of the Board of Directors shall be elected for a three (3) year term, one for a two (2) year term, with any other At Large member of the Board to have a one (1) year term. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of subparagraph (b) of this paragraph as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with subparagraph (e) of this paragraph. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

(e) Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

(f) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including, but not limited to, the

management, maintenance, repair, upkeep and replacement as required and detailed under this Declaration of all drainage facilities within the storm drainage easements and drainage and utility easements, and the collection and disbursement of the common expenses.

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

(i) to purchase, lease or otherwise obtain for the Corporation to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(ii) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;

(iii) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;

(iv) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom; and

(v) to open and maintain a bank account or accounts in the name of the Corporation.

(h) Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Twenty-Five Hundred Dollars ($2,500.00) without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

(i) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

(ii) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

(i) Compensation. No Director shall receive any compensation for his services as such, except to such extent as may be expressly authorized by a majority vote of the Owners. The managing agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(j) Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

(k) Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director the reasonable cost of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such finding and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good

faith, such Director relied on the books and records of the Corporation or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meeting of the Board of Directors.

10. Maintenance, Repairs and Replacements. Maintenance, repairs, replacements and upkeep of the storm drainage system, as detailed in this Declaration, shall be furnished by the Corporation as a part of its duties and the cost thereof shall constitute a part of the Common Expenses.

Each Owner shall be responsible for maintaining and keeping his Lot and all improvements thereon in a good, clean and sanitary condition.

Notwithstanding any obligation or duty of the Corporation to repair or maintain aforesaid if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby which would otherwise by a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

If any Owner shall fail so to maintain and keep his Property or any part thereof in a good, clean and sanitary condition, exclusive of dwelling maintenance, the Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Corporation's lien on the Owner's Property.

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

11. Architectural Control.

(a) The Architectural Review Board. As a standing committee of the Corporation there shall be, and hereby is, established an Architectural Review Board consisting of two (2) or more persons as may, from time to time, be provided in the By-Laws. Until the Applicable Date, the Architectural Review Board shall be the Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors.

(b) Purpose. The Architectural Review Board shall regulate the external design, appearance, use and location of improvements on the Property in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

(c) Conditions. No improvements, alterations, repairs, excavation, changes in grade or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Board.

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

(e) Maintenance of Architectural Control. The Association may not waive or abandon the procedure for regulating and enforcing the architectural design of the Dwelling Units nor for maintaining the storm drainage system, without the prior written approval of two-thirds (2/3)

of all Owners and two-thirds (2/3) of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

12. **Assessments**.

(a) Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant or firm of certified public accountants then servicing the Corporation, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

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

The annual budget may include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement of the storm and surface water drainage facilities, which replacement reserve fund (if established) shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement of the storm drainage system shall be maintained by the Corporation in a separate interest-

bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Johnson County, Indiana, selected from time to time by the Board.

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

(c) Regular Assessment. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses on the current fiscal year, as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessment shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance in quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter. Payment of these installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay assessments semi-annually or annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget, then:

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

(ii) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessments coming due, until the entire amount of such excess has been so credited;

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

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to the terms hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the

matters set forth herein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Quarterly installments of Regular Assessments shall be due and payable automatically on their respective due date without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same. **NOTWITHSTANDING ANYTHING HEREIN WHICH MAY APPEAR TO THE CONTRARY, DECLARANT SHALL NOT BE RESPONSIBLE FOR REGULAR ASSESSMENTS FOR LOTS OWNED BY DECLARANT NOT OCCUPIED OTHER THAN BY DECLARANT SO LONG AS THE CLASS B MEMBERSHIP IS IN EXISTENCE.**

(d) Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, and further provided that the Declarant shall not be any Owner's agent, attorney-in-fact or proxy in this vote, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

(e) Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Regular Assessments and Special Assessments or from contributing toward the Common Expense or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the storm drainage system described herein or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person the liability of such person shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the

lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessments or Special Assessments when due, the Board may, in its discretion, accelerate the entire balance of unpaid assessments the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment to the Corporation and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment whether by foreclosure or otherwise, the Board for and on behalf of the Corporation shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including, but not limited to, reasonable attorneys' fees) and interest from the date such assessment was due until paid at the rate equal to the prime interest rate then being charged by Indiana National Bank & Trust Company of Indianapolis to its largest and best corporate customer (or if said bank is no longer in existence then such rate charged by another National Bank in Marion County, Indiana, selected by the Board of Directors). The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage.

