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MARTHA A. WOMACKS
MARION COUNTY AUDITOR

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DECLARATION OF COVENANTS AND RESTRICTIONS OF ABBEY ROAD RESIDENTIAL COMMUNITY

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ASSESSOR

DECLARATION OF COVENANTS AND RESTRICTIONS
OF
ABBEY ROAD RESIDENTIAL COMMUNITY

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DECLARATION OF COVENANTS AND RESTRICTIONS
OF
ABBEY ROAD RESIDENTIAL COMMUNITY

2006-0195038
2006-0195040

This Declaration of Covenants and Restrictions of Abbey Road Subdivision ("Declaration") is made this _____day of _____, 2006, by Abbey Road Development, LLC (the "Declarant"),

WITNESSETH:

WHEREAS, Declarant is the Owner of real estate in Marion County, State of Indiana, which is more particularly described in Exhibit "A" attached hereto and hereby incorporated herein by reference (hereinafter referred to as the "Real Estate"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with private streets, pond, landscaped areas, open spaces, walls, fences and other common areas and amenities for the benefit of such residential community.

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas therein contained, and, to this end, Declarant desires to subject the Real Estate, and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration, to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each Owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities is said community, to create an agency to which shall be delegated and assigned the powers of supervising, maintaining, and administering any common areas located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the Owners of the Real Estate, and all parts thereof: and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the Indiana Code 23-17-1, et seq., under the name " Abbey Road Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant, as owner of the Real Estate or with the consent of the owners of the Real Estate, and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration, hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied, subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter

set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots situated therein.

ARTICLE I
Definitions

Section 1. The following words and terms, when used herein, or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Act" shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended;

(b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2 (b) of this Declaration:

(c) "Association" shall mean and refer to Abbey Road Homeowners Association, Inc., an Indiana Corporation organized under Indiana Code 23-17-1, et seq., which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns;

(d) "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;

(e) "Board" or "Board of Directors" shall mean and refer to the governing body of the Association elected, selected, or appointed as provided for in the Articles, Bylaws and this Declaration;

(f) "Bylaws" shall mean and refer to the Code of Bylaws of the Association, as the same may be amended from time to time;

(g) "Committee" shall mean and refer to the "Abbey Road Architectural Control Committee", the same being the committee or entity established pursuant to Article IX, Section 1, of this Declaration for the purposes herein stated;

(h) "Common Area" shall mean and refer to (i) all portions of Real Estate shown on any recorded subdivision plat of the Real Estate which are not dedicated to the public, and which are not identified as Lots on any such plat, whether such plat is heretofore or hereafter recorded, (ii) such portions of the Real Estate as are herein declared to be Common Areas on the plat of the Real Estate even though located on or constituting part of one or more such Lots shown on any such plat, (iii) to the extent

hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Areas whether located, installed or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both;

(i) "Common Expenses" shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common expenses;

(j) "Declarant" shall mean and refer to Abbey Road Development, LLC and any successors and assigns of Abbey Road Development, LLC 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 Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

(k) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family;

(l) "Pond" shall mean and refer to the Pond located on the Real Estate.

(m) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Areas) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as any single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate or any part thereof. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a Lot on such subdivision plat, (ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or
(iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Notwithstanding the foregoing, if after the initial conveyance of a portion

of the Real Estate by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such "Lot" for purposes of this Declaration shall be made reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such a purpose. Any part of a "Lot" reconveyed to Declarant shall, upon such reconveyance, lose its character as part of a "Lot" and may thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason;

(n) "Mortgagees" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;

(o) "Owner" shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;

(p) "Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof;

(q) "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter made subject to this Declaration by Supplemental Declaration;

(r) "The Real Estate" shall mean and refer to the parcel of Real Estate in Marion County, Indiana, described in Exhibit "A" attached to this Declaration, as referred to in the first recital clause of this Declaration, and defined therein as the Real Estate;

(s) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II
Declaration; Common Areas and Rights Therein

Section 1. Declaration. Declarant hereby expressly declares that the Properties shall be held, transferred and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, undertaking such occupancy, each Owner and all other Persons acknowledge the rights and power of Declarant, the Committee and of the Association with respect to these Restrictions, and also for itself; its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Committee, the Association, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions hereof, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots) subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

ARTICLE III
Obligations of Declarant as to Common Areas

Section 1. Agreement to Construct and Convey Other Common Areas. Declarant has constructed or provided for, or will prior to the Applicable Date construct or provide for, Common Areas consisting of the following items:

(a) a storm drainage system for the Real Estate, which may include a pond, inlet pipes, open ditches, swales, pipes and other structures and drainage courses;

(b) the installation, in common areas or landscape easements, of landscaping and other screening materials;

(c) the installation of entrance walls and other masonry fences in common areas or landscape easements;

(d) the installation, within the street rights-of-way, of street lighting, street directories and street signs in common areas or in landscape easements.

Upon final construction or provision of the Common Areas described in this Section 1, Declarant covenants to convey by quitclaim deed all of its right, title and interest in and to said Common Areas to the Association and all such right, title and interest in and to said items (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the Association, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Areas located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein as described in Article II, Section 2, of this Declaration.

