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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CLUB ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR CLUB ESTATES (the "Neighborhood Declaration"), is made by the undersigned, and is executed on the dates corresponding to signatures below.

WITNESSETH:

WHEREAS, Throgmartin-Henke Development, LLP, an Indiana limited liability partnership (the "Declarant") is the purchaser and owner of certain real estate described in what is attached hereto and incorporated herein by reference as Exhibit "A" (the "Neighborhood Property"), William G. Throgmartin, Betty Jo Throgmartin, Kelli Throgmartin Ball, and the Estate of Frank J. Habig, Jr. (collectively, the "Title Holders") are the owners of the Neighborhood Property, and the Bridgewater Club, LLC, an Indiana limited liability company (the "Contract Purchaser") is the land contract purchaser of part of the Neighborhood Property;

WHEREAS, Declarant is the developer of the Neighborhood Property; and

WHEREAS, the Declarant, the Title Holders and the Contract Purchaser desire to impose certain protective covenants, conditions and restrictions on the Neighborhood Property and to irrevocably appoint and designate the Declarant as the Declarant in this Neighborhood Declaration, to have, hold, and possess all of the rights, powers, and authority of the Declarant as set forth in this Neighborhood Declaration;

WHEREAS, the Neighborhood Property is subject to the Master Declaration (defined below) pursuant to which the Master Association (defined below) has been established;

WHEREAS, this Neighborhood Declaration is intended to provide for the preservation and enhancement of property values, amenities and opportunities in the Neighborhood Property and contributing to the general health, safety and welfare of residents and for the maintenance of the Neighborhood Property; and

NOW THEREFORE, the Title Holders and the Contract Purchaser, along with any other person whose signature appears hereafter by way of joinder or consent, (i) irrevocably appoints and designates Throgmartin-Henke, LLP to be the Declarant in this Neighborhood Declaration to have, hold, and possess all of the rights, powers, and authority of the Declarant as set forth in the Neighborhood Declaration and (ii) declares that the Neighborhood Property is and shall be owned used, and conveyed subject to the Master Declaration (defined below) and to the covenants, restrictions, easements, and conditions, and all other provisions of this Neighborhood Declaration as it may be amended from time to time, all as hereinafter set forth, all of which shall run with the land and be binding on all parties having any right, title or interest in the Neighborhood Property or any part thereof, their heirs, successors and assigns, and shall inure to
the benefit of each Owner thereof. The Declarant reserves the right, in its sole discretion, to add or withdraw property from the submission to the Neighborhood Declaration, except that the Declarant shall not be permitted to withdraw any portion of the Neighborhood Property from the Neighborhood Declaration if such property has been conveyed to an owner other than the Declarant.

1. DEFINITIONS. All terms and words in this Neighborhood Declaration and its recorded exhibits shall have the definitions, if any, specified in the Master Declaration, as amended from time to time, and the meanings stated below unless the context clearly requires otherwise.

1.1 "Accessory Lanes" shall mean and refer to striped lanes which are within the right-of-way of some or all public streets, which are adjacent to the areas of the public streets intended for use by licensed motor vehicles and which are intended for use by pedestrians, golf carts, and bicycles.

1.2 "Architectural Review Board" means and refers to the Board described in Article VI of the Master Declaration.

1.3 "Declarant" means and refers to Throgmartin-Henke Development, LLP, an Indiana limited liability partnership, its successors and assigns. Provided, however, that an owner shall not, solely by the purchase of a Unit, be deemed a successor or assign of Declarant or of the rights of the Declarant under this Declaration unless such Owner is specifically so designated as a successor or assignee of such rights in the respective instrument of conveyance or any other instrument executed by the Declarant. The Declarant shall have the right to designate any other party or entity as a successor Declarant, and if such designation occurs, the designated party or entity shall succeed to all of the Declarant’s rights and powers as set forth in the Neighborhood documents.

1.4 "Designated Builder" means during such period as such designation by Declarant may continue, any person or entity engaged in the construction of more than one (1) Dwelling Unit who is designated by Declarant as a "Designated Builder". Declarant may make and revoke any such designation at any time and from time to time.

1.5 "Dwelling Unit" means and refers to any or all the single family living units which will be constructed on the Lots, each designed for use and occupancy as a single-family living unit.

1.6 "Faux Gates" shall mean and refer to gates which do not function and which exist on Shared Drives, Private Streets, or Public Streets.

1.7 "Functioning Gates" shall mean and refer to functioning gates located on Private Streets and Shared Drives, only.

1.8 "Guest" means any person who is physically present in, or occupies a Unit on a temporary basis at the invitation of the Owner, without the payment of consideration.
1.9 “Institutional Mortgagee” shall mean the holder of any mortgage against a Lot or Unit, which holder is a bank, a Federal or State Savings and Loan Association, mortgage company, real estate or mortgage investment trust, any insurance company doing business in Indiana, a pension or profit sharing trust or the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, any agency of the United States of America or the Government of the State of Indiana, or the holder of a first mortgage which is guaranteed or insured by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. The term Institutional Mortgagee also includes any and all individuals, corporations, lending institutions, or other entities, or the successors and assigns of such lenders (herein referred to as the “Lenders”) which have loaned money to Declarant, or any entity or person which succeeds to Declarant’s position as Declarant of part or all of Neighborhood and which hold a mortgage upon any portion of the Neighborhood Property securing such a loan.

1.10 “Lanes” shall mean and refer to a private way or easement located through the interior of a neighborhood and providing vehicular, pedestrian, and service access to the side or rear of any plot.

1.11 “Lease” means the grant by an Owner of a temporary right of use of the Owner’s Dwelling Unit for valuable consideration.

1.12 “Lot” means one or more of the platted parcels located within the Neighborhood Property into which the Neighborhood Property has been subdivided, upon which a single Dwelling Unit has been or is intended to be constructed. Wherever herein the term “Lot” is used, it shall be interpreted as if followed by the words “and Dwelling Unit constructed thereon,” except where the context clearly requires otherwise. The Declarant may subject additional Lots to this Neighborhood Declaration.

1.13 “Master Association” means and refers to Bridgewater Club Master Association, Inc., an Indiana not for profit corporation, its successor and assigns, as defined in the Master Declaration.

1.14 “Master Declaration” means the Master Declaration and General Protective Covenants, Conditions, and Restrictions for the Bridgewater Club recorded with the Recorder of Hamilton County, Indiana, on the 15th day of January, 2002, as Instrument Number 2002-0871.

1.15 “Master Founding Documents” means and refers to the Master Declaration, Articles of Incorporation, Bylaws, Rules and Regulations and the Resolutions of the Master Association.
1.16 “Member” means and refers to all persons who are members of the Neighborhood Association as provided in this Neighborhood Declaration, and the Articles of Incorporation and Bylaws of the Neighborhood Association.

1.17 “Neighborhood” or “Neighborhoods” means Club Estates comprising the Neighborhood Property more particularly described on Exhibit “A”, which is committed by this Neighborhood Declaration to the provisions hereof and any additional real estate which may hereafter be declared to be subject to this Declaration and all improvements made to such land, including Dwelling Units, Neighborhood Common Areas, if any, and Lots.

1.18 “Neighborhood Association” shall mean and refer to Neighborhood Homeowners Association, Inc., a Indiana not for profit corporation and such other Associations created by the Declarant for the purpose of carrying out the provisions of this Declaration.

1.19 “Neighborhood Board” means and refers to the Board of Directors of the Neighborhood Association.

1.20 “Neighborhood Common Areas” means and refers to all portions of the Properties, if any, exclusive of the numbered Lots, which are made subject by Declarant to this Neighborhood Declaration. Neighborhood Common Areas shall include, without limitation, any Accessory Lanes, Faux Gates, Functioning Gates, Lanes, Private Streets, and/or Shared Driveways.

1.21 “Neighborhood Declaration” means and refers to this Declaration of Covenants, Conditions and Restrictions for Neighborhood, as it may be amended from time to time.

1.22 “Neighborhood Founding Documents” means this Neighborhood Declaration and all recorded exhibits hereto, as the same may be amended from time to time, together with the Articles, Minutes, Bylaws, and Rules and Regulations of the Neighborhood Association.

1.23 “Neighborhood Rules and Regulations” means and refers to the administrative rules and regulations governing procedures for administering the Neighborhood Association and the Properties as adopted by resolution of the Neighborhood Board of Directors.

1.24 “Occupant” or “Occupancy”, when used in connection with a Dwelling Unit means any person who is physically present in the unit on two or more consecutive days, including staying overnight.

1.25 “Owner” means and refers to any person or persons, entity or entities, who are the record Owner of the fee simple title to any Lot in the Properties.

1.26 “Primary Occupant” means the natural person approved for occupancy, together with his family, when title to a Dwelling Unit is held in the name of more than two persons, or by a trustee or a corporation or other entity which is not a natural person.
1.27 "Private Streets" shall mean and refer to any streets within The Bridgewater Club which are neither dedicated to the Town of Westfield, Indiana, for public use nor maintained by the Town of Westfield, Indiana.

1.28 "Public Streets" shall mean and refer to all streets which are dedicated for public use and accepted for maintenance by the Town of Westfield.

1.29 "Shared Driveway" shall mean and refer to a driveway, extending from a private street, intended for pedestrian and motor vehicle use by the owners of residential lots having frontage on the shared drive.

1.30 "The Bridgewater Club" means and refers to the Real Estate and the Additional Real Estate, as defined in the Master Declaration.

2. CONTINUATION OF DEVELOPMENT. The Neighborhood Property is being developed by the Declarant into Lots intended for the construction of detached single family residences. The Owners recognize that other areas within the Neighborhood Property may be under development for an extended time. Incident to that development, the Owners acknowledge that the quiet enjoyment of the Neighborhood may be unavoidably interfered with to some extent by construction and sales operations. From time to time, Declarant and others have presented to the public certain, renderings, plans, and models showing possible future development of the Neighborhood Property. Declarant does not warrant in any way the schemes in these renderings, plans or models. They are primarily schematic and in no way represent a final development plan for the Neighborhood Property.

3. NEIGHBORHOOD ASSOCIATION; MEMBERSHIP; VOTING RIGHTS. The administration and management of this Neighborhood shall be by Neighborhood Homeowners Association, Inc., an Indiana not for profit corporation, and such other associations created for the specific purposes of carrying out the provisions of this Neighborhood Declaration, which shall perform their functions pursuant to the following:

3.1 Delegation of Management. The Neighborhood Association may contract with the Master Association or with a third party for the management and maintenance of the Neighborhood Properties and authorize a management agent to assist that Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules, and the maintenance, repair and replacement of any Neighborhood Common Areas, with funds made available by the Association for such purposes. The Neighborhood Association and its officers shall, however, retain at all times the powers and duties provided in the Neighborhood Documents.

3.2 Members. Every person or entity who is a record Owner of legal title to any Lot shall be a Member, provided however, that no such person or entity who holds such interest merely as a security for the performance of an obligation shall be deemed the Owner for purposes of determining membership and use rights.
3.2.1 **Class A.** Class A Members shall be all Owners, as defined in Section 1, with the exception of the Class B Member. Class A Membership as to a Lot shall become effective upon the occurrence of the last to occur of the following events:

1. Recording in the Public Records of a Deed or other instrument evidencing legal title to the Lot vested in the Member.

2. Approval of the respective Neighborhood Associations, if required elsewhere herein.

3. Delivery to the respective Neighborhood Association of a copy of the recorded Deed or other instrument evidencing title.

4. Delivery to the respective Neighborhood Association, if required, of a written designation of a primary occupant.

3.2.2 **Class B.** The Class B Member shall be the Declarant or any assignee, in whole or in part of the Declarant’s development rights.

Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which Membership is based.

3.3 **Voting Interests.** The Class A Members of the Neighborhood Association are entitled to one (1) vote for each Lot owned by them. The total number of Class A votes shall not exceed the total number of Lots in the Neighborhood. The vote of a Lot is not divisible. The right to vote may not be denied because of delinquent assessments. If a Lot is owned by one natural person, his right to vote shall be established by the record title. If a Lot is owned jointly by two or more persons, that Lot’s vote may be cast by anyone of the record Owners. If two or more Owners of a Lot do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. Class B Membership shall cease to exist at the turnover date as specified in Article 12 herein or at such earlier time as Declarant actually turns over control of the Neighborhood Association, whereupon the Declarant shall become a Class A Member as to all Lots owned by it. At all times prior to the termination of Class B Membership, the Class B Member shall have the same number of votes at any meeting in which votes are to be taken as are held by all Class A Members, plus one hundred (100).