(g) Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof,

from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

13. Insurance.

(a) Casualty Insurance. The Corporation shall not be required to purchase casualty insurance, as it is not presently contemplated the Corporation will own personal property or improvements. The Corporation may, however, insure the storm and surface drainage facilities against loss or damage by insurable cause, in the discretion of the Board of Directors. Each Owner shall otherwise be solely responsible for loss or damage to his Dwelling Unit, the contents of his Dwelling Unit and Lot, however caused, and his personal property stored elsewhere on the Property, and the Corporation shall have no liability to the Owner for loss or damage to the Dwelling Unit, the contents of any Dwelling Unit or any personal property stored elsewhere on the Property. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

(b) Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but not less than One Million Dollars ($1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any managing agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Property. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners. Such public liability insurance policy shall contain a provision that such policy shall not be cancelled or substantially modified without at least ten (10) days written notice to the Corporation.

14. Covenants and Restrictions. The use and enjoyment of all Lots and Dwelling Units within the Property shall be subject to the covenants and restrictions governing such use, as set forth within the plat of Southwind Estates II, Sections I and II, and in this Declaration, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners of the Property and shall run with the land and inure to the benefit of and be enforceable by an Owner or by the Corporation. Present and future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and/or restrictions and shall, in addition, be entitled to damages for any injury, damage or loss resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation.

Notwithstanding anything to the contrary contained herein or within the plat of Southwind Estates II, or in the Articles or By-Laws of the Corporation including, but not limited to, any covenants and restrictions set forth herein or in the plat, Declarant shall have the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Property (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such number and size at such locations as Declarant, in its sole discretion, may determine, as Declarant may deem advisable or necessary, in its sole discretion, to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto; including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. Declarant shall have the right to remove the same from the Property at any time.

15. Amendment of This Declaration.

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

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

(ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors of Owners having in the aggregate at least a majority of the votes of all Owners.

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

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

(v) **Special Amendments**. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of paragraph 9 of this Declaration with respect to the commencement of assessments of any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgages whose mortgage interest have been made known to the Board of Directors in accordance with the provisions of this Declaration.

(vi) **Additional Special Amendments**. No amendment to this Declaration shall be adopted which imposes a right to first refusal or similar restriction or which changes (1) the method of voting, (2) reserves for, and responsibility for, maintenance, repair and replacement of the storm drainage system, or (3) right to use the storm drainage system, or (4) annexation of property to the Property, or (5) the leasing of Dwelling Units, or (6) termination of the applicability of this Declaration, or (7) any provisions which are for the express benefit of Mortgagees without the consent of at least ninety percent (90%) of the votes of the Owners for the first twenty (20) years after recording of this Declaration and thereafter at least seventy-five percent (75%) of the votes of Owners a d the consent of Mortgagees

holding mortgages on fifty percent (50%) of the Dwelling Units subject to the mortgages.

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

(viii) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

(b) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power, acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other person to amend or supplement this Declaration at any time from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, or (d) to correct clerical or typographical errors in this Declaration or any exhibit hereto or any supplement or amendment thereto, or (e) adopt amendments prior to the Applicable Date which are not materially adverse to the Owners. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this paragraph on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the

reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this paragraph shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Property.

(c) Amendment Prior to the Applicable Date. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration prior to the Applicable Date, without the consent and approval of Declarant.

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

17. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his misuse of the storm drainage system described herein.

18. Cost and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the

Corporation shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

19. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the storm drainage system, or by abandonment of his Lot.

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

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

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

23. The Plat. The final plat of the portions of the Property is incorporated into this Declaration by reference to the Instrument Number thereof, filed in the office of the Recorder of Johnson County, Indiana.

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

Intandy Developers, Inc.

Attest:

_____

By _____
Andrew L. Arbuckle,
President

"Declarant"

STATE OF INDIANA)
)SS:
COUNTY OF JOHNSON)

Before me, a Notary Public who personally appeared Intandy Developers, Inc., by its President, Andrew L. Arbuckle, who acknowledged the execution of the foregoing, stating that the representations made therein are true and correct to the best of _____ knowledge and belief.

WITNESS my hand and Notarial Seal this 7th day of February, 1995.