Section 2. Additional Common Areas at Declarant's Option. Declarant may, at its option but without obligation to do so, convey other portions of the Real Estate to the Association for, or construct, install or provide for other items for or on, or services to serve, the Real Estate as amenities for, the mutual benefit, use or enjoyment of the Owners. Included as examples of the foregoing, but not limited therein, might be a community television antenna or receiving device to serve all of the Dwelling Units, storage buildings for storage of articles by Owners or provisions of portions of the Real Estate for recreational or other common uses or purposes for the Owners, including without limitation, a swimming pool, clubhouse, community center, or other recreational facilities or additional entrances, landscaped areas, walls and fences. Any such portions of the Real Estate, or other items or services, which Declarant, at its sole option, elects to convey, construct, install or provide as Common Areas shall become part of the Common Areas only when so designated by Declarant in a written instrument executed by Declarant and delivered to the Association. Upon any such designation by Declarant, Declarant shall convey by quitclaim deed all of its right, title and interest in and to the Common Areas so designated to the Association and all such right, title and interest in and to the Common Areas so designated and conveyed shall then and thereupon be and become the property of the Association, whether or not the same constitutes, or may be located entirely or partially on, any one or more of the Lots or any Lot shown upon any recorded subdivision plat of the Real Estate, or parts thereof. As to any of such Common Areas so designated and conveyed pursuant to the foregoing provisions of this Article III which are located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein or thereto, as described in Article II, Section 2, of this Declaration.

Section 3. Clubhouse / Community Center. Declarant shall contract to have built a Clubhouse / Community Center. The Clubhouse / Community Center shall be for the enjoyment of Abbey Road residents and invited guests. The Declarant shall have sole control of design of said unit. Maintenance expenses and up-keep of the grounds, building and contents of the building shall be a homeowner's association expense and shall be shared equally with each lot owner.

The building shall include, but not be limited to, a gathering area, kitchen/bar area, exercise room with equipment (sole discretion of Declarant) and a room to be

used as an Association office or bedroom suite (at the discretion of the Association). If used as a bedroom suite it shall be designed for "short term" stay of Abbey Road residents' guests, as a "over-flow" to residents dwelling.

The Declarant or Homeowners Association may charge a reasonable rental fee for guest suite usage. A guest may not stay longer than 7 days in a given month, without written approval of the association.

Section 4. Guard House. Declarant shall contract to have built a guardhouse at the entry to Abbey Road. This shall become part of the common area and maintained by the Homeowners Association.

Staffing of the guardhouse shall be at the discretion of Declarant or the Association. The expense shall be treated as a common area expense.

ARTICLE IV
Association; Membership; Voting; Functions

Section 1. Membership in Association. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Association 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 their 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 Association.

Section 2. Voting Rights. The Association shall have the following classes of membership, with the following voting rights:

(a) 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 Owner of a particular Lot, all such Persons shall be members of the Association, 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.

(b) 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 Association. Each Class B member shall be entitled to twenty (20) votes for each Lot of

which it is the Owner and twenty (20) votes for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Association. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association, or (ii) the date Declarant no longer owns any Lots nor any portion of any single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Properties, nor any property adjacent to the Properties intended to become a future section of Abbey Road Development (the applicable date being herein referred to as the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Properties of which it is then the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.

Section 3. Functions. The Association has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE V
Board of Directors

Section 1. Management. The business and affairs of the Association 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, or a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of five (5) persons designated or to be designated by Declarant. Notwithstanding anything to the contrary contained in, or any other provision of, this Declaration, the Articles, the Bylaws or the Act (a) the Initial Board shall hold office until the first annual meeting of the members of the Association occurring on or after 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 such first annual meeting occurring on

or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by the 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 of *juridic* 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 Association are entitled to vote under the Declaration, the Articles, the Bylaws, the Act or otherwise. 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 Special member of the Association 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 Association, 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 Association).

Section 3. 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.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. The terms of office of the Directors shall be staggered with approximately one-third of the terms of the Directors expiring each year.Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. 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 which there has otherwise been a vacancy.

Section 5. 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 purposes. 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 or until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common areas (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may employ a Managing Agent upon such terms, as the Board shall find, in its discretion reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

(a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) procuring of utilities used in connection with the Lots, Dwelling Units, and Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies)

(c) landscaping, painting, decorating, furnishing and maintenance and upkeep of, the Common Areas;

(d) assessment and collection from the Owners of the Owner's respective shares of the Common Expenses;

(e) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;

(f) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(g) keeping a current, accurate, detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all

records and vouchers shall be available for examination by an Owner at any time during normal business hours;

(h) procuring and maintaining for the benefit of the Association, the Owners, any Managing Agent and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, it its sole discretion, may deem necessary or advisable;

(i) paying taxes and assessments assessed against and payable with respect to the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and

(j) all duties and obligations imposed upon the Association or the Board under this Declaration, the Articles, the Bylaws or the Act.

Section 7. Powers 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:

(a) to employ a Managing Agent to assist the Board in performing its duties;

(b) to purchase, lease or otherwise obtain for the Association, 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;

(c) 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 Association;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas, and to perform all other maintenance, upkeep, repair and replacement duties of the Association and the Board;

(e) to include the costs of performing all its functions, duties and obligations as Common Expenses and to pay all of such costs there from;

(f) to open and maintain a bank account or accounts in the name of the Association;

(g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion,

deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners; and

(h) to grant to such public or private companies, entities or bodies as the Board may approve, such easements as may be necessary to provide the Lots, Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are coextensive with any one or more utility easements, maintenance and access easement, landscape and maintenance easements, or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Limitation on Board Action. After the Applicable Date, the Authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure of less than $10,000.00 (Ten Thousand Dollars) per year without obtaining the prior approval of a majority of the cumulative vote of the Owners, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;

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

(c) 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.

Section 9. 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.

Section 10. 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 Association 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 Association, 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 Association.