3.4 **Approval or Disapproval of Matters.** Whenever the decision or approval of an Owner is required upon any matter, whether or not the subject of a Neighborhood Association meeting, such decision or approval shall be expressed by the same person who would cast the vote of such Owner’s Lot if in an Neighborhood Association meeting, unless the joinder of all record Owners is specifically required.
3.5 Declarant Approvals. If Declarant holds Lots, or the option to acquire additional lots within Neighborhood for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Declarant:

3.5.1 Assessment of Declarant as an Owner for capital improvements; or

3.5.2 Any action by the Neighborhood Association that would be detrimental to the sale of Lots or Dwelling Units by Declarant. The determination as to what actions would be detrimental to sales shall be in the sole discretion of Declarant.

3.6 Termination of Membership. The termination of membership in the Neighborhood Association does not relieve or release any former Member from liability or obligation incurred under or in anyway connected with the Neighborhood Association during the period of this Membership, nor does it impair any rights or remedies which are in anyway connected with such ownership and membership and the covenants and obligations incident thereto.

3.7 Neighborhood Association as Owner of Lots. The Neighborhood Association has the power to purchase Lots and Dwelling Units, and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Neighborhood Board of Directors.

3.8 Membership Roster. The Neighborhood Association shall maintain a current roster of names and mailing addresses of Owners and Primary Occupants. A copy of the up-to-date roster shall be available to any Owner upon request.

3.9 Limitation on Liability. Notwithstanding the duty of the Neighborhood Association to maintain and repair any Neighborhood Common Area, the Neighborhood Association shall not be liable to Owners for property damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Neighborhood Association, or caused by the elements or Owners or other persons.

3.10 Neighborhood Board. Except as otherwise provided by law or by the Master Founding Documents, the Neighborhood Association shall act through its Neighborhood Board and its Officers, and no vote of the Members shall be required. The Officers and Neighborhood Directors of the Neighborhood Association have a fiduciary relationship to the Members. Until Turnover as defined in Section 12 below, the Declarant shall have the sole and exclusive right to appoint, substitute, and replace all members/directors of the Neighborhood Board.

3.11 Powers and Duties. The powers and duties of the Neighborhood Association include those set forth in the Neighborhood Founding Documents and the obligations for which assessments are collected under this Neighborhood Declaration.
4. NEIGHBORHOOD ASSOCIATION ASSESSMENT AND LIEN RIGHTS

4.1 Creation of Lien and Personal Obligation of Assessments. Each Owner of a Lot or Dwelling Unit, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Neighborhood Association:

(i) Annual Assessments, Supplemental Assessments and Special Assessments, all as established and to be collected as hereafter set forth;

(ii) Individual Assessments against any particular Lot or Dwelling Unit, as established and hereafter set forth, including, but not limited to, fines as may be imposed against such Lot and/or Dwelling Unit as hereafter set forth; and

(iii) Any additional assessments specified in a Supplemental Declaration or Neighborhood Declaration.

Any such assessments, together with late charges, simple interest at the maximum rate allowable by law per annum, and court costs and attorneys’ fees incurred to enforce or collect such assessments, shall be an equitable charge and a continuing lien upon the Lot or Dwelling Unit, the Owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner of a Lot or Dwelling Unit, and his grantee shall take title to such Lot or Dwelling Unit subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid assessments shall not apply to the holder of any first priority Mortgage or to the holder of any Mortgage securing a loan made by Declarant, its affiliates, successors, or assigns, and who takes title to a Lot or Dwelling Unit through foreclosure or through conveyance of a deed in lieu of foreclosure or to any purchaser of such Lot or Dwelling Unit at such foreclosure sale. In the event of co-ownership of any Lot or Dwelling Unit, all of such co-Owners shall be jointly and severally liable for the entire amount of such assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Neighborhood Board, provided that, unless otherwise provided by the Neighborhood Board, the annual assessments shall be paid in advance at the beginning of the fiscal year of the Neighborhood Association.

4.2 Annual Assessments. By a vote of a majority of the Neighborhood Board, the Neighborhood Board shall fix the Annual Assessment for each assessment year of the Neighborhood Association at an amount sufficient to meet the obligations imposed by this Neighborhood Declaration upon the Neighborhood Association. The Neighborhood Board shall establish the date(s) the Annual Assessment shall become due, and the manner in which it shall be paid.
By a majority vote of the Neighborhood Board, the Neighborhood Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Neighborhood Declaration will be met.

The Common Expenses to be funded by the Annual Assessments may include, but shall not necessarily be limited to, the following:

(i) management fees and expenses of administration, including legal and accounting fees;

(ii) utility charges for utilities serving the Neighborhood Common Areas and charges for other common services for the Property, including trash collection and security services, if any such services or charges are provided or paid by the Master Association;

(iii) the cost of any policies of insurance purchased for the benefit of all the Owners and the Neighborhood Association as required or permitted by this Neighborhood Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Neighborhood Board determines to be in the interests of the Neighborhood Association and the Owners;

(iv) the expenses of landscaping, maintenance, operation, repair and/or replacement of those portions of the Neighborhood Common Areas which are the responsibility of the Neighborhood Association under the provisions of this Neighborhood Declaration, and which may include, without limitation, any Accessory Lanes, Faux Gates, Functioning Gates, Lanes, Private Streets, Shared Drives, or anything conveyed to the Neighborhood Association and identified on a plat, recorded with the Recorder of Hamilton County, Indiana, as an Ingress/Egress Easement (IE);

(v) the expenses of maintenance, operation, and repair of other amenities and facilities serving the Development, the maintenance, operation, and repair of which the Neighborhood Board from time to time determines to be in the best interest of the Neighborhood Association;

(vi) ad valorem real and personal property taxes assessed and levied against the Neighborhood Common Areas; and

(vii) such other expenses as may be determined from time to time by the Neighborhood Board to be Common Expenses.

The total annual assessments shall be divided among the Plots or Dwelling Units, as hereinafter provided:
(i) The total annual Assessments shall be divided among the Lots and Dwelling Units as provided herein. The Owner of each Lot or Dwelling Unit shall pay an Annual Assessment which, beginning in 2003, shall be an amount not less than $750.00, unless otherwise determined by Declarant.

(ii) Notwithstanding anything to the contrary in this Neighborhood Declaration, no Lot owned by Declarant or a Designated Builder shall be assessed for Annual Assessments.

4.3 Supplemental Assessments. If the Neighborhood Board determines that the Annual Assessment, and any Supplemental Assessments, for the current year are, or will become, inadequate to meet all Common Expenses for any reason, it shall determine the approximate amount of such inadequacy and make a Supplementary Assessment against each Lot, specifying the date or dates when due. A Supplementary Assessment may be added to and paid with installments of the Annual Assessment, or be otherwise payable as determined by the Neighborhood Board. Notwithstanding anything to the contrary in this Neighborhood Declaration, no Lot owned by Declarant or a Designated Builder shall be assessed for Supplemental Assessments.

4.4 Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise contemplated may arise. At such times, in addition to the annual assessments authorized above, the Neighborhood Association, acting through its Neighborhood Board, may levy, in any assessment year, special assessments, applicable to that year only, provided that such assessment shall be approved (i) by Declarant until Turnover, as defined in paragraph 12 below, and (ii) by a majority of the votes entitled to be cast at a meeting duly called for this purpose. The Neighborhood Board may make such Special Assessments payable in installments over a period which may, in the Neighborhood Board’s discretion, extend in excess of the fiscal year in which adopted. Such Special Assessments are to be allocated among the Lots and Dwelling Units as provided with respect to Annual Assessments. Notwithstanding anything to the contrary in this Neighborhood Declaration, no Lot owned by Declarant or a Designated Builder shall be assessed for Special Assessments.

4.5 Uniformity of Assessment. Each owner of a Lot or Dwelling Unit shall pay the same Annual Assessment, Supplemental Assessment, and Special Assessment.

4.6 Individual Assessments. Any expenses of the Neighborhood Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Lots or Dwelling Units. The individual assessments provided for in this paragraph 4.6 shall be levied by the Neighborhood Board and the amount and due date of such assessment so levied by the Neighborhood Board shall be as specified by the Neighborhood Board. Under no circumstances
shall be Country Club be responsible for Individual Assessments.

4.7 **Reserves.** The Neighborhood Board may establish reserve accounts funded from Annual Assessments and/or Supplemental Assessments in reasonable amounts and in such categories as are determined by the Neighborhood Board for deferred maintenance and repair and replacement, including maintenance of all Neighborhood Common Area, emergency repairs as a result of casualty losses, and recurring periodic maintenance, or the initial cost of any new service to be performed by the Neighborhood Association. All amounts collected as a reserve shall be deposited or invested by the Neighborhood Board in separate accounts to be held in trust for the purposes for which such funds are collected, and shall not be commingled with any other funds of the Neighborhood Association. Such reserves shall be deemed a contribution to the capital account of the Neighborhood Association by the Members.

4.8 **Collection and Commencement.** Assessments that are levied by the Neighborhood Association against any Lot not within a Neighborhood shall be collected by the Neighborhood Association. The Annual Assessment shall commence with respect to assessable Lots on the first day of the month following conveyance of the first Lot to an Owner who is not Declarant or a Designated Builder. The initial Assessment on any assessable Lot shall be adjusted according to the days remaining in the month in which the Lot became subject to assessment. Only Lots for which the Annual Assessment has commenced shall be subject to Supplemental Assessments and Special Assessments.

4.9 **Liens.** All sums assessed against any Lot or Dwelling Unit pursuant to this Neighborhood Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Lot or Dwelling Unit in favor of the Neighborhood Association. Such liens shall be superior to all other liens and encumbrances on such Lot or Dwelling Unit except only for: (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first priority Institutional Mortgage or on any mortgage to Declarant, or its affiliates, successors, or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of assessments and charges to the lien of such Mortgages shall only apply to such assessments and charges that have become due and payable prior to acquisition of title at a foreclosure sale. All other persons acquiring liens or encumbrances on any Lot or Dwelling Unit after this Neighborhood Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments and charges as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

4.10 **Effect of Nonpayment; Remedies of the Association.** Any Assessments or charge of an Owner or any portions thereof that are not paid when due shall be delinquent. Any assessment or charge delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Neighborhood Board from
time to time and shall also commence to accrue simple interest at the rate of eighteen percent (18%) per annum or the maximum interest rate allowed by the laws of the State of Indiana, whichever is lower. A lien and equitable charge as herein proved for each assessment or charge shall attach simultaneously as the same shall become due and payable, and if an assessment or charge has not been paid within thirty (30) days, the entire unpaid balance of the assessment or charge may be accelerated at the option of the Neighborhood Board and be declared due and payable in full. The continuing lien and equitable charge of such assessment or charge shall include the late charge established by the Neighborhood Board, interest on the principal amount due at the rate of eighteen percent (18%) per annum or the maximum interest rate allowed by the laws of the State of Indiana, whichever is lower. All costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the assessment or charge remains unpaid after sixty (60) days from the original due date, the Neighborhood Association may, as the Neighborhood Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this paragraph shall be in favor of the Neighborhood Association.

4.11 Certificate. The treasurer, any assistant treasurer, or the manager of the Neighborhood Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Neighborhood Board, furnish to any Owner or such Owner's Mortgages which requests the same, a certificate in writing signed by said treasurer, assistant treasurer, or manager setting forth whether the assessments and charges for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any assessments and charges stated therein to have been paid.

4.12 Master Association Assessments. The Owner of any Lot, by acceptance of a deed, is deemed to agree to pay such Lot's pro rata share of Master Association assessments and other charges as set forth in the Master Declaration. At the option and election of the Master Association, the Neighborhood Association shall collect all Master Association amounts and charges which are set forth in the Master Declaration.

5. EASEMENTS.

5.1 Driveway. The Owner of each Lot shall have an exclusive easement over any portion of the Neighborhood Common Areas crossed by his driveway.

5.2 Ingress and Egress. A non-exclusive easement is hereby declared, granted and reserved in favor of the Declarant, the Neighborhood Association, the Master Association and each Owner and occupant, their respective guests, tenants, licensees and invitees, for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, road right-of-ways, and other right-of-ways and other portions of the Neighborhood Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the Neighborhood Common Areas as from time to time may be paved or intended for such purposes, or for purposes of ingress and egress to the
public ways. This easement shall also exist over any portion of a sidewalk which is part of a Lot and not part of a Neighborhood Common Area if such sidewalk is intended for use by pedestrian traffic.