My Commission Expires:
8/25/95

Michael T. Gilliam
MICHAEL T. GILLIAM Printed
My County of Residence: MARION

[illegible], Notary Public
[illegible] Marion
My Commission Expires Aug. 25, 1995

This Instrument Prepared by:

Michael J. Kias, Esq.
STEWART & IRWIN
251 East Ohio Street
Suite 1100
Indianapolis, Indiana 46204
Phone: (317) 639-5454
Attorney I.D. #5173-49

LEGAL DESCRIPTION
SOUTHWIND ESTATES II
SECTION ONE

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WHITE RIVER TOWNSHIP, JOHNSON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID HALF QUARTER SECTION; THENCE SOUTH 00 DEGREES 10 MINUTES 07 SECONDS EAST, 2280.45 FEET ALONG THE WEST LINE OF SAID HALF QUARTER SECTION TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 10 MINUTES 07 SECONDS EAST, 379.39 FEET ALONG SAID WEST LINE TO THE SOUTHWEST CORNER OF SAID HALF QUARTER SECTION; THENCE NORTH 88 DEGREES 32 MINUTES 34 SECONDS EAST, 291.11 FEET ALONG THE SOUTH LINE OF SAID HALF QUARTER SECTION; THENCE NORTH 01 DEGREES 27 MINUTES 26 SECONDS WEST, 185.00 FEET; THENCE NORTH 88 DEGREES 32 MINUTES 34 SECONDS EAST, 73.81 FEET PARALLEL WITH THE SOUTH LINE OF SAID HALF QUARTER SECTION; THENCE NORTH 01 DEGREES 27 MINUTES 26 SECONDS WEST, 97.68 FEET; THENCE NORTH 67 DEGREES 42 MINUTES 09 SECONDS EAST, 209.01 FEET; THENCE NORTH 56 DEGREES 58 MINUTES 30 SECONDS EAST, 365.62 FEET TO THE SOUTHWESTERLY LINE OF LOT 43 IN SOUTHWIND ESTATES-SECTION 3 AS RECORDED IN PLAT BOOK C, PAGES 285 AND 286 IN THE OFFICE OF THE RECORDER OF JOHNSON COUNTY, INDIANA (THE FOLLOWING FOUR (4) DESCRIBED COURSES BEING ALONG THE BOUNDARY LINES OF SAID SOUTHWIND ESTATES-SECTION 3); THENCE NORTH 50 DEGREES 11 MINUTES 10 SECONDS WEST, 133.75 FEET; THENCE NORTH 39 DEGREES 48 MINUTES 50 SECONDS EAST, 40.86 FEET; THENCE NORTH 50 DEGREES 11 MINUTES 10 SECONDS WEST, 155.51 FEET; THENCE NORTH 11 DEGREES 18 MINUTES 28 SECONDS EAST, 503.15 FEET (THE FOLLOWING THREE (3) DESCRIBED COURSES BEING ALONG THE SOUTH LINE OF SOUTHWIND ESTATES-SECTION 2 AS RECORDED IN PLAT BOOK C, PAGE 171 IN THE OFFICE OF THE RECORDER OF JOHNSON COUNTY, INDIANA); THENCE SOUTH 64 DEGREES 29 MINUTES 41 SECONDS WEST, 77.61 FEET; THENCE SOUTH 77 DEGREES 11 MINUTES 40 SECONDS WEST, 267.53 FEET; THENCE SOUTH 55 DEGREES 58 MINUTES 09 SECONDS WEST, 70.68 FEET (THE FOLLOWING SIX (6) DESCRIBED COURSES BEING ALONG THE BOUNDARY LINES OF SOUTHWIND ESTATES-SECTION FOUR AS RECORDED IN PLAT BOOK C, PAGE 176 IN THE OFFICE OF THE RECORDER OF JOHNSON COUNTY, INDIANA); THENCE SOUTH 28 DEGREES 47 MINUTES 48 SECONDS WEST, 78.10 FEET; THENCE SOUTH 03 DEGREES 40 MINUTES 40 SECONDS EAST, 382.66 FEET; THENCE SOUTH 24 DEGREES 20 MINUTES 48 SECONDS EAST, 208.52 FEET; THENCE SOUTH 68 DEGREES 41 MINUTES 51 SECONDS WEST, 140.81 FEET TO THE POINT OF CURVATURE OF A CURVE HAVING A CENTRAL ANGLE OF 43 DEGREES 25 MINUTES 12 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 21 DEGREES 18 MINUTES 09 SECONDS EAST, 200.00 FEET; THENCE ALONG SAID CURVE 151.56 FEET TO THE POINT OF TANGENCY, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 64 DEGREES 43 MINUTES 29 SECONDS EAST, 200.00 FEET; THENCE NORTH 83 DEGREES 26 MINUTES 01 SECONDS WEST, 206.67 FEET TO THE BEGINNING POINT OF THIS DESCRIPTION, CONTAINING 9.997 ACRES, MORE OR LESS.