Section 11. Additional Indemnity of Directors. The Association 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 Association, against the reasonable expenses, including attorney's 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 Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or processing, 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 findings 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 Association or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm, or corporation employed by the Association 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 or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Association, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful, abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Association, until the Applicable Date. Declarant may, at it option, engage a Managing Agent affiliated with it to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to a reasonable compensation for it services.

ARTICLE VI
REAL ESTATE TAXES; UTILITIES

Section 1. Real Estate Taxes. Real Estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Association and treated as a Common Expense.

Section 2. Utilities. Each owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Association.

ARTICLE VII
Maintenance and Repair

Section 1. By the Owner. Each Owner shall be responsible for, if the need therefore arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as apart of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit, which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances and other fixtures, equipment and accessories belonging to the Owner and a part of our appurtenant to his Dwelling Unit or Lot.

Section 2. By the Association. Maintenance, repairs, replacements and upkeep of the Common Areas shall (except to the extent provided herein as the obligation of Owners) be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

In addition to the maintenance of the Common Areas, the Association, as part of its duties, and as part of the Common Expenses, shall provide for maintenance for the following items, which shall be considered part of the Common Areas for purposes of maintenance only:

(a) those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or

the responsibility of a public authority; provided, however, that the Association shall have no obligation to maintain any public street, road or highway located within any public right-of-way on or abutting the Real Estate. For purposes of this subparagraph (a), "outside any perimeter fencing" means that area between such fencing and the nearest property line of the Real Estate;

(b) any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate; and

(c) any equipment, such as water wells or fountains, installed by Declarant to serve the entire project to be developed on the Real Estate, whether or not located on Lots.

(d) the storm water drainage system for the Real Estate, including but not limited to, the maintenance of all ponds, inlets, open ditches, pipes, swales, manholes and detention ponds. The costs and expenses of such maintenance of the storm water drainage system shall be assessed as part of the general assessment against the Owners as provided in the Declaration and shall be secured by a lien against all lots in this subdivision. Sump pumps, gravity drains, and other drains serving individual residences on Lots shall outfall only into drainage swales included in the storm water drainage system for all Lots and Common Areas at Abbey Road.

(e) all fences, walls, landscaping, screening material, street directories and signs, water wells and irrigation systems and other improvements within the Landscape Easements.

(f) all lawn care as set forth in Article X, Section 20 herein, and snow removal from common area roads and Clubhouse / Community Center parking lot and adjacent sidewalks. Individual sidewalks and driveways on and across Lots shall be the Owner's responsibility for snow removal.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas s it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration.

Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Areas (or items deemed Common Areas for purpose of maintenance), 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 to Common Areas (or items deemed as such for purpose of maintenance), or if maintenance, repairs, or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs, and replacements, as may be

determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become part of the assessment to which such Owner's Lot is subject.

The authorized representatives of the Association, the Board and the Managing Agent for the Association (if any) shall be entitled to reasonable access to any Lots as may be required in connection with maintenance, repairs or replacement of or to the Common Areas and items deemed as Common Areas for purpose of maintenance, including, but not limited to, access to any easements reserved, granted or created by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII
Pond Covenants

Section 1. Ownership of Detention Ponds. A detention pond shown on the plat of the Abbey Road Subdivision shall be a Common Area. The detention pond is developed to receive the storm water drainage and run off from the Abbey Road Subdivision.

Section 2. Limitations on Use of Pond. No person shall do or permit to be done any action or activity which could result in pollution of the Pond, diversion of water, elevation of Pond levels, earth disturbance resulting in silting or any conduct which could result in an adverse affect upon water quality, drainage of the subdivision or proper Pond management.

The Pond is and will be an integral part of the storm water drainage system serving the Real Estate and is intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of the Pond which in any way interferes with its proper functioning as part of such storm water drainage system.

The Pond shall be kept free and clean of rubbish, debris and other unsightly materials. No structure of any kind shall be placed in the Pond or on the Pond property without the prior written approval of the Committee.

No boating, swimming, diving, skiing, or ice skating shall be permitted in or on said Pond.

No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said Pond, except the Board of Directors may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same.

Section 3. Costs of Maintenance. The care and maintenance of the detention Pond shall be the responsibility of Abbey Road Homeowners Association, Inc. The cost of such maintenance shall be a Common Expense for the Abbey Road Homeowners Association, Inc. The estimated cost of this maintenance and repair shall be an item in the annual budget for the Association.

ARTICLE IX
Architectural Standards

Nothing, including any fence, deck, dock, recreational equipment (including basketball goals), or any structure, storage shed, doghouse or other improvements, shall be erected on any Lot, and no construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alterations or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Committee has been obtained pursuant to Section 1 below.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

The Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration.

Section 1. Architectural Control Committee. There shall be, and hereby is, created and established the "Abbey Road Architectural Control Committee"("Committee") which shall have exclusive jurisdiction over all construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant, or not more than five, nor less than three, persons designated by it, shall constitute the Committee and shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by the Declarant. After the sale of 100% of the Properties, the Committee shall be a standing committee of the Association, consisting of not more than five, nor less than three, persons as may, from time to time, be provided in the Bylaws. If the Bylaws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Approval Process. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines and application and review procedures. Copies are on file in the office of the Declarant (or the Association, as the case may be) which are incorporated into this Declaration by reference. The guidelines and procedures shall be those of the Association, and the Committee shall have sole and full authority to prepare and to amend them. It shall make the guidelines and procedures available to Owners, builders, and developers who seek to

engage in development of or construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of the Properties and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. The Committee, or its designee, must give written approval for any building contractor selected by the Lot Owner for construction.