5.3 Maintenance Easement. An easement is hereby reserved to Declarant, and the Neighborhood Association and any member of its Board of Directors, and its respective officers, agents, employees and assigns, upon, across, over, in and under the Neighborhood Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Neighborhood Association is obligated or permitted to perform pursuant to the Neighborhood Documents, including the right to enter upon any Lot for the purpose of performing maintenance to the landscaping or the exterior of improvements to such Lot as may be permitted herein. Access for emergency repairs may be made at any time.

5.4 Use and Enjoyment of Neighborhood Common Areas. There shall exists a nonexclusive easement for the use and enjoyment and for access over and to the Neighborhood Common Areas on behalf of Declarant, the Neighborhood Association, and Owners, their lessees, family members, guests and invitees; provided, however, an Owner’s (and those who derive their rights through the Owner) easement to such use and enjoyment may be temporarily suspended by the Neighborhood Association upon written notice for a period not to exceed thirty (30) days for failure of an Owner, his lessee, or his family members, guests, or invitees to conform to the rules and regulations promulgated by the Neighborhood Association in regard to the use of the Neighborhood Common Areas.

6. MAINTENANCE, IMPROVEMENTS.

6.1 Maintenance of Neighborhood Common Areas. The maintenance of all Neighborhood Common Areas and all portions of all property not located on a Lot shall be the responsibility of the Neighborhood Association and each Owner shall be responsible for their pro rata share of the maintenance expense. Any damage to a Dwelling Unit caused by work performed or ordered by the Neighborhood Association shall be promptly repaired by and at the expense of the Neighborhood Association, which shall restore the property as nearly as practical to its condition before the damage.

6.2 Inspection and Maintenance Guidelines. The Neighborhood Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Neighborhood Common Area improvements. The Neighborhood Board periodically, and at least once every two (2) years, shall review and update the inspection and maintenance guidelines. The Neighborhood Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines, and shall keep records of such implementation and compliance.

6.3 Negligence-Damage Caused By Owner. Each Owner has a duty to maintain his Dwelling Unit and Lot, except those items required to be maintained by the Neighborhood
Association as provided herein, and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Dwelling Units, Neighborhood Common Property, Master Association Common Area or the property of other Owners and residents. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Dwelling Unit or the Neighborhood Common Areas. An Owner shall also be liable for any personal injuries caused by his negligent acts or those of any members of his family, or his or their guests, employees, invitees, agents or lessees. Nothing herein contained however shall be construed so as to modify any waiver by insurance companies of rights of subrogation. If any condition, defect or malfunction, resulting from the Owner’s failure to perform this duty causes damage to other Dwelling Units, Neighborhood Common Area, Master Common Area or property within other Units, the Owner of the offending Dwelling Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Dwelling Units involved is not occupied at the time the damage is discovered, the Neighborhood Association may enter the Dwelling Unit without prior notice to the Owner and take reasonable actions to mitigate damage or prevent its spread. The Neighborhood Association may, but is not obligated to, repair the damage with the prior consent of the Owner.

7. INSURANCE MAINTAINED BY NEIGHBORHOOD ASSOCIATION.

7.1 Neighborhood Common Areas Insurance. The Neighborhood Association shall purchase the following coverage for the Neighborhood Common Areas subject to the following provisions:

7.1.1 Liability Insurance. The Neighborhood Association shall purchase and pay the costs of the policy or policies of insurance in the form generally known as Public Liability and/or owners policies insuring the Neighborhood Association against any and all claims and demands made by any person or persons whosoever for injuries received in connection with the use, operation and maintenance of Neighborhood Common Areas and improvements and buildings located thereon, or for any other risk insured against by such policies which the Neighborhood Association, in its sole discretion, determines to insure against. Each policy purchased by the Neighborhood Association shall have limited of not less than One Million Dollars ($1,000,000.00) covering all claims for personal injury and One Hundred Thousand Dollars ($100,000.00) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Neighborhood Association shall include protection against liability for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Neighborhood Common Areas, legal liability arising out of law suits related to employment contracts of the Neighborhood Association, water damage liability, liability for non-owned and hired automobiles, liability
for property of others. All such policies will name the Neighborhood Association (and Declarant for so long as Declarant shall own any portion of the Neighborhood Common Areas as their respective interest may appear) as the insured under such policy or policies. The insurance purchased shall contain a “severability of interest endorsement,” or equivalent coverage, which would preclude the insurer from (i) denying the claims or an Owner because of the negligent acts of either the Neighborhood Association, the Declarant or any other Owners or (ii) denying the claims of either the Declarant or the Neighborhood Association because of the negligent acts of an Owner.

7.1.2 Casualty Insurance. The Neighborhood Association shall purchase and pay the costs of a policy or policies of insurance to allow the Neighborhood Association to insure any improvements now located or which may hereafter be located, built or placed upon the Neighborhood Common Areas against loss or damage caused by or resulting from at least the following: Fire and other hazards covered by the standard extended coverage endorsement, sprinkler leakage, windstorm, vandalism, malicious mischief, water damage, debris removal and demolition, and such other risks as the Neighborhood Association shall determine are customarily covered with respect to developments similar to the Neighborhood in construction, location and use.

7.1.3 Fidelity Coverage. The Neighborhood Association shall purchase adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Neighborhood Association and the Directors and all others who handle and are responsible for handling funds of the Neighborhood Association, such coverage to be in the form of fidelity bonds which meet the following requirements unless one or more of such requirements are waived by the Board of Directors.

7.1.3.1 Such bonds shall name the Neighborhood Association as an obligee;

7.1.3.2 Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Neighborhood Association expense; and,

7.1.3.3 Such amounts shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression.
7.2 Neighborhood Association's Right of Entry. For the purpose of performing the
duties authorized by the Neighborhood Founding Documents, the Neighborhood Association
and/or the Master Association, through its duly authorized agents and employees, shall have an
irrevocable right of access to Dwelling Units during reasonable hours, when necessary for the
maintenance, repair or replacement of any Neighborhood Common Areas or of any portion of a
Dwelling Unit or Dwelling Units to be maintained by the Neighborhood Association and/or the
Master Association pursuant to the Neighborhood Founding Documents or as may be necessary
to prevent damage to the Neighborhood Common Areas or to a Dwelling Unit or Dwelling Units.

8. GENERAL COVENANTS AND RESTRICTIONS.

8.1 Appearance and Refuse Disposal. During construction of a Dwelling Unit or other
improvement, each Lot shall be maintained in a clean condition. After closing of title, each
Owner shall be required to have mandatory trash pick-up and shall keep his Lot free and clear of
trash and debris and shall reasonably maintain his Dwelling Unit. No Lot shall be used or
maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept
except in sanitary containers suitably screened from the street and adjacent Lots. All equipment
for the storage or disposal of such material shall be kept in a clean and sanitary condition. No
garbage incinerators shall be permitted.

8.2 Maintenance. The Neighborhood Association shall have the right to repair any
structure or improvement on any Lot which constitutes a danger or nuisance or is in unsightly
disrepair, provided that the Owner of the Lot is given no less than five (5) days notice of the
Neighborhood Association’s intent to do so. Such notice shall reasonably specify the proposed
action. The Neighborhood Association shall charge the expense of same against the Owner of
said Lot, which charge shall be a lien on the Lot which may be foreclosed and shall include,
Declarant’s attorney’s fees and/or the Neighborhood Association’s attorneys fees and other costs
in connection with said foreclosure.

8.3 Sidewalks. It shall be the Owner’s responsibility to repair and replace any damage
occurring to the sidewalks as a result of any construction on the Owner’s Lot.

9. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS. The
Neighborhood Covenants may be enforced by the Declarant, the Neighborhood Association, the
Master Association, or any Owner. Every Owner shall at all times comply with all the
covenants, conditions and restrictions of the Neighborhood Founding Documents. Violations of
the Neighborhood Founding Documents should be reported immediately in writing to a Member
of the Board of Directors.
10. MASTER DECLARATION OF MASTER ASSOCIATION.

10.1 Master Declaration. The Neighborhood is subject, in all respects, to the Master Declaration. This Neighborhood Declaration is in addition and supplemental to the Master Declaration.

10.2 Membership in Master Association. By taking title to a Lot, the Owner becomes a Member of the Master Association and subject to the terms and conditions of the Master Declaration, as it may be amended from time to time.

10.3 Master Association Assessments. Pursuant to the Master Declaration, the Master Association has the right to assess the Members for all expenses which may be incurred by the Master Association in the performance of its duties. At the discretion of the Master Association, these assessments may be collected by the Neighborhood Association as agent for the Master Association and remitted to the Master Association on a timely basis. The Master Association may, in its discretion, collect assessments directly.

10.4 Membership in Master Association and Voting Rights. In accordance with the provisions of the Articles of Incorporation of the Master Association, all Owners are automatically and irrevocably Members of the Master Association. Notwithstanding such membership, only representative Members, known as the “Voting Members”, shall be entitled to vote on behalf of all Members of the Neighborhood Association at meetings of the Members of the Master Association. “Voting Members” shall mean the Declarant (as to the votes allocated to Class “B” Membership) and the authorized designee of the Neighborhood Association (as to the votes allocated to Class “A” and Class “B” Membership).

10.5 Notice to Master Association. Copies of all amendments to this Neighborhood Declaration, the Articles of Incorporation and Bylaws of the Neighborhood Association, and any easements or conveyances affecting the Neighborhood Common Areas, shall be forwarded to the Master Association no later than fifteen (15) days after recording in the public records. The Neighborhood Association shall also provide a current list of the names and mailing address of all Owners within fifteen (15) days after receiving a written request for same from the Master Association.

11. DECLARANT’S RIGHTS. So long as the Declarant holds any Lots in the Neighborhood for sale in the ordinary course of business, the following shall apply, notwithstanding any other provisions to the contrary:

11.1 Amendment of Neighborhood Declaration. In addition to any other right of amendment or modification provided for in this Neighborhood Declaration and its Exhibits, the Declarant, or any entity which succeeds to its position as the Declarant of the Neighborhood Property may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of
this Neighborhood Declaration or any of its exhibits. This right specifically includes the right to amend this Neighborhood Declaration and its Exhibits to bring additional property and Lots within the Properties, to withdraw property previously submitted to this Neighborhood Declaration, and to change the size or dimension of any Lot without the approval of any Owner or mortgagee so long as that Lot has not been conveyed to a Owner other than the Declarant. The right to amend set forth in this paragraph shall expire when the Declarant no longer holds any lands, Lots or Dwelling Units within the Neighborhood. Any amendment made pursuant to this paragraph may be made without notice to the Members or to any other entity.

11.2 Non-Enforcement of Covenants. The Declarant shall have no liability with regard to the enforcement or non-enforcement of the covenants, conditions and restrictions in the Neighborhood Documents.

11.3 Easements. The Declarant shall have the right to create any and all easements over, across and through the Neighborhood Property as may be necessary or convenient to the development process.

12. TURNOVER.

12.1 Time of Turnover. Unless turnover of control of the Neighborhood Association ("Turnover") occurs at an earlier time as elected in writing by the Declarant in the Declarant's sole discretion, the Turnover of control of the Neighborhood Association shall occur on the last to occur of the following:

12.1.1 The conveyance by Declarant of a total of one hundred percent (100%) of the Lots within the Neighborhood; and

12.1.2 Fifteen (15) years from the date hereof; and

12.1.3 When Declarant shall determine that the development of the Neighborhood has been completed.

At the Turnover Meeting, the Class "A" Members shall elect a Board of Directors and the Directors appointed by the Declarant shall resign.

12.2 Procedure for Calling Turnover Meeting. No more than forty-five (45) days and no less than thirty (30) days prior to the Turnover Meeting, the Neighborhood Association shall notify in writing all Class "A" Members of the date, time and place of the Turnover Meeting.

12.3 Early Turnover. The Declarant may turn over control of an Neighborhood Association to Owners other than the Declarant prior to the turnover dates set forth above by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Owners other than the Declarant to elect Directors and assume control of the Neighborhood
Association. Provided at least thirty (30) days notice of Declarant’s decision to cause its
appointees to resign is provided to theOwners, the Declarant shall not be liable in any manner in
connection with such resignations, even if Owners other than the Declarant refuse or fail to
assume control.