SUBJECT, ALSO, TO ALL OTHER LEGAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS OF RECORD.

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RECEIVED FOR RECORD
BOOK 68 PAGE 207
JEAN HARMON
JOHNSON COUNTY RECORDER

LEGAL DESCRIPTION
SOUTHWIND ESTATES II
SECTION TWO

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WHITE RIVER TOWNSHIP, JOHNSON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID HALF QUARTER SECTION; THENCE SOUTH 00 DEGREES 10 MINUTES 07 SECONDS EAST, 2659.84 FEET ALONG THE WEST LINE OF SAID HALF QUARTER SECTION TO THE SOUTHWEST CORNER OF SAID HALF QUARTER SECTION; THENCE NORTH 88 DEGREES 32 MINUTES 34 SECONDS EAST, 291.11 FEET ALONG THE SOUTH LINE OF SAID HALF QUARTER SECTION TO THE POINT OF BEGINNING; THENCE NORTH 01 DEGREES 27 MINUTES 26 SECONDS WEST, 185.00 FEET; THENCE NORTH 88 DEGREES 32 MINUTES 34 SECONDS EAST, 73.81 FEET PARALLEL WITH THE SOUTH LINE OF SAID HALF QUARTER SECTION; THENCE NORTH 01 DEGREES 27 MINUTES 26 SECONDS WEST, 97.68 FEET; THENCE NORTH 67 DEGREES 42 MINUTES 09 SECONDS EAST, 209.01 FEET; THENCE NORTH 56 DEGREES 58 MINUTES 30 SECONDS EAST, 365.62 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF LOT 43 IN SOUTHWIND ESTATES-SECTION 3 AS RECORDED IN PLAT BOOK C, PAGES 285 AND 286 IN THE OFFICE OF THE RECORDER OF JOHNSON COUNTY, INDIANA (THE FOLLOWING FIVE (5) DESCRIBED COURSES BEING ALONG THE BOUNDARY LINES OF SAID SOUTHWIND ESTATES-SECTION 3); THENCE SOUTH 50 DEGREES 11 MINUTES 10 SECONDS EAST, 16.25 FEET; THENCE NORTH 43 DEGREES 07 MINUTES 54 SECONDS EAST, 120.58 FEET TO A NON-TANGENT POINT ON A CURVE HAVING A CENTRAL ANGLE OF 16 DEGREES 19 MINUTES 11 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 43 DEGREES 36 MINUTES 10 SECONDS WEST, 175.00 FEET; THENCE 49.85 FEET ALONG SAID CURVE TO A NON-TANGENT POINT, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 59 DEGREES 35 MINUTES 42 SECONDS WEST, 175.00 FEET; THENCE NORTH 59 DEGREES 35 MINUTES 42 SECONDS EAST, 50.00 FEET; THENCE NORTH 41 DEGREES 28 MINUTES 13 SECONDS EAST, 316.62 FEET TO THE SOUTHEAST CORNER OF LOT 32 IN SAID SOUTHWIND ESTATES-SECTION 3; THENCE SOUTH 00 DEGREES 12 MINUTES 28 SECONDS WEST, 840.21 FEET TO THE SOUTH LINE OF SAID HALF QUARTER SECTION; THENCE SOUTH 88 DEGREES 32 MINUTES 34 SECONDS WEST, 948.57 FEET TO THE BEGINNING POINT OF THIS DESCRIPTION, CONTAINING 11.693 ACRES, MORE OR LESS.

SUBJECT TO A PIPELINE EASEMENT IN FAVOR OF WILLIAMS BROTHERS PIPELINE AS RECORDED IN THE OFFICE OF THE RECORDER OF JOHNSON COUNTY, INDIANA.

SUBJECT, ALSO, TO ALL OTHER LEGAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS OF RECORD.