Prior to any construction on any Lot, the approval of the Committee must be obtained 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 made in the manner and form prescribed from time to time by the Committee in its guidelines and procedures which will contain requirements to promote the standard of quality of workmanship and design and harmony of external design with existing structures, location in relation to surrounding structures, topography and finish grade elevation as determined by the Committee.

Section 3. Power of Disapproval. The Committee may refuse to grant permission to 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 Declarations, the plat restriction or any rules, regulations or guidelines adopted by the Committee

(b) the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or

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

Section 4. 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 notification to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefore. In the event that the Committee fails to approve or disapprove such plans or to request additional information reasonably required within 45 days after submission of all required or requested information, the plans shall be deemed approved.

Section 5. No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval

or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 6. Variance. The Committee may authorize variances from compliance with any of its guidelines and procedure when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and applicable zoning laws, ordinances and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the Committee from denying a variance in other circumstances. In the case of a variance from set-back and yard size requirements in no event shall the aggregate side yards on any Lot be less that 14 feet or the foundation of any building closer than 6 feet to a Lot line. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.

Section 7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Committee may be excluded by the Board from the Properties without liability to any person, subject to the notice and hearing procedures contained in the Bylaws. Further, if any approval required by this Declaration is not granted in writing with respect to any item prior to its installation, the respective Owner thereof shall remove promptly the unapproved item or structure, upon request by Declarant or the Association.

Section 8. Non-Liability of Declarant, Committee. Neither the Declarant nor the Committee shall be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee or the Declarant does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing the Real Estate or any applicable code, regulation or law.

Section 9. Inspection. The Committee and the Declarant may inspect work being performed to assure compliance with these Restrictions, the plat restrictions and applicable regulations. However, neither the Committee, nor any member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Committee or the Declarant, shall be liable or responsible for the defects, nonconformity or deficiencies in any work inspected or approve by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 10. No Compensation. Neither the Committee nor any of its members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

Section 11. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots 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 Unit, 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 Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as the Lots remain improved with one single Dwelling Unit; provided however, that any dues, fees or other charges shall be assessed against each Lot individually.

ARTICLE X
Use Restrictions/ Covenants and Regulations

Section 1. Air Cooling Units. Air cooling units or other like utilities that are outside of the residential structure must be located at the side or rear of the home and except as may be permitted by the Committee. No window air conditioning units may be installed on any Lot.

Section 2. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats or other usual and common household pets not to exceed a total of two (2) may be permitted on a Lot. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, or make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties shall be removed from the Properties upon request of the Board; if the Owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all time whenever they are outside a Lot be confined on a leash held by a responsible person. Each Owner is responsible for picking up their pet's waste deposit on Common Areas and other Lots. Failure to do so shall be deemed a violation of these Restrictions and the pet may be removed by the Board.

Section 3. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Lot, without prior written consent of the Committee or its designee. Notwithstanding the foregoing, the Declarant, its nominees, successors or assigns shall have the right, without obligation, to erect an aerial or satellite dish, or install other apparatus for a master antenna or cable system for the benefit of all or a portion of the Properties and satellite

dishes no greater in size than 18" in diameter are permitted on the Properties so long as they are on the side or rear of a Dwelling Unit or screened from street view.

Section 4. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Article IX of this Declaration.

Section 5. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot. This section does not prohibit a community garage sale sponsored by the Association. An Owner or occupant of Lot may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined by the sole discretion of the Board.

Section 6. Clothesline, Garbage Cans, Tanks, Etc. All clothes, sheets, blankets, rugs, laundry clotheslines, garbage cans, mechanical equipment, and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All fuel storage tanks, except for normal gas grill cooking, outside a Dwelling Unit shall be installed below the surface of the ground. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Committee hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garbage or other refuse.

Section 7. Declarant's and the Association's Right to Perform Certain Maintenance and Removal. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements, or remove any unauthorized item or structure, situated thereon in accordance with the provision of these Restrictions and the provisions of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Association through its agents and employees or contractors, should have the right to enter upon said Lot and repair, mow, clean, remove or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost thereof to the Declarant or the Association shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of the Common Expenses. Neither the Declarant nor the Association, nor any of its agents, employees or contractor, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 8. Diligence in Construction. Every building whose construction on any Lot is begun shall be completed within one hundred eighty days (180) after the beginning of such construction unless circumstances beyond the reasonable control of the builder and/or Owner prevent such completion. 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. The Declarant and/or Homeowners Association shall have standing and authority to seek an injunction or order for the removal of any materials and partially completed structures in violation of this covenant.

Section 9. Ditches and Swales and Erosion Control. It shall be the duty of the Owner of any Lot 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 (both by improvements and plant material) and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary. It shall be the duty of the Owner of any Lot to establish as needed and to maintain all erosion control on his or her respective Lot.

Section 10. Drilling. No oil or water drillings, oil development operations, oil refining, quarries or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No derrick or other structure designed for use I boring for oil, water or natural gas shall be erected, maintained or permitted on any Lot.

Section 11. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Committee pursuant to Article IX of this Declaration.

Section 12. Fences. Any fences installed in the subdivision shall be subject to prior approval of the Committee and will be limited by height, style location and materials. The Committee shall not approve any chain link style fence, which is not coated with vinyl or the like. Any fencing approved or installed along the North, East, and or West perimeters of the subdivision shall be uniform along the entire length of each separate perimeter. If approved by the Committee, fences, walls may be installed at a height of up to Six (6) feet at any location in the subdivision. Lots may have invisible, cast aluminum or wrought iron fencing (black in color) only with the approval of the Committee. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Lot except as approved in accordance with Article IX of the Declaration.