12.4 Conveyance to Neighborhood Association. Declarant agrees that it shall convey to
the Neighborhood Association fees simple title in and to the Neighborhood Common Areas
together with the improvements located thereon upon or before the “Conveyance Date” which
shall be on or before sixty (60) days after Turnover. Such conveyances to the Neighborhood
Association described herein shall be by Special Warranty Deed subject to: (i) taxes for the year
of conveyance and subsequent years; (ii) such facts as an accurate survey would show; (iii) the
terms and provisions of the Neighborhood Documents; (iv) easements, “restrictions, reservations, conditions and limitations of record; and, (v) applicable zoning ordinances and
regulations. The Neighborhood Association shall be obligated to accept all conveyances of any
property within the Neighborhood Property from the Declarant. The Neighborhood Association
shall have the right and power to convey Neighborhood Association property and/or easements
therein to any grantee for consideration or no consideration.

12.5 Professional Management. At any time prior to the occurrence of the Turnover, the
Declarant, in the Declarant’s sole discretion, may require that the Neighborhood Association
continuously employ a professional management company, possessing experience and
experience in the management of home owners associations, to assist the Neighborhood Board
in the management and administration of the Neighborhood Association. The cost of such
professional assistance shall immediately and automatically be added to the annual assessment as
a Neighborhood Common Expense. If the Declarant so elects, such professional management
shall continue without interruption after the Turnover at all times during the existence of the
Neighborhood Association.

13. DURATION OF COVENANTS AND AMENDMENT OF DECLARATION.

13.1 Duration of Covenants. The covenants, conditions, restrictions, terms, provisions,
reservations, regulations, easements, burdens and liens contained in this Neighborhood
Declaration shall run with and bind the Properties, and shall inure to the benefit of and be
enforceable by the Neighborhood Association, the Declarant and any Owner, their respective
legal representative, heirs, successors and assigns, for an initial period to expire on the fiftieth
(50th) anniversary of the date of recordation of the Master Declaration. Upon the expiration of
said initial period, this Neighborhood Declaration shall be automatically renewed and extended
for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall
be unlimited, with this Neighborhood Declaration being automatically renewed and extended
upon the expiration of each ten (10) year renewal period for an additional ten (10) year period;
provided, however, that there shall be no renewal or extension of this Neighborhood Declaration
if during the last year of the initial period, or during the last year of any subsequent the (10) year
renewal period, three- fourths (3/4) the votes cast at a duly held meeting of Members of the
Neighborhood Association vote in favor of terminating this Neighborhood Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Neighborhood Declaration, the President and Secretary of the Neighborhood Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Neighborhood Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate must be signed by all Institutional Mortgagees in existence one (1) year prior to the termination of such term or extension agreeing to terminate this Neighborhood Declaration. Said certificate shall be recorded in the Public Records of Hamilton County, Indiana, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Neighborhood Declaration, upon which event this Neighborhood Declaration shall be terminated upon the expiration of the thirty (30) year term or the ten (10) year extension during which such instrument of termination was recorded.

13.2 Proposal. Amendments to this Neighborhood Declaration may be proposed by the Board of Directors or by written petition signed by one-fourth (1/4) of the voting interests. If by petition, the proposed amendments must be submitted to a vote of the Owners not later than the next annual meeting.

13.3 Vote Required. Until Turnover as specified in paragraph 12.1 above, the Declarant reserves the exclusive right, in its sole discretion and without notice, to make modifications to this Neighborhood Declaration or other Neighborhood Founding Documents. After such Turnover, This Neighborhood Declaration may be amended at any time by concurrence of two-thirds (2/3) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose. However, the full text of any proposed amendments shall be included in the notice of such Annual or Special Meeting and no amendment shall be effective which is in contravention of the duties, responsibilities or obligations of the Neighborhood Association or Members as provided in this Neighborhood Declaration and its exhibits. No Amendment shall change the Owner’s share of liability for assessments or voting rights unless the Owner consents to the amendment.

13.4 Certificate and Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Neighborhood Declaration, which certificate shall identify the Recorder of Hamilton County, Indiana where the Neighborhood Declaration is recorded, and shall be executed by Officers of the Neighborhood Association with the formalities of a deed. A true copy of each amendment shall be sent by certified mail by the Neighborhood Association to Declarant and all Institutional Mortgagees. The amendment shall be effective when recorded with the Recorder of Hamilton County, Indiana; however, the amendment shall not be recorded until thirty (30) days after a copy of the amendment was mailed to the Declarant and the Institutional Mortgagees, unless such thirty (30) day period is waived in writing by Declarant and all Institutional Mortgagees.
13.5 **Exceptions.** Wherever in this Neighborhood Declaration the consent, approval, or affirmative vote of more than two-thirds (2/3) of the voting interest is required in order to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action.

13.6 **Amendment of Provision Relating to Declarant.** As long as the Declarant holds any Lot for sale in the ordinary course of business or any part of the Real Estate or the Additional Real Estate, no amendment shall have the effect of changing any provision relating specifically to the Declarant without the Declarant’s written consent. Further, no amendment shall be adopted which shall materially impair or prejudice the rights or priorities of Declarant, the Neighborhood Association and any Institutional Mortgagee under this Neighborhood Declaration without the specific written approval of Declarant, the Neighborhood Association or any Institutional Mortgagee affected thereby.

13.7 **Minor or Technical Defect.** Whenever it shall appear to the Neighborhood Association that there is a technical or minor defect, error or omission in the Declaration, the Neighborhood Association, through its Board of Directors, may amend the Declaration in accordance with this Article. The amendment shall become effective upon the recording of a certificate of amendment with the Recorder of Hamilton County, Indiana.

13.8 **Supplemental Declaration.** Notwithstanding anything contained in this Neighborhood Declaration, the Declarant, in its sole discretion without the consent of any Owners or the Neighborhood Association may execute and record a Supplemental Declaration to this Neighborhood Declaration declaring additional land within the Property to be subject to all of the terms, conditions, rights and obligations of Owners of Lots or Dwelling Units on the Neighborhood Property already committed to this Neighborhood Declaration.

14. **GENERAL PROVISIONS:**

14.1 **Waiver.** Any waiver by Declarant of any provisions of this Neighborhood Declaration of breach hereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

14.2 **Severability.** In the event that anyone of the provisions of this Neighborhood Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof which shall remain in full force and effect. Further, the invalidation of any of the covenants or restrictions or terms and conditions of this Neighborhood Declaration or a reduction in the term of the same by reason of the rule of law known as the "rule against perpetuities" shall in no way affect any other provision hereof, which shall remain in full force and effect for such period of time as may be permitted by law.
14.3 **Headings.** The headings of any sections herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

14.4 **Notices.** Any notices or other communications required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Owner at the last known address of the person whose name appears as the Owner on the records of the Neighborhood Association at the time of such mailing; (ii) the Neighborhood Association at 3535 East 161st Street, Noblesville, Indiana 46060, or such other address as the Neighborhood Association shall hereafter notify Declarant and all Owners of in writing; and, (iii) Declarant at 3535 East 161st Street, Noblesville, Indiana 46060, or such other address or addresses as Declarant shall hereafter notify the Neighborhood Association of in writing. Any notice to the Neighborhood Association of a change in Declarant’s address shall be deemed notice to the Owners.

14.5 **Context.** Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns’ herein may be deemed to mean the corresponding plural form thereto and vice versa.

14.6 **Management.** The Neighborhood Association, pursuant to a resolution duly adopted by its Neighborhood Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Neighborhood Board from time to time.

14.7 **Attorney’s Fees.** Any provision herein for the collection or recovery of attorney’s fees shall be deemed to include, but not be limited to, the collection of court costs and attorney’s fees for the attorney’s services at all trial and appellate levels and during post judgment proceedings and, unless the context clearly indicates a contrary intention, shall include the recovery of such fees and costs whether or not suit is instituted.

14.8 **Interpretation.** In the event of a conflict between the provisions of this Neighborhood Declaration and the Neighborhood Association, the provisions of this Neighborhood Declaration shall control. In the event of a conflict between this Neighborhood Declaration and the Master Declaration, the Master Declaration shall control.
THROGMARTIN-HENKE DEVELOPMENT, L.L.P
An Indiana limited liability partnership

Date: 11/15/02
By: [Signature]
Steven H. Henke, Partner

Date: 11/15/02
W. Gerald Throgmartin
By: [Signature]

Date: 11/15/02
Betty Jo Throgmartin
By: [Signature]
Kelli Throgmartin Ball

Date: 11/25/02
Estate of Frank J. Habig, Jr.
By: [Signature]
Nancy F. Habig, Personal Representative

Date: 12/15/02
THE BRIDGEWATER CLUB, LLC
By: [Signature]
an Indiana limited liability company

Date: 11/15/02
By: [Signature]
Steven H. Henke, Member
STATE OF INDIANA  
COUNTY OF Hamilton

Before me, a Notary Public in and for said County and State, personally appeared
Steven H. Henke, partner, on behalf of Throgmartin-Henke Development, LLP, an Indiana
limited liability partnership, who acknowledged the execution of the foregoing Neighborhood
Declaration.

My Commission Expires: 
Residing in Hamilton
County, Indiana

Pamela A. Lawler
Notary Public
Printed Name

STATE OF INDIANA  
COUNTY OF Marion

Before me, a Notary Public in and for said County and State, personally appeared
William G. Throgmartin, who acknowledged the execution of the foregoing Neighborhood
Declaration.

My Commission Expires: 
Residing in Marion
County, Indiana

Michael D. Stout
Notary Public
Printed Name
STATE OF INDIANA  )
COUNTY OF  MARION  ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Betty Jo Throgmartin, who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires:  
September 4, 2006
Residing in  MARION
County, Indiana

Notary Public
Michael D. Stack
Printed Name

STATE OF INDIANA  )
COUNTY OF  Hamilton  ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Kelli Throgmartin Ball, who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires:  
Oct 24, 2010
Residing in  Hamilton
County, Indiana

Notary Public
Michael Guzman
Printed Name

MICHAEL A. GUZMAN
NOTARY PUBLIC STATE OF INDIANA
HAMILTON COUNTY
MY COMMISSION EXP. JUNE 24, 2010
STATE OF INDIANA     
COUNTY OF Hamilton  

Before me, a Notary Pubic in and for said County and State, personally appeared Nancy J. Habig, Personal Representative of the Estate of Frank J. Habig, Jr., who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires: 11/27/10
Residing in Johnson County, Indiana

Notary Public
Printed Name

STATE OF INDIANA     
COUNTY OF Hamilton  

Before me, a Notary Pubic in and for said County and State, personally appeared The Bridgewater Club, LLC, an Indiana limited liability company, by Steven H. Henke, member, who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires: 12/14/07
Residing in Hamilton County, Indiana

Notary Public
Printed Name

This instrument prepared by Charles D. Frankenberger, Nelson & Frankenberger, 3021 East 98th Street, Suite 220, Indianapolis, IN 46280.
EXHIBIT “A”