Section 13. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes bows and arrows, slingshots, "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the

contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

Section 14. Ground Elevations and Erosion Control. It shall be the Lot Owner's responsibility to maintain and comply with all building an site finish ground elevations and erosion control as finally required and approved by the Marion County Drainage Board and the Department of Planning and Zoning as evidenced upon the final construction plans for the development of this subdivision.

Section 15. Heating Plant. Every Dwelling Unit must contain a heating plant installed in compliance with the applicable codes and capable of providing adequate heat for year-around human habitation of the Dwelling Unit.

Section 16. Insurance Impact. Nothing shall be done or kept by an Owner in any Dwelling Unit, or in any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation on any law or ordinance or the requirements of any insurance underwriting or rating bureau.

Section 17. Landscape Easements. There are strips and areas of ground shown marked "Landscape Easement" on the Final Plat for the Real Estate which are hereby reserved for the use of owners of lots to the extent and limited for the purposes set forth in the Declaration and for the use of Declarant and Association for the installation, maintenance, repair and replacement of fences, walls, landscaping, other screening material, street directories, street signs, water wells, and other items requiring maintenance. Except as installed and maintained by lot owners, pursuant to the requirements of the Declaration, or by Declarant and the Association, no permanent or other structure (except walls, sidewalks and fences otherwise permitted hereby or by the Declaration and approved by the Committee) shall be erected or maintained on said strips and areas by the Owner of any Lot subject to any such "Landscape Easement", and the Owners of such Lots affected by any such "Landscape Easement" shall take and hold title to their lots subject to the foregoing rights of the Declarant and the Association and shall not do or permit to be done anything which will obstruct or interfere with or remove any installations or landscaping made by the Declarant or Association in any such "Landscape Easement". The foregoing grant of rights to the Declarant shall not impose an obligation on the Declarant to undertake such maintenance unless it elects to do so.

Section 18. Landscaping & Sprinkler Systems. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Committee. Each Lot Owner shall provide reasonable landscaping on his Lot including, at a minimum, suitable foundation landscaping. All landscaping plans are subject to Committee approval in accordance with the guidelines and procedures promulgated by the Committee. The Committee may, in its discretion, modify such plans to promote the integrity and the aesthetic appearances of this subdivision. Finish grading of all yards must be completed within 15 days after the

dwelling is constructed, weather permitting, and all yards must be sodded with grass within ten days after the completion of finish grading, weather permitting. Trees provided by Declarant, if any, will be protected by Owner during construction and replaced within 30 days if damaged or if a tree dies on Owner Lot. **ALL LOTS SHALL HAVE AN UNDERGROUND SPRINKLER SYSTEM AND LANDSCAPING ON THE FRONT YARD.**
Sprinkler system shall be used in relationship to weather. Sprinkler system to be used in a manner to keep lawn as green as possible. Each home in the subdivision shall be required to install an underground sprinkler system which is to be installed, operated and maintained in compliance with the requirements of Committee.

All Lots shall have the following landscaping criteria:

Type of Landscaping	Number	Size
Deciduous Shade Tree	1	2in. to 2 ½ in. caliper
Flowering Tree	1	1in. to 1 ½ in. caliper
Conifer Tree	1	8Ft. to 10 Ft.
Shrubs	3	3Ft. to 4Ft.
Shrubs	5	18in. to 24in. spread

Section 19. Lighting. A) A minimum of two light fixtures shall be located on the front or in the front yard of each residence in the subdivision. (B) Except for seasonal Christmas decorative lights, which may be displayed between November 10 and January 10 only, all exterior lights must be approved in accordance with Article IX of this Declaration.

Section 20. Maintenance of Lots and Improvements. It shall be the responsibility of each Owner to prevent the development on any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might ten to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. No waste shall be committed in any Dwelling or on any Lot. Each Owner shall:

(a)

1. **Weed Control.** EVERY LOT and EACH COMMON AREA shall be treated professionally for weed control and fertilization. The Association shall be responsible for contracting with a reputable professional lawn treatment company for this service. The cost for this service shall be a Common Expense and shall be budgeted therefore by the Association.

2. **Lawn Maintenance for Abbey Road Lots** All Lots shall be professionally maintained. Lot Owners shall not have an option to opt

out of this service. The cost of this service shall be a Common Expense of Abbey Road Homeowners Association. (This excludes normal trimming and maintenance of trees and shrubs, which shall be a personal Lot Owner expense.

(b) Remove all debris or rubbish;

(c) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;

(d) Cut down and remove dead trees;

(e) Where applicable, prevent debris and foreign material from entering drainage areas, and

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

Section 21. Minimum Building Size.

(a). Minimum Building Size – All residences shall have a minimum square footage requirement of 1500 square feet.

(b). Minimum Setback Lines and Yards.

1. Front Building Setback Line. Any lot shall have a front building setback from the street right of way of line of not less than twenty-five (25) feet.

2. Rear Yard. The minimum rear yard for each lot shall be twenty (20) feet.

3. Side Yard. The aggregate minimum side yard setback for each lot shall be fourteen (14) feet; and the minimum individual side yard shall be seven (7) feet.

4. Separation. In no case shall the abutting exterior walls of the sides of the homes constructed on abutting lots be less than fourteen (14) feet apart.

Section 22. Model Homes. – No Owner of any Lot shall build or permit the building upon his Lot or any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Declarant.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include,

without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Lots which such entity owns within the Properties.

Section 23. Non-applicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in this Article X shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of it duties, obligations and responsibilities as to the Common Areas.

Section 24. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed on any of the Lots shall be occupied or used for residential purposes of human habitation until it shall have been substantially completed. The determination of whether the Dwelling Unit shall have been substantially completed shall be made by the Committee and such decisions shall be binding on all parties.

Section 25. Occupants Bound. All provisions of the Declarant Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Owner. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws and rules and regulations adopted pursuant thereto.

Section 26. Other Exterior Attachments. No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his or her Dwelling Unit or placed on the outside walls of any building, and no awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.

Section 27. Parking and Prohibited Vehicles.

(a) Parking. Vehicles shall be parked only in the garages or in driveways, if any, serving the Lots. Parking (of automobiles only) is allowed on private streets only when an Owner has a social function and the invited guest will not be able to park on such Owner's Lot. No overnight parking shall be permitted on any dedicated street.

(b) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks weighing in excess of three-quarters of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Bylaws.

(c) Garages and Driveways. No dwelling shall have less than a full size 2-car or more than a 3-car attached garage, unless otherwise approved by the Committee. All driveways and vehicle parking areas shall be hard surfaced with either concrete, or an acceptable alternate approved by the Committee, and shall be so surfaced from their point of connection with the abutting street to their point of connection with the garage apron. No gravel or stone driveways will be permitted.

Section 28. Playground. No outside playground equipment shall be constructed or maintained in subdivision. This includes any and all temporary playground equipment "Children's" playground equipment shall be prohibited on all Lots.

Section 29. Private Water Systems. No private, or semi-private, water supply may be located upon any Lot which is not in compliance with regulations or procedures as provided by the applicable public health agencies, or other civil authority having jurisdiction, approved by the Committee and restricted to use in connection with a sprinkler system or geothermal heating and cooling system.

Section 30. Prohibition of Used Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 31. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage or any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quite and/or comfort of the Owners or allow any such noise or disturbance to be made on his or her Lot, including any noise by the use of musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other machines or equipment. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 32. Residential Use. The Properties shall be used only for single family residential purposes; provided, however, that such restriction shall not apply to any Lot or part thereof or any other part of the Properties at any time owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located. This Section acknowledges that the real estate to the south of the subdivision is identified on the comprehensive plan, in effect at the time the subdivision was platted, for future rezoning and development for light industrial, commercial or commercial office uses.

Section 33. Sales Office. To the extent deemed necessary or desirable by Developer, Developer shall be permitted to place sales offices and construction and storage facilities for uses attributable to the construction, development, marketing and maintenance of the subdivision on any unsold lot or on any Common Area in the subdivision until 180 days following the sale, closing and deed transfer to a Lot Owner other than Developer of the last Lot in the subdivision.

Section 34. Sanitary Waste Disposal.

(a) Nuisances. No outside toilets shall be permitted on any Lot (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 be exposed.

(b) Construction of Sanitary Sewage Lines. All sanitary sewage lines on the Lots shall be designed, constructed and installed in

accordance with the provisions and requirements of Marion County Sanitation Department, and these Restrictions.

(c) Connection Requirements for Sanitary Sewers. All homes shall have sewers directly connected by way of gravity except by the use of lift pumps and/or check valves or connections shall be one foot above the lowest manhole in the Subdivision.

Section 35. Streets, Internal Sidewalks, Storm Sewers & Entry Gate.

(a) All streets, sidewalks, and storm sewers shall be PRIVATELY owned and maintained by the Homeowner's Association and shall be constructed to public street & sidewalk standards. Streets subject to DPW access for sanitary & storm sewer inspections from time to time.

(b) Gates shall be constructed across the sidewalks and vehicular traffic area entering the subdivision (Abbey Road) restricting access to and from the perimeter sidewalks and Arlington Avenue. These items shall be PRIVATELY, owned and maintained by the Homeowner's Association.

(c) Guard House shall be PRIVATELY owned and maintained by the Homeowner's Association.

Section 36. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 37. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except entry and directional signs installed by Declarant and such signs as may be required by legal proceedings. If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors or Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Signs advertising property for rent are specifically prohibited. Violation of this sign restriction will result in Seventy-Five ($75.00) per day liquidated damages payable to the Declarant until such time as the Association owns and is responsible for the maintenance of the Common Areas, at which time such liquidated damages shall be payable to the Association. The Declarant and/or Association shall approve all signs deemed appropriate by the Committee advertising properties for sale, which signs shall be uniform in design and placed, as the Committee shall determine proper. Abbey Road Subdivision shall use an approved standard sign to be displayed in the front or rear yard of homes. The Developer shall provide sample upon request.

Section 38. Swimming Pools. Swimming pools must have the approval of the Committee before any work is undertaken. No above ground swimming pools shall be allowed, provided nothing herein shall preclude installation and use of hot tubs, spas, Jacuzzis or similar apparatus, with prior approval of the Committee. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool in neighboring properties. An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence or other safety protection and landscape design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Use of plantings in the vicinity of the proposed pool may be required to soften the effect of sound and required pool fencing on adjacent properties.

Section 39. Tennis Courts, Racquetball Courts, Paddle Ball Courts, Basketball Goals, Etc. These items are all prohibited. A basketball goal may be permitted in the parking lot of the clubhouse only. The location of the basketball goal in the parking lot of the clubhouse is the sole discretion of the Declarant.

Section 40. Accessory Building / Carriage House The Declarant or Committee may approve an accessory building (Carriage House) to be constructed on selected lots. Said lots are the sole discretion of the Declarant. Carriage House, if approved, shall be 12 feet by 10 feet in size and shall have the same exterior, brick, shingles, and color scheme as the homes of Abbey Road. The location of the Carriage House shall be at the sole discretion of the Declarant or the Committee. All approved Carriage Houses shall be constructed by a Declarant or Committee approved builder. Declarant has established a model style Carriage House that shall be the only design used. No detached accessory building / Carriage House shall be placed in designated drainage or utility easements.