Part of the Northwest Quarter of Section 17, Township 18 North, Range 4 East, and part of the Southwest Quarter of Section 8, Township 18 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the Northwest Quarter of said Section 17; thence North 89 degrees 55 minutes 46 seconds East along the North line of said Northwest Quarter 45.01 feet; thence South 00 degrees 58 minutes 50 seconds East parallel with the West line of said Northwest Quarter 423.25 feet; thence South 45 degrees 58 minutes 50 seconds East 56.57 feet; thence North 89 degrees 01 minutes 10 seconds East 31.58 feet to a tangent curve to the right having a radius of 171.00 feet, the radius point of which bears South 00 degrees 58 minutes 50 seconds East; thence Easterly along said curve 20.37 feet to a point which bears North 06 degrees 50 minutes 39 seconds East from said radius point, and a point of reverse curve having a radius of 297.00 feet, the radius point of which bears North 06 degrees 50 minutes 39 seconds East; thence Easterly along said curve 116.15 feet to a point which bears South 16 degrees 33 minutes 47 seconds East from said radius point; thence North 73 degrees 26 minutes 13 seconds East 37.32 feet to a tangent curve to the right having a radius of 865.00 feet, the radius point of which bears South 16 degrees 33 minutes 47 seconds East; thence Easterly along said curve 276.01 feet to a point which bears North 01 degrees 39 minutes 12 seconds East from said radius point; thence South 89 degrees 20 minutes 48 seconds East 61.90 feet; thence North 01 degrees 39 minutes 12 seconds East 327.97 feet; thence North 37 degrees 49 minutes 23 seconds West 157.19 feet; thence North 00 degrees 04 minutes 41 seconds West 675.98 feet; thence North 88 degrees 56 minutes 47 seconds East 771.51 feet; thence South 01 degrees 03 minutes 13 seconds East 725.61 feet; thence South 45 degrees 40 minutes 01 seconds East 233.08 feet; thence North 90 degrees 00 minutes 00 seconds East 200.00 feet; thence South 00 degrees 00 minutes 00 seconds East 544.70 feet; thence North 64 degrees 28 minutes 30 seconds West 302.67 feet; thence North 46 degrees 15 minutes 26 seconds West 179.91 feet; thence North 05 degrees 08 minutes 42 seconds East 137.24 feet to a tangent curve to the right having a radius of 50.00 feet, the radius point of which bears North 03 degrees 37 minutes 48 seconds East; thence Northwesterly along said curve 129.53 feet to a point which bears North 28 degrees 17 minutes 01 seconds West from said radius point and to a point of reverse curve having a radius of 60.00 feet, the radius point of which bears North 28 degrees 17 minutes 01 seconds West; thence Northwesterly along said curve 86.55 feet to a point which bears North 88 degrees 10 minutes 07 seconds East from said radius point; thence North 01 degrees 49 minutes 53 seconds West 48.94 feet to a tangent curve to the left having a radius of 185.00 feet, the radius point of which bears South 88 degrees 10 minutes 07 seconds West; thence Northwesterly along said curve 385.26 feet to a point which bears North 31 degrees 08 minutes 51 seconds West from said radius point; thence South 58 degrees 51 minutes 09 seconds West 114.25 feet to a tangent curve to the right having a radius of 180.00 feet, the radius point of which bears North 31 degrees 08 minutes 51 seconds West; thence Southwesterly along said curve 108.77 feet to a point which bears South 01 degrees 39 minutes 12 seconds West from said radius point; thence North 88 degrees 20 minutes 48 seconds West 21.35 feet; thence North 00 degrees 58 minutes 50 seconds East 303.53 feet; thence South 44 degrees 49 minutes 24 seconds West 314.15 feet; thence South 89 degrees 01 minutes 10 seconds West 574.77 feet; thence North 00 degrees 58 minutes 50 seconds West 979.05 feet to the POINT OF BEGINNING containing 36.91 acres, more or less.
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CLUB ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR CLUB ESTATES (the "Neighborhood Declaration"), is made by the undersigned, and is executed on the dates corresponding to signatures below.

WITNESSETH:

WHEREAS, Throgmartin-Henke Development, LLP, an Indiana limited liability partnership (the "Declarant") is the purchaser and optionee of certain real estate described in what is attached hereto and incorporated herein by reference as Exhibit "A" (the "Neighborhood Property"), William G. Throgmartin, Betty Jo Throgmartin, Kelli Throgmartin Ball, and the Estate of Frank J. Habig, Jr. (collectively, the "Title Holders") are the owners of the Neighborhood Property, and the Bridgewater Club, L.L.C., an Indiana limited liability company (the "Contract Purchaser") is the land contract purchaser of part of the Neighborhood Property;

WHEREAS, Declarant is the developer of the Neighborhood Property; and

WHEREAS, the Declarant, the Title Holders and the Contract Purchaser desire to impose certain protective covenants, conditions and restrictions on the Neighborhood Property and to irrevocably appoint and designate the Declarant as the Declarant in this Neighborhood Declaration, to have, hold, and possess all of the rights, powers, and authority of the Declarant as set forth in this Neighborhood Declaration;

WHEREAS, the Neighborhood Property is subject to the Master Declaration (defined below) pursuant to which the Master Association (defined below) has been established;

WHEREAS, this Neighborhood Declaration is intended to provide for the preservation and enhancement of property values, amenities and opportunities in the Neighborhood Property and contributing to the general health, safety and welfare of residents and for the maintenance of the Neighborhood Property; and

NOW THEREFORE, the Title Holders and the Contract Purchaser, along with any other person whose signature appears hereafter by way of joinder or consent, (i) irrevocably appoints and designates Throgmartin-Henke, LLP to be the Declarant in this Neighborhood Declaration to have, hold, and possess all of the rights, powers, and authority of the Declarant as set forth in the Neighborhood Declaration and (ii) declares that the Neighborhood Property is and shall be owned, used, and conveyed subject to the Master Declaration (defined below) and to the covenants, restrictions, easements, and conditions, and all other provisions of this Neighborhood Declaration as it may be amended from time to time, all as hereinafter set forth, all of which shall run with the land and be binding on all parties having any right, title or interest in the Neighborhood Property or any part thereof, their heirs, successors and assigns, and shall inure to
the benefit of each Owner thereof. The Declarant reserves the right, in its sole discretion, to add or withdraw property from the submission to the Neighborhood Declaration, except that the Declarant shall not be permitted to withdraw any portion of the Neighborhood Property from the Neighborhood Declaration if such property has been conveyed to an owner other than the Declarant.

1. DEFINITIONS. All terms and words in this Neighborhood Declaration and its recorded exhibits shall have the definitions, if any, specified in the Master Declaration, as amended from time to time, and the meanings stated below unless the context clearly requires otherwise.

1.1 “Accessory Lanes” shall mean and refer to striped lanes which are within the right-of-way of some or all public streets, which are adjacent to the areas of the public streets intended for use by licensed motor vehicles and which are intended for use by pedestrians, golf carts, and bicycles.

1.2 “Architectural Review Board” means and refers to the Board described in Article VI of the Master Declaration.

1.3 “Declarant” means and refers to Throgmartin-Henke Development, LLP, an Indiana limited liability partnership, its successors and assigns. Provided, however, that an owner shall not, solely by the purchase of a Unit, be deemed a successor or assign of Declarant or of the rights of the Declarant under this Declaration unless such Owner is specifically so designated as a successor or assignee of such rights in the respective instrument of conveyance or any other instrument executed by the Declarant. The Declarant shall have the right to designate any other party or entity as a successor Declarant, and if such designation occurs, the designated party or entity shall succeed to all of the Declarant’s rights and powers as set forth in the Neighborhood documents.

1.4 “Designated Builder” means during such period as such designation by Declarant may continue, any person or entity engaged in the construction of more than one (1) Dwelling Unit who is designated by Declarant as a “Designated Builder”. Declarant may make and revoke any such designation at any time and from time to time.

1.5 “Dwelling Unit” means and refers to any or all the single family living units which will be constructed on the Lots, each designed for use and occupancy as a single-family living unit.

1.6 “Faux Gates” shall mean and refer to gates which do not function and which exist on Shared Drives, Private Streets, or Public Streets.

1.7 “Functioning Gates” shall mean and refer to functioning gates located on Private Streets and Shared Drives, only.

1.8 “Guest” means any person who is physically present in, or occupies a Unit on a temporary basis at the invitation of the Owner, without the payment of consideration.
1.9 "Institutional Mortgagee" shall mean the holder of any mortgage against a Lot or Unit, which holder is a bank, a Federal or State Savings and Loan Association, mortgage company, real estate or mortgage investment trust, any insurance company doing business in Indiana, a pension or profit sharing trust or the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, any agency of the United States of America or the Government of the State of Indiana, or the holder of a first mortgage which is guaranteed or insured by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. The term Institutional Mortgagee also includes any and all individuals, corporations, lending institutions, or other entities, or the successors and assigns of such lenders (herein referred to as the "Lenders") which have loaned money to Declarant, or any entity or person which succeeds to Declarant’s position as Declarant of part or all of Neighborhood and which hold a mortgage upon any portion of the Neighborhood Property securing such a loan.

1.10 "Lanes" shall mean and refer to a private way or easement located through the interior of a neighborhood and providing vehicular, pedestrian, and service access to the side or rear of any plot.

1.11 "Lease" means the grant by an Owner of a temporary right of use of the Owner’s Dwelling Unit for valuable consideration.

1.12 "Lot" means one or more of the platted parcels located within the Neighborhood Property into which the Neighborhood Property has been subdivided, upon which a single Dwelling Unit has been or is intended to be constructed. Wherever herein the term "Lot" is used, it shall be interpreted as if followed by the words "and Dwelling Unit constructed thereon," except where the context clearly requires otherwise. The Declarant may subject additional Lots to this Neighborhood Declaration.

1.13 "Master Association" means and refers to Bridgewater Club Master Association, Inc., an Indiana not for profit corporation, its successor and assigns, as defined in the Master Declaration.

1.14 "Master Declaration" means the Master Declaration and General Protective Covenants, Conditions, and Restrictions for the Bridgewater Club recorded with the Recorder of Hamilton County, Indiana, on the 15th day of January 2000, as Instrument Number 2000-601.

1.15 "Master Founding Documents" means and refers to the Master Declaration, Articles of Incorporation, Bylaws, Rules and Regulations and the Resolutions of the Master Association.
1.16 "Member" means and refers to all persons who are members of the Neighborhood Association as provided in this Neighborhood Declaration, and the Articles of Incorporation and Bylaws of the Neighborhood Association.

1.17 "Neighborhood" or "Neighborhoods" means Club Estates comprising the Neighborhood Property more particularly described on Exhibit "A", which is committed by this Neighborhood Declaration to the provisions hereof and any additional real estate which may hereafter be declared to be subject to this Declaration and all improvements made to such land, including Dwelling Units, Neighborhood Common Areas, if any, and Lots.

1.18 "Neighborhood Association" shall mean and refer to Neighborhood Homeowners Association, Inc., a Indiana not for profit corporation and such other Associations created by the Declarant for the purpose of carrying out the provisions of this Declaration.

1.19 "Neighborhood Board" means and refers to the Board of Directors of the Neighborhood Association.

1.20 "Neighborhood Common Areas" means and refers to all portions of the Properties, if any, exclusive of the numbered Lots, which are made subject by Declarant to this Neighborhood Declaration. Neighborhood Common Areas shall include, without limitation, any Accessory Lanes, Faux Gates, Functioning Gates, Lanes, Private Streets, and/or Shared Driveways.

1.21 "Neighborhood Declaration" means and refers to this Declaration of Covenants, Conditions and Restrictions for Neighborhood, as it may be amended from time to time.

1.22 "Neighborhood Founding Documents" means this Neighborhood Declaration and all recorded exhibits hereof, as the same may be amended from time to time, together with the Articles, Minutes, Bylaws, and Rules and Regulations of the Neighborhood Association.

1.23 "Neighborhood Rules and Regulations" means and refers to the administrative rules and regulations governing procedures for administering the Neighborhood Association and the Properties as adopted by resolution of the Neighborhood Board of Directors.

1.24 "Occupant" or "Occupancy", when used in connection with a Dwelling Unit means any person who is physically present in the unit on two or more consecutive days, including staying overnight.

1.25 "Owner" means and refers to any person or persons, entity or entities, who are the record Owner of the fee simple title to any Lot in the Properties.

1.26 "Primary Occupant" means the natural person approved for occupancy, together with his family, when title to a Dwelling Unit is held in the name of more than two persons, or by a trustee or a corporation or other entity which is not a natural person.
1.27 “Private Streets” shall mean and refer to any streets within The Bridgewater Club which are neither dedicated to the Town of Westfield, Indiana, for public use nor maintained by the Town of Westfield, Indiana.

1.28 “Public Streets” shall mean and refer to all streets which are dedicated for public use and accepted for maintenance by the Town of Westfield.

1.29 “Shared Driveway” shall mean and refer to a driveway, extending from a private street, intended for pedestrian and motor vehicle use by the owners of residential lots having frontage on the shared drive.

1.30 “The Bridgewater Club” means and refers to the Real Estate and the Additional Real Estate, as defined in the Master Declaration.

2. CONTINUATION OF DEVELOPMENT. The Neighborhood Property is being developed by the Declarant into Lots intended for the construction of detached single family residences. The Owners recognize that other areas within the Neighborhood Property may be under development for an extended time. Incident to that development, the Owners acknowledge that the quiet enjoyment of the Neighborhood may be unavoidably interfered with to some extent by construction and sales operations. From time to time, Declarant and others have presented to the public certain, renderings, plans, and models showing possible future development of the Neighborhood Property. Declarant does not warrant in any way the schemes in these renderings, plans or models. They are primarily schematic and in no way represent a final development plan for the Neighborhood Property.

3. NEIGHBORHOOD ASSOCIATION; MEMBERSHIP; VOTING RIGHTS. The administration and management of this Neighborhood shall be by Neighborhood Homeowners Association, Inc., an Indiana not for profit corporation, and such other associations created for the specific purposes of carrying out the provisions of this Neighborhood Declaration, which shall perform their functions pursuant to the following:

3.1 Delegation of Management. The Neighborhood Association may contract with the Master Association or with a third party for the management and maintenance of the Neighborhood Properties and authorize a management agent to assist that Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules, and the maintenance, repair and replacement of any Neighborhood Common Areas, with funds made available by the Association for such purposes. The Neighborhood Association and its officers shall, however, retain at all times the powers and duties provided in the Neighborhood Documents.

3.2 Members. Every person or entity who is a record Owner of legal title to any Lot shall be a Member, provided however, that no such person or entity who holds such interest merely as a security for the performance of an obligation shall be deemed the Owner for purposes of determining membership and use rights.
3.2.1 **Class A.** Class A Members shall be all Owners, as defined in Section I, with the exception of the Class B Member. Class A Membership as to a Lot shall become effective upon the occurrence of the last to occur of the following events:

1. Recording in the Public Records of a Deed or other instrument evidencing legal title to the Lot vested in the Member.

2. Approval of the respective Neighborhood Associations, if required elsewhere herein.

3. Delivery to the respective Neighborhood Association of a copy of the recorded Deed or other instrument evidencing title.

4. Delivery to the respective Neighborhood Association, if required, of a written designation of a primary occupant.

3.2.2 **Class B.** The Class B Member shall be the Declarant or any assignee, in whole or in part of the Declarant’s development rights. Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which Membership is based.

3.3 **Voting Interests.** The Class A Members of the Neighborhood Association are entitled to one (1) vote for each Lot owned by them. The total number of Class A votes shall not exceed the total number of Lots in the Neighborhood. The vote of a Lot is not divisible. The right to vote may not be denied because of delinquent assessments. If a Lot is owned by one natural person, his right to vote shall be established by the record title. If a Lot is owned jointly by two or more persons, that Lot’s vote may be cast by anyone of the record Owners. If two or more Owners of a Lot do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. Class B Membership shall cease to exist at the turnover date as specified in Article 12 herein or at such earlier time as Declarant actually turns over control of the Neighborhood Association, whereupon the Declarant shall become a Class A Member as to all Lots owned by it. At all times prior to the termination of Class B Membership, the Class B Member shall have the same number of votes at any meeting in which votes are to be taken as are held by all Class A Members, plus one hundred (100).

3.4 **Approval or Disapproval of Matters.** Whenever the decision or approval of an Owner is required upon any matter, whether or not the subject of a Neighborhood Association meeting, such decision or approval shall be expressed by the same person who would cast the vote of such Owner’s Lot if in an Neighborhood Association meeting, unless the joinder of all record Owners is specifically required.
3.5 Declarant Approvals. If Declarant holds Lots, or the option to acquire additional lots within Neighborhood for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Declarant:

3.5.1 Assessment of Declarant as an Owner for capital improvements; or

3.5.2 Any action by the Neighborhood Association that would be detrimental to the sale of lots or Dwelling Units by Declarant. The determination as to what actions would be detrimental to sales shall be in the sole discretion of Declarant.

3.6 Termination of Membership. The termination of membership in the Neighborhood Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Neighborhood Association during the period of this Membership, nor does it impair any rights or remedies which are in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3.7 Neighborhood Association as Owner of Lots. The Neighborhood Association has the power to purchase Lots and Dwelling Units, and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Neighborhood Board of Directors.

3.8 Membership Roster. The Neighborhood Association shall maintain a current roster of names and mailing addresses of Owners and Primary Occupants. A copy of the up-to-date roster shall be available to any Owner upon request.

3.9 Limitation on Liability. Notwithstanding the duty of the Neighborhood Association to maintain and repair any Neighborhood Common Area, the Neighborhood Association shall not be liable to Owners for property damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Neighborhood Association, or caused by the elements or Owners or other persons.

3.10 Neighborhood Board. Except as otherwise provided by law or by the Master Founding Documents, the Neighborhood Association shall act through its Neighborhood Board and its Officers, and no vote of the Members shall be required. The Officers and Neighborhood Directors of the Neighborhood Association have a fiduciary relationship to the Members. Until Turnover as defined in Section 12 below, the Declarant shall have the sole and exclusive right to appoint, substitute, and replace all Members/directors of the Neighborhood Board.

3.11 Powers and Duties. The powers and duties of the Neighborhood Association include those set forth in the Neighborhood Founding Documents and the obligations for which assessments are collected under this Neighborhood Declaration.
4. NEIGHBORHOOD ASSOCIATION ASSESSMENT AND LIEN RIGHTS

4.1 Creation of Lien and Personal Obligation of Assessments. Each Owner of a Lot or Dwelling Unit, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Neighborhood Association:

(i) Annual Assessments, Supplemental Assessments and Special Assessments, all as established and to be collected as hereafter set forth;

(ii) Individual Assessments against any particular Lot or Dwelling Unit, as established and hereafter set forth, including, but not limited to, fines as may be imposed against such Lot and/or Dwelling Unit as hereafter set forth; and

(iii) Any additional assessments specified in a Supplemental Declaration or Neighborhood Declaration.

Any such assessments, together with late charges, simple interest at the maximum rate allowable by law per annum, and court costs and attorneys’ fees incurred to enforce or collect such assessments, shall be an equitable charge and a continuing lien upon the Lot or Dwelling Unit, the Owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner of a Lot or Dwelling Unit, and his grantee shall take title to such Lot or Dwelling Unit subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid assessments shall not apply to the holder of any first priority Mortgage or to the holder of any Mortgage securing a loan made by Declarant, its affiliates, successors, or assigns, and who takes title to a Lot or Dwelling Unit through foreclosure or through conveyance of a deed in lieu of foreclosure or to any purchaser of such Lot or Dwelling Unit at such foreclosure sale. In the event of co-ownership of any Lot or Dwelling Unit, all of such co-Owners shall be jointly and severally liable for the entire amount of such assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Neighborhood Board, provided that, unless otherwise provided by the Neighborhood Board, the annual assessments shall be paid in advance at the beginning of the fiscal year of the Neighborhood Association.

4.2 Annual Assessments. By a vote of a majority of the Neighborhood Board, the Neighborhood Board shall fix the Annual Assessment for each assessment year of the Neighborhood Association at an amount sufficient to meet the obligations imposed by this Neighborhood Declaration upon the Neighborhood Association. The Neighborhood Board shall establish the date(s) the Annual Assessment shall become due, and the manner in which it shall be paid.
By a majority vote of the Neighborhood Board, the Neighborhood Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Neighborhood Declaration will be met.

The Common Expenses to be funded by the Annual Assessments may include, but shall not necessarily be limited to, the following:

(i) management fees and expenses of administration, including legal and accounting fees;

(ii) utility charges for utilities serving the Neighborhood Common Areas and charges for other common services for the Property, including trash collection and security services, if any such services or charges are provided or paid by the Master Association;

(iii) the cost of any policies of insurance purchased for the benefit of all the Owners and the Neighborhood Association as required or permitted by this Neighborhood Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Neighborhood Board determines to be in the interests of the Neighborhood Association and the Owners;

(iv) the expenses of landscaping, maintenance, operation, repair and/or replacement of those portions of the Neighborhood Common Areas which are the responsibility of the Neighborhood Association under the provisions of this Neighborhood Declaration, and which may include, without limitation, any Accessory Lanes, Faux Gates, Functioning Gates, Lanes, Private Streets, Shared Drives, or anything conveyed to the Neighborhood Association and identified on a plat, recorded with the Recorder of Hamilton County, Indiana, as an Ingress/Egress Easement (IE);

(v) the expenses of maintenance, operation, and repair of other amenities and facilities serving the Development, the maintenance, operation, and repair of which the Neighborhood Board from time to time determines to be in the best interest of the Neighborhood Association;

(vi) ad valorem real and personal property taxes assessed and levied against the Neighborhood Common Areas; and

(vii) such other expenses as may be determined from time to time by the Neighborhood Board to be Common Expenses.

The total annual assessments shall be divided among the Plots or Dwelling Units, as hereinafter provided:
(i) The total annual Assessments shall be divided among the Lots and Dwelling Units as provided herein. The Owner of each Lot or Dwelling Unit shall pay an Annual Assessment which, beginning in 2003, shall be an amount not less than $750.00, unless otherwise determined by Declarant.

(ii) Notwithstanding anything to the contrary in this Neighborhood Declaration, no Lot owned by Declarant or a Designated Builder shall be assessed for Annual Assessments.

4.3 Supplemental Assessments. If the Neighborhood Board determines that the Annual Assessment, and any Supplemental Assessments, for the current year are, or will become, inadequate to meet all Common Expenses for any reason, it shall determine the approximate amount of such inadequacy and make a Supplementary Assessment against each Lot, specifying the date or dates when due. A Supplementary Assessment may be added to and paid with installments of the Annual Assessment, or be otherwise payable as determined by the Neighborhood Board. Notwithstanding anything to the contrary in this Neighborhood Declaration, no Lot owned by Declarant or a Designated Builder shall be assessed for Supplemental Assessments.

4.4 Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise contemplated may arise. At such times, in addition to the annual assessments authorized above, the Neighborhood Association, acting through its Neighborhood Board, may levy, in any assessment year, special assessments, applicable to that year only, provided that such assessment shall be approved (i) by Declarant until Turnover, as defined in paragraph 12 below, and (ii) by a majority of the votes entitled to be cast at a meeting duly called for this purpose. The Neighborhood Board may make such Special Assessments payable in installments over a period which may, in the Neighborhood Board’s discretion, extend in excess of the fiscal year in which adopted. Such Special Assessments are to be allocated among the Lots and Dwelling Units as provided with respect to Annual Assessments. Notwithstanding anything to the contrary in this Neighborhood Declaration, no Lot owned by Declarant or a Designated Builder shall be assessed for Special Assessments.

4.5 Uniformity of Assessment. Each owner of a Lot or Dwelling Unit shall pay the same Annual Assessment, Supplemental Assessment, and Special Assessment.

4.6 Individual Assessments. Any expenses of the Neighborhood Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Lots or Dwelling Units. The individual assessments provided for in this paragraph 4.6 shall be levied by the Neighborhood Board and the amount and due date of such assessment so levied by the Neighborhood Board shall be as specified by the Neighborhood Board. Under no circumstances
shall be Country Club be responsible for Individual Assessments.

4.7 Reserves. The Neighborhood Board may establish reserve accounts funded from Annual Assessments and/or Supplemental Assessments in reasonable amounts and in such categories as are determined by the Neighborhood Board for deferred maintenance and repair and replacement, including maintenance of all Neighborhood Common Area, emergency repairs as a result of casualty losses, and recurring periodic maintenance, or the initial cost of any new service to be performed by the Neighborhood Association. All amounts collected as a reserve shall be deposited or invested by the Neighborhood Board in separate accounts to be held in trust for the purposes for which such funds are collected, and shall not be commingled with any other funds of the Neighborhood Association. Such reserves shall be deemed a contribution to the capital account of the Neighborhood Association by the Members.

4.8 Collection and Commencement. Assessments that are levied by the Neighborhood Association against any Lot not within a Neighborhood shall be collected by the Neighborhood Association. The Annual Assessment shall commence with respect to assessable Lots on the first day of the month following conveyance of the first Lot to an Owner who is not Declarant or a Designated Builder. The initial Assessment on any assessable Lot shall be adjusted according to the days remaining in the month in which the Lot became subject to assessment. Only Lots for which the Annual Assessment has commenced shall be subject to Supplemental Assessments and Special Assessments.

4.9 Liens. All sums assessed against any Lot or Dwelling Unit pursuant to this Neighborhood Declaration, together with court costs, reasonable attorneys’ fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Lot or Dwelling Unit in favor of the Neighborhood Association. Such liens shall be superior to all other liens and encumbrances on such Lot or Dwelling Unit except only for: (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first priority Institutional Mortgage or on any mortgage to Declarant, or its affiliates, successors, or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of assessments and charges to the lien of such Mortgages shall only apply to such assessments and charges that have become due and payable prior to acquisition of title at a foreclosure sale. All other persons acquiring liens or encumbrances on any Lot or Dwelling Unit after this Neighborhood Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments and charges as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

4.10 Effect of Nonpayment; Remedies of the Association. Any Assessments or charge of an Owner or any portions thereof that are not paid when due shall be delinquent. Any assessment or charge delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Neighborhood Board from
time to time and shall also commence to accrue simple interest at the rate of eighteen percent (18%) per annum or the maximum interest rate allowed by the laws of the State of Indiana, whichever is lower. A lien and equitable charge as herein proved for each assessment or charge shall attach simultaneously as the same shall become due and payable, and if an assessment or charge has not been paid within thirty (30) days, the entire unpaid balance of the assessment or charge may be accelerated at the option of the Neighborhood Board and be declared due and payable in full. The continuing lien and equitable charge of such assessment or charge shall include the late charge established by the Neighborhood Board, interest on the principal amount due at the rate of eighteen percent (18%) per annum or the maximum interest rate allowed by the laws of the State of Indiana, whichever is lower. All costs of collection (including reasonable attorneys’ fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the assessment or charge remains unpaid after sixty (60) days from the original due date, the Neighborhood Association may, as the Neighborhood Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this paragraph shall be in favor of the Neighborhood Association.