ARTICLE XI
Assessments

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end of such fiscal year, the Board shall cause to be prepared and furnish the Owners with a financial statement of operations by the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Association at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing 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 or special meeting is mailed or delivered to

such Owners. The annual budget shall be submitted to the Owners at the annual or special meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by majority vote of the Owners attending such meeting; provided, however, that in no event shall such annual or special 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 Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement repair of the Common Areas shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion 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 as herein provided, whenever determined. Whenever, whether before or after the annual or special meeting of the Association at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the 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 and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot, provided, however, Lots owned by Declarant shall not be subject to assessment. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the 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, each Regular Assessment shall be revealed, 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 Assessments 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 monthly in full, in advance on the first day of each month. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance is equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular

Assessment, whether in monthly payments or in quarterly installments, shall be made to the Association or the Managing Agent, as directed by the Board of Directors. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget.

a. 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 such next payment, and all payments thereafter during such fiscal year, whether monthly or quarterly, 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

b. 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 Assessment coming due, whether monthly or quarterly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) and (b) above shall be made by a cash payment by, or refund to, the Owner or 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 each fiscal year of the Association shall become a lien on each separate Lot as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by the 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 transfer 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 the 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 Association pursuant to Section 2 of Article X hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein 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. Monthly or quarterly (if so determined by the Board) installments of Regular

Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board not the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the Bylaws or the Act, 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 nor owned by Declarant, 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 therefore under the circumstances described in this Declaration.

Section 5. Failure of Owner to Pay Assessment.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. Regular and special assessments should constitute a lien against the Lots and Dwelling Units thereon. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Association as a mortgage on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit which are the subject of such action shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot and Dwelling Unit, 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 there from for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at is option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby waiving) the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, or any other charges due the Association, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "prime interest rate" then in effect as publicly announced or published by *THE WALL STREET JOURNAL* plus 4% but in no event more than the maximum rate allowable under applicable usury laws.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the Bylaws, any sale or transfer of a Lot and Dwelling Unit 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 the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment or other changes as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefore. 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 or other charges thereafter becoming due or from the lien therefore. Such unpaid share of any Regular Assessments or Special Assessments or other charges, the lien for which has been divested as aforesaid, shall, if not collected from the party personally liable therefore, be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

Section 6. Initial Budgets and Assessments. Notwithstanding anything to the contrary contained herein, in the Articles, in the Bylaws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2 of Article V hereof shall be deemed to cover and include

each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date and notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant with respect to any Lot or other portion of the Real Estate owned by Declarant while the same is owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant to another Person, and a prorated portion of the Regular Assessment for the balance of the fiscal year of the Association against each Lot so conveyed by Declarant shall be paid by each purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up Fund. Upon the closing of the initial conveyance of each Lot by Declarant to another Person, the purchaser of such Lot shall pay to the Association, in addition to any other amount then owed or due to the Association, as a contribution to its working capital and start-up fund, an amount equal to one-sixth ($1/6^{th}$) of the then current annual Regular Assessment against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Association for its early period of operation of the Real Estate, to enable the Association to have cash available to meet unforeseen expenditure, or to acquire additional equipment or services deemed necessary by the Board.

ARTICLE XII
Mortgages

Section 1. Notice to Association. Any Owner, who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the Bylaws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgage in connection with the mortgage, or otherwise.

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement except as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IV hereof.

ARTICLE XIII
Insurance

Section 1. Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consonant with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Association as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association, as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Detectors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty on the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or distributed by the Association or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Association does no elect to restore.

Section 2. Public Liability Insurance. The Association 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 in any event with a minimum combined limit of $1,000,000.00 per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Association, the Board of Directors, any committee or organ of the Association or Board, any Managing Agent appointed or employed by the Association, the Declarant all persons acting or who may come to act as agents or employees of any foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. 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 Association or other Owners.

Section 3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

Section 4. General Provisions. The premium for all insurance hereinabove described shall be paid by the Association as part of the Common Expenses. Upon request of any Owner or Mortgagee whose interest may be affected thereby, the Association shall provide such Owner or Mortgagee with a description of the insurance coverage maintained by the Association.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the

certification of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and this Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards by made by the Association to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses or operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association.

ARTICLE XIV
Casualty and Restoration

In the event of damage to or destruction of any Common Areas due to fire or any other casualty or disaster, the Association shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Association, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Association against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Areas to as near as possible the same condition, as they existed immediately prior to the damage or destruction and with the same architecture and materials.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Association has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that before the casualty. Such

costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Areas shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Areas were originally constructed.

ARTICLE XV
Annexation

Declarant hereby reserves the right, from time to time and at any time, to annex any portion of adjacent real estate into Abbey Road Development. As of the date on which Declarant annexes any portion of adjacent real estate into the subdivision (the "Annexed Real Estate"), the Annexed Real Estate shall be deemed to be (for all purposes) included within Abbey Road Development; all references in these covenants and restrictions or in the Declaration to the "subdivision" or to the Abbey Road Development shall be deemed to include the Annexed Real Estate; all references in these covenants and restrictions or in the Declaration to "Real Estate" shall be deemed to include all parcels of land within the Annexed Real Estate; all references in these covenants and restrictions or in the Declaration to "Lots" shall be deemed to include all Lots within the Annexed Real Estate; and all easements created by these covenants and restrictions or in the Declaration shall bind, benefit, burden and run with the Annexed Real Estate. As of the date on which Declarant annexes any portion of the adjacent real estate into the subdivision, the owners of the Annexed Real Estate shall be deemed to be (for all purposes) Owners of Lots within the Abbey Road Development. All references in these covenants and restrictions or the Declaration to "Owner(s)" shall be deemed to include all Owners of Lots within the annexed Real Estate; and all easements created herein shall bind, benefit and burden the owners of Lots within the Annexed Real Estate and the mortgages, grantees, heirs, assigns and successors of such owners, as provided herein.