4.11 Certificate. The treasurer, any assistant treasurer, or the manager of the Neighborhood Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Neighborhood Board, furnish to any Owner or such Owner’s Mortgagee which requests the same, a certificate in writing signed by said treasurer, assistant treasurer, or manager setting forth whether the assessments and charges for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any assessments and charges stated therein to have been paid.

4.12 Master Association Assessments. The Owner of any Lot, by acceptance of a deed, is deemed to agree to pay such Lot’s pro rata share of Master Association assessments and other charges as set forth in the Master Declaration. At the option and election of the Master Association, the Neighborhood Association shall collect all Master Association amounts and charges which are set forth in the Master Declaration.

5. EASEMENTS.

5.1 Driveway. The Owner of each Lot shall have an exclusive easement over any portion of the Neighborhood Common Areas crossed by his driveway.

5.2 Ingress and Egress. A non-exclusive easement is hereby declared, granted and reserved in favor of the Declarant, the Neighborhood Association, the Master Association and each Owner and occupant, their respective guests, tenants, licensees and invitees, for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, road right-of-ways, and other right-of-ways and other portions of the Neighborhood Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the Neighborhood Common Areas as from time to time may be paved or intended for such purposes, or for purposes of ingress and egress to the
public ways. This easement shall also exist over any portion of a sidewalk which is part of a Lot and not part of a Neighborhood Common Area if such sidewalk is intended for use by pedestrian traffic.

5.3 Maintenance Easement. An easement is hereby reserved to Declarant, and the Neighborhood Association and any member of its Board of Directors, and its respective officers, agents, employees and assigns, upon, across, over, in and under the Neighborhood Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Neighborhood Association is obligated or permitted to perform pursuant to the Neighborhood Documents, including the right to enter upon any Lot for the purpose of performing maintenance to the landscaping or the exterior of improvements to such Lot as may be permitted herein. Access for emergency repairs may be made at any time.

5.4 Use and Enjoyment of Neighborhood Common Areas. There shall exist a nonexclusive easement for the use and enjoyment and for access over and to the Neighborhood Common Areas on behalf of Declarant, the Neighborhood Association, and Owners, their lessees, family members, guests and invitees; provided, however, an Owner’s and those who derive their rights through the Owner) easement to such use and enjoyment may be temporarily suspended by the Neighborhood Association upon written notice for a period not to exceed thirty (30) days for failure of an Owner, his lessee, or his family members, guests, or invitees to conform to the rules and regulations promulgated by the Neighborhood Association in regard to the use of the Neighborhood Common Areas.

6. MAINTENANCE, IMPROVEMENTS.

6.1 Maintenance of Neighborhood Common Areas. The maintenance of all Neighborhood Common Areas and all portions of all property not located on a Lot shall be the responsibility of the Neighborhood Association and each Owner shall be responsible for their pro rata share of the maintenance expense. Any damage to a Dwelling Unit caused by work performed or ordered by the Neighborhood Association shall be promptly repaired by and at the expense of the Neighborhood Association, which shall restore the property as nearly as practical to its condition before the damage.

6.2 Inspection and Maintenance Guidelines. The Neighborhood Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Neighborhood Common Area improvements. The Neighborhood Board periodically, and at least once every two (2) years, shall review and update the inspection and maintenance guidelines. The Neighborhood Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines, and shall keep records of such implementation and compliance.

6.3 Negligence-Damage Caused By Owner. Each Owner has a duty to maintain his Dwelling Unit and Lot, except those items required to be maintained by the Neighborhood
Association as provided herein, and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Dwelling Units, Neighborhood Common Property, Master Association Common Area or the property of other Owners and residents. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Dwelling Unit or the Neighborhood Common Areas. An Owner shall also be liable for any personal injuries caused by his negligent acts or those of any members of his family, or his or their guests, employees, invitees, agents or lessees. Nothing herein contained however shall be construed so, as to modify any waiver by insurance companies of rights of subrogation. If any condition, defect or malfunction, resulting from the Owner’s failure to perform this duty causes damage to other Dwelling Units, Neighborhood Common Area, Master Common Area or property within other Units, the Owner of the offending Dwelling Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Dwelling Units involved is not occupied at the time the damage is discovered, the Neighborhood Association may enter the Dwelling Unit without prior notice to the Owner and take reasonable actions to mitigate damage or prevent its spread. The Neighborhood Association may, but is not obligated to, repair the damage with the prior consent of the Owner.

7. INSURANCE MAINTAINED BY NEIGHBORHOOD ASSOCIATION

7.1 Neighborhood Common Areas Insurance. The Neighborhood Association shall purchase the following coverage for the Neighborhood Common Areas subject to the following provisions:

7.1.1 Liability Insurance. The Neighborhood Association shall purchase and pay the costs of the policy or policies of insurance in the form generally known as Public Liability and/or owners policies insuring the Neighborhood Association against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the use, operation and maintenance of Neighborhood Common Areas and improvements and buildings located thereon, or for any other risk insured against by such policies which the Neighborhood Association, in its sole discretion, determines to insure against. Each policy purchased by the Neighborhood Association shall have limited of not less than One Million Dollars ($1,000,000.00) covering all claims for personal injury and One Hundred Thousand Dollars ($100,000.00) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Neighborhood Association shall include protection against liability for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Neighborhood Common Areas, legal liability arising out of law suits related to employment contracts of the Neighborhood Association, water damage liability, liability for non-owned and hired automobiles, liability
for property of others. All such policies will name the Neighborhood Association (and Declarant for so long as Declarant shall own any portion of the Neighborhood Common Areas as their respective interest may appear) as the insured under such policy or policies. The insurance purchased shall contain a “severability of interest endorsement,” or equivalent coverage, which would preclude the insurer from (i) denying the claims of an Owner because of the negligent acts of either the Neighborhood Association, the Declarant or any other Owners or (ii) denying the claims of either the Declarant or the Neighborhood Association because of the negligent acts of an Owner.

7.1.2 Casualty Insurance. The Neighborhood Association shall purchase and pay the costs of a policy or policies of insurance to allow the Neighborhood Association to insure any improvements now located or which may hereafter be located, built or placed upon the Neighborhood Common Areas against loss or damage caused by or resulting from at least the following: Fire and other hazards covered by the standard extended coverage endorsement, sprinkler leakage, windstorm, vandalism, malicious mischief, water damage, debris removal and demolition, and such other risks as the Neighborhood Association shall determine are customarily covered with respect to developments similar to the Neighborhood in construction, location and use.

7.1.3 Fidelity Coverage. The Neighborhood Association shall purchase adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Neighborhood Association and the Directors and all others who handle and are responsible for handling funds of the Neighborhood Association, such coverage to be in the form of fidelity bonds which meet the following requirements unless one or more of such requirements are waived by the Board of Directors.

7.1.3.1 Such bonds shall name the Neighborhood Association as an obligee;

7.1.3.2 Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Neighborhood Association expense; and,

7.1.3.3 Such amounts shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression.
7.2 Neighborhood Association’s Right of Entry. For the purpose of performing the duties authorized by the Neighborhood Founding Documents, the Neighborhood Association and/or the Master Association, through its duly authorized agents and employees, shall have an irrevocable right of access to Dwelling Units during reasonable hours, when necessary for the maintenance, repair or replacement of any Neighborhood Common Areas or of any portion of a Dwelling Unit or Dwelling Units to be maintained by the Neighborhood Association and/or the Master Association pursuant to the Neighborhood Founding Documents or as may be necessary to prevent damage to the Neighborhood Common Areas or to a Dwelling Unit or Dwelling Units.

8. GENERAL COVENANTS AND RESTRICTIONS.

8.1 Appearance and Refuse Disposal. During construction of a Dwelling Unit or other improvement, each Lot shall be maintained in a clean condition. After closing of title, each Owner shall be required to have mandatory trash pick-up and shall keep his Lot free and clear of trash and debris and shall reasonably maintain his Dwelling Unit. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers suitably screened from the street and adjacent Lots. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage incinerators shall be permitted.

8.2 Maintenance. The Neighborhood Association shall have the right to repair any structure or improvement on any Lot which constitutes a danger or nuisance or is in unsightly disrepair, provided that the Owner of the Lot is given no less than five (5) days notice of the Neighborhood Association’s intent to do so. Such notice shall reasonably specify the proposed action. The Neighborhood Association shall charge the expense of same against the Owner of said Lot, which charge shall be a lien on the Lot which may be foreclosed and shall include, Declarant’s attorney’s fees and/or the Neighborhood Association’s attorneys fees and other costs in connection with said foreclosure.

8.3 Sidewalks. It shall be the Owner’s responsibility to repair and replace any damage occurring to the sidewalks as a result of any construction on the Owner’s Lot.

9. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS. The Neighborhood Covenants may be enforced by the Declarant, the Neighborhood Association, the Master Association, or any Owner. Every Owner shall at all times comply with all the covenants, conditions and restrictions of the Neighborhood Founding Documents. Violations of the Neighborhood Founding Documents should be reported immediately in writing to a Member of the Board of Directors.
10. MASTER DECLARATION OF MASTER ASSOCIATION.

10.1 Master Declaration. The Neighborhood is subject, in all respects, to the Master Declaration. This Neighborhood Declaration is in addition and supplemental to the Master Declaration.

10.2 Membership in Master Association. By taking title to a Lot, the Owner becomes a Member of the Master Association and subject to the terms and conditions of the Master Declaration, as it may be amended from time to time.

10.3 Master Association Assessments. Pursuant to the Master Declaration, the Master Association has the right to assess the Members for all expenses which may be incurred by the Master Association in the performance of its duties. At the discretion of the Master Association, these assessments may be collected by the Neighborhood Association as agent for the Master Association and remitted to the Master Association on a timely basis. The Master Association may, in its discretion, collect assessments directly.

10.4 Membership in Master Association and Voting Rights. In accordance with the provisions of the Articles of Incorporation of the Master Association, all Owners are automatically and irrevocably Members of the Master Association. Notwithstanding such membership, only representative Members, known as the “Voting Members”, shall be entitled to vote on behalf of all Members of the Neighborhood Association at meetings of the Members of the Master Association. “Voting Members” shall mean the Declarant (as to the votes allocated to Class “B” Membership) and the authorized designee of the Neighborhood Association (as to the votes allocated to Class “A” and Class “B” Membership).

10.5 Notice to Master Association. Copies of all amendments to this Neighborhood Declaration, the Articles of Incorporation and Bylaws of the Neighborhood Association, and any easements or conveyances affecting the Neighborhood Common Areas, shall be forwarded to the Master Association no later than fifteen (15) days after recording in the public records. The Neighborhood Association shall also provide a current list of the names and mailing address of all Owners within fifteen (15) days after receiving a written request for same from the Master Association.

11. DECLARANT'S RIGHTS. So long as the Declarant holds any Lots in the Neighborhood for sale in the ordinary course of business, the following shall apply, notwithstanding any other provisions to the contrary:

11.1 Amendment of Neighborhood Declaration. In addition to any other right of amendment or modification provided for in this Neighborhood Declaration and its Exhibits, the Declarant, or any entity which succeeds to its position as the Declarant of the Neighborhood Property may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of
this Neighborhood Declaration or any of its exhibits. This right specifically includes the right to amend this Neighborhood Declaration and its Exhibits to bring additional property and Lots within the Properties, to withdraw property previously submitted to this Neighborhood Declaration, and to change the size or dimension of any Lot without the approval of any Owner or mortgagee so long as that Lot has not been conveyed to a Owner other than the Declarant. The right to amend set forth in this paragraph shall expire when the Declarant no longer holds any lands, Lots or Dwelling Units within the Neighborhood. Any amendment made pursuant to this paragraph may be made without notice to the Members or to any other entity.

11.2 Non-Enforcement of Covenants. The Declarant shall have no liability with regard to the enforcement or non-enforcement of the covenants, conditions and restrictions in the Neighborhood Documents.

11.3 Easements. The Declarant shall have the right to create any and all easements over, across and through the Neighborhood Property as may be necessary or convenient to the development process.