ARTICLE XVI
Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

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

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

(c) **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 Bylaws.

(d) **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.

(e) **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 Article XI of this Declaration with respect to casualty insurance to be maintained by the Association, or (3) the provisions of Article XII of this Declaration with respect to reconstruction or repair of the Common Areas in the vent of fire or any other casualty of disaster, or (4) the provisions of this Declaration establishing the Committee and providing for its functions, without, in each or any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Declaration.

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

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything else contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, and Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if Declarant records the modification in the Office of the Recorder of Marion County, Indiana, and 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 Association, the Department of Housing and Urban Development, the Veterans Administration, 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 compliances with any governmental requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in future

perform) function similar to those performed by such agencies or entities, (e) to subject additional property to these restrictions, (f) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (g) to clarify, further define or limit any easement, or otherwise exercise any rights reserved herein, or (h) to change the substance of one or more covenants, conditions, terms or provisions hereof provided that such change (A) does not materially increase the obligation(s) of any owner under any covenant, condition, term or provision without such owner's consent or (B) is necessary to comply with a bona fide governmental requirement, including applicable laws, ordinances, regulations or orders of any municipality or court having jurisdiction. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 or behalf of each Owner as proxy or attorney-in-fact, as the case maybe. 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 acknowledgment 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 Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

ARTICLE XVII
Acceptance and Ratification

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming y, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the Bylaws and the rules, regulations and guidelines as adopted by the Board of Directors and (to the extent of it jurisdiction) the Committee, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance of the act of occupancy of any lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the Bylaws and rules, regulations and guidelines, 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 bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the Bylaws, and the rules, regulations and guidelines applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XVIII
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 this family his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or tenants.

ARTICLE XIX
Benefit and Enforcement

Section 1. Covenants appurtenant to Land. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time after fifteen (15) years a majority of the then owners of the lots in this subdivision agree to change (or terminate) said covenants in whole or in part and on the condition that an instrument to that effect signed by the lot owners voting in favor of such change has been recorded; provided, however, that no change or termination of said covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

Section 2. Prosecution of Violations. It shall be lawful for the Association, the Committee (as to matter for which it has responsibility) or any other person owning any real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant, conditions, provisions or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other due for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorney's fees resulting from violation of these covenants and restrictions shall be in financial responsibility of the Lot Owner or Owners found to be in violation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. Failure to enforce any specific requirement of the covenant shall not be considered as a waiver of the right to enforce any covenant herein, thereafter. Notwithstanding the foregoing, any violation of these covenants or the Declaration may be waived by a majority of the then owners of the Lots in this subdivision.

ARTICLE XX
Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the

Articles or the Bylaws, or to comply with any provision of this Declaration, the Articles, the Bylaws, or the rules, regulations and guidelines adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its cost and reasonable attorney's fees incurred in connection with such default or failure.

Section 2. Waiver. No owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot or Dwelling Unit.

Section 3. Severability Clause. The invalidity of any covenant, restriction, condition limitation or other provision of this Declaration, the Articles or the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the Bylaws and each shall be enforceable to the greatest extent permitted by law.

Section 4. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 5. Interpretation. The captions and titles of the various articles, sections, sub-sections, 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.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Developer has caused this Declaration to be executed on the date first above written.

ABBEY ROAD HOMEOWNERS ASSOCIATION, INC.

Larry J. Walker, Pres.

LARRY J. WALKER, PRESIDENT

STATE OF INDIANA)
SS:
COUNTY OF JOHNSON)

On this 20th day of December, 2006, before me, a Notary Public, personally appeared LARRY J. WALKER, President, on behalf of ABBEY ROAD HOMEOWNERS ASSOCIATION, INC., personally known to me to be the same person described in and who executed the within instrument, and the same person duly acknowledged to me that he executed the same.

My Commission Expires:
Feb 17, 2008

Notary Public: Angelica E. Oakes

Angelica E. Oakes

Resident of: Johnson

NOTARY PUBLIC SEAL 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." Larry Walker

Prepared by:
Jack L. Bailey, Atty. at Law
8787 Shelbyville Road
Indianapolis. IN 46259

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

A part of the Southwest Quarter of Section 23, Township 14 North, Range 4 East of the Second Principle Meridian, Marion County, Indiana, more particularly described as follows:

Beginning at the Northwest Corner of said Southwest Quarter Section; thence North 88 degrees 55 minutes 56 seconds East on and along the North line of said Southwest Quarter Section a distance of 1531.77 feel; thence South 00 degrees 29 minutes 17 seconds West a distance of 670.49 feet; thence South 88 degrees 52 minutes 03 seconds West a distance of 185.54 feet to a point on the west line of the Northeast Quarter of the Southwest Quarter of said Section 23; thence South 00 degreed 33 minutes 37 seconds West on and along said West line a distance of 0.65 feet; thence South 88 degrees 49 minutes 46 seconds West a distance of 1346.34 feet to a point on the West line of said Southwest Quarter Section; thence North 00 degrees 29 minutes 27 seconds East on and along said West line a distance of 673.77 feel to the Point of Beginning, containing 23.63 acres more or less.