12. TURNOVER.

12.1 Time of Turnover. Unless turnover of control of the Neighborhood Association ("Turnover") occurs at an earlier time as elected in writing by the Declarant in the Declarant's sole discretion, the Turnover of control of the Neighborhood Association shall occur on the last to occur of the following:

12.1.1 The conveyance by Declarant of a total of one hundred percent (100%) of the Lots within the Neighborhood; and

12.1.2 Fifteen (15) years from the date hereof; and

12.1.3 When Declarant shall determine that the development of the Neighborhood has been completed.

At the Turnover Meeting, the Class "A" Members shall elect a Board of Directors and the Directors appointed by the Declarant shall resign.

12.2 Procedure for Calling Turnover Meeting. No more than forty-five (45) days and no less than thirty (30) days prior to the Turnover Meeting, the Neighborhood Association shall notify in writing all Class "A" Members of the date, time and place of the Turnover Meeting.

12.3 Early Turnover. The Declarant may turn over control of an Neighborhood Association to Owners other than the Declarant prior to the turnover dates set forth above by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Owners other than the Declarant to elect Directors and assume control of the Neighborhood.
Association. Provided at least thirty (30) days notice of Declarant’s decision to cause its appointees to resign is provided to the Owners, the Declarant shall not be liable in any manner in connection with such resignations, even if Owners other than the Declarant refuse or fail to assume control.

12.4 Conveyance to Neighborhood Association. Declarant agrees that it shall convey to the Neighborhood Association fees simple title in and to the Neighborhood Common Areas together with the improvements located thereon upon or before the “Conveyance Date” which shall be on or before sixty (60) days after Turnover. Such conveyances to the Neighborhood Association described herein shall be by Special Warranty Deed subject to: (i) taxes for the year of conveyance and subsequent years; (ii) such facts as an accurate survey would show; (iii) the terms and provisions of the Neighborhood Documents; (iv) easements, restrictions, reservations, conditions and limitations of record; and, (v) applicable zoning ordinances and regulations. The Neighborhood Association shall be obligated to accept all conveyances of any property within the Neighborhood Property from the Declarant. The Neighborhood Association shall have the right and power to convey Neighborhood Association property and/or easements therein to any grantee for consideration or no consideration.

12.5 Professional Management. At any time prior to the occurrence of the Turnover, the Declarant, in the Declarant’s sole discretion, may require that the Neighborhood Association continuously employ a professional management company, possessing experience and experienced in the management of home owners associations, to assist the Neighborhood Board in the management and administration of the Neighborhood Association. The cost of such professional assistance shall immediately and automatically be added to the annual assessment as a Neighborhood Common Expense. If the Declarant so elects, such professional management shall continue without interruption after the Turnover at all times during the existence of the Neighborhood Association.

13. DURATION OF COVENANTS AND AMENDMENT OF DECLARATION.

13.1 Duration of Covenants. The covenants, conditions, restrictions, terms, provisions, reservations, regulations, easements, burdens and liens contained in this Neighborhood Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Neighborhood Association, the Declarant and any Owner, their respective legal representative, heirs, successors and assigns, for an initial period to expire on the fiftieth (50th) anniversary of the date of recordation of the Master Declaration. Upon the expiration of said initial period, this Neighborhood Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Neighborhood Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Neighborhood Declaration if during the last year of the initial period, or during the last year of any subsequent the (10) year renewal period, three-fourths (3/4) the votes cast at a duly held meeting of Members of the
Neighborhood Association vote in favor of terminating this Neighborhood Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Neighborhood Declaration, the President and Secretary of the Neighborhood Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Neighborhood Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate must be signed by all Institutional Mortgagees in existence one (1) year prior to the termination of such term or extension agreeing to terminate this Neighborhood Declaration. Said certificate shall be recorded in the Public Records of Hamilton County, Indiana, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Neighborhood Declaration, upon which event this Neighborhood Declaration shall be terminated upon the expiration of the thirty (30) year term or the ten (10) year extension during which such instrument of termination was recorded.

13.2 Proposal. Amendments to this Neighborhood Declaration may be proposed by the Board of Directors or by written petition signed by one-fourth (1/4) of the voting interests. If by petition, the proposed amendments must be submitted to a vote of the Owners not later than the next annual meeting.

13.3 Vote Required. Until Turnover as specified in paragraph 12.1 above, the Declarant reserves the exclusive right, in its sole discretion and without notice, to make modifications to this Neighborhood Declaration or other Neighborhood Founding Documents. After such Turnover, This Neighborhood Declaration may be amended at any time by concurrence of two-thirds (2/3) of the voting interests present in person or by proxy and voting at any annual or special meeting called for the purpose. However, the full text of any proposed amendments shall be included in the notice of such Annual or Special Meeting and no amendment shall be effective which is in contravention of the duties, responsibilities or obligations of the Neighborhood Association or Members as provided in this Neighborhood Declaration and its exhibits. No Amendment shall change the Owner’s share of liability for assessments or voting rights unless the Owner consents to the amendment.

13.4 Certificate and Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Neighborhood Declaration, which certificate shall identify the Recorder of Hamilton County, Indiana where the Neighborhood Declaration is recorded, and shall be executed by Officers of the Neighborhood Association with the formalities of a deed. A true copy of each amendment shall be sent by certified mail by the Neighborhood Association to Declarant and all Institutional Mortgagees. The amendment shall be effective when recorded with the Recorder of Hamilton County, Indiana; however, the amendment shall not be recorded until thirty (30) days after a copy of the amendment was mailed to the Declarant and the Institutional Mortgagees, unless such thirty (30) day period is waived in writing by Declarant and all Institutional Mortgagees.
13.5 **Exceptions.** Wherever in this Neighborhood Declaration the consent, approval, or affirmative vote of more than two-thirds (2/3) of the voting interest is required in order to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action.

13.6 **Amendment of Provision Relating to Declarant.** As long as the Declarant holds any Lot for sale in the ordinary course of business or any part of the Real Estate or the Additional Real Estate, no amendment shall have the effect of changing any provision relating specifically to the Declarant without the Declarant’s written consent. Further, no amendment shall be adopted which shall materially impair or prejudice the rights or priorities of Declarant, the Neighborhood Association and any Institutional Mortgagee under this Neighborhood Declaration without the specific written approval of Declarant, the Neighborhood Association or any Institutional Mortgagee affected thereby.

13.7 **Minor or Technical Defect.** Whenever it shall appear to the Neighborhood Association that there is a technical or minor defect, error or omission in the Declaration, the Neighborhood Association, through its Board of Directors, may amend the Declaration in accordance with this Article. The amendment shall become effective upon the recording of a certificate of amendment with the Recorder of Hamilton County, Indiana.

13.8 **Supplemental Declaration.** Notwithstanding anything contained in this Neighborhood Declaration, the Declarant, in its sole discretion without the consent of any Owners or the Neighborhood Association may execute and record a Supplemental Declaration to this Neighborhood Declaration declaring additional land within the Property to be subject to all of the terms, conditions, rights and obligations of Owners of Lots or Dwelling Units on the Neighborhood Property already committed to this Neighborhood Declaration.

14. **GENERAL PROVISIONS:**

14.1 **Waiver.** Any waiver by Declarant of any provisions of this Neighborhood Declaration of breach hereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

14.2 **Severability.** In the event that anyone of the provisions of this Neighborhood Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof which shall remain in full force and effect. Further, the invalidation of any of the covenants or restrictions or terms and conditions of this Neighborhood Declaration or a reduction in the term of the same by reason of the rule of law known as the “rule against perpetuities” shall in no way affect any other provision hereof, which shall remain in full force and effect for such period of time as may be permitted by law.
14.3 **Headings.** The headings of any sections herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

14.4 **Notices.** Any notices or other communications required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Owner at the last known address of the person whose name appears as the Owner on the records of the Neighborhood Association at the time of such mailing; (ii) the Neighborhood Association at 3535 East 161st Street, Noblesville, Indiana 46060, or such other address as the Neighborhood Association shall hereafter notify Declarant and all Owners of in writing; and, (iii) Declarant at 3535 East 161st Street, Noblesville, Indiana 46060, or such other address or addresses as Declarant shall hereafter notify the Neighborhood Association of in writing. Any notice to the Neighborhood Association of a change in Declarant’s address shall be deemed notice to the Owners.

14.5 **Context.** Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns’ herein may be deemed to mean the corresponding plural form thereto and vice versa.

14.6 **Management.** The Neighborhood Association, pursuant to a resolution duly adopted by its Neighborhood Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Neighborhood Board from time to time.

14.7 **Attorney’s Fees.** Any provision herein for the collection or recovery of attorney’s fees shall be deemed to include, but not be limited to, the collection of court costs and attorney’s fees for the attorney’s services at all trial and appellate levels and during post judgment proceedings and, unless the context clearly indicates a contrary intention, shall include the recovery of such fees and costs whether or not suit is instituted.

14.8 **Interpretation.** In the event of a conflict between the provisions of this Neighborhood Declaration and the Neighborhood Association, the provisions of this Neighborhood Declaration shall control. In the event of a conflict between this Neighborhood Declaration and the Master Declaration, the Master Declaration shall control.
THROGMARTIN-HENKE DEVELOPMENT, LLP
An Indiana limited liability partnership

Date: 11/15/02
By: ____________________________
   Steven H. Henke, Partner

Date: 11/15/02
W. Gerald Throgmartin

Date: 11/15/02
Betty Jo Throgmartin

Date: 11/25/02
Kelli Throgmartin Ball

ESTATE OF FRANK J. HABIG, JR.

Date: 12/15/02
By: ____________________________
   Nancy L. Habig, Personal Representative

THE BRIDGEWATER CLUB, LLC
an Indiana limited liability company

Date: 11/15/02
By: ____________________________
   Steven H. Henke, Member
STATE OF INDIANA  )
COUNTY OF  Hamilton ) SS:

Before me, a Notary Public in and for said County and State, personally appeared
Steven H. Henke, partner, on behalf of Throgmartin-Henke Development, LLP, an Indiana
limited liability partnership, who acknowledged the execution of the foregoing Neighborhood
Declaration.

My Commission Expires:
12.14.07
Residing in Hamilton
County, Indiana

Pamela A. Lawler
Notary Public
Printed Name

STATE OF INDIANA  )
COUNTY OF  Marion ) SS:

Before me, a Notary Public in and for said County and State, personally appeared
William G. Throgmartin, who acknowledged the execution of the foregoing Neighborhood
Declaration.

My Commission Expires:
September 4, 2006
Residing in Marion
County, Indiana

Michael D. Stout
Notary Public
Printed Name
STATE OF INDIANA  )
COUNTY OF  MARION  ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Betty Jo Throgmartin, who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires:  
September 4, 2006  
Residing in  MARION  
County, Indiana  

Michael D. Staut  
Notary Public  
Printed Name

STATE OF INDIANA  )
COUNTY OF  Hamilton  ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Kelli Throgmartin Ball, who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires:  
June 24, 2010  
Residing in  Hamilton  
County, Indiana  

Michael Guzman  
Notary Public  
Printed Name
STATE OF INDIANA  
COUNTY OF Hamilton  

Before me, a Notary Public in and for said County and State, personally appeared Nancy J. Habig, Personal Representative of the Estate of Frank J. Habig, Jr., who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires:  
Residing in Johnson County, Indiana

Notary Public  
Printed Name

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STATE OF INDIANA  
COUNTY OF Hamilton  

Before me, a Notary Public in and for said County and State, personally appeared The Bridgewater Club, LLC, an Indiana limited liability company, by Steven H. Henke, member, who acknowledged the execution of the foregoing Neighborhood Declaration.

My Commission Expires:  
Residing in Hamilton County, Indiana

Notary Public  
Printed Name

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This instrument prepared by Charles D. Frankenberger, Nelson & Frankenberger, 3021 East 98th Street, Suite 220, Indianapolis, IN 46280.
EXHIBIT “A”

Part of the Northwest Quarter of Section 17, Township 18 North, Range 4 East, and part of the Southwest Quarter of Section 8, Township 18 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the Northwest Quarter of said Section 17; thence North 89 degrees 55 minutes 46 seconds East along the North line of said Northwest Quarter 45.01 feet; thence South 00 degrees 58 minutes 50 seconds East parallel with the West line of said Northwest Quarter 423.25 feet; thence South 45 degrees 58 minutes 50 seconds East 56.57 feet; thence North 89 degrees 01 minutes 10 seconds East 31.58 feet to a tangent curve to the right having a radius of 171.00 feet, the radius point of which bears South 00 degrees 58 minutes 50 seconds East; thence Easterly along said curve 20.37 feet to a point which bears North 05 degrees 50 minutes 39 seconds East from said radius point, and a point of reverse curve having a radius of 297.00 feet, the radius point of which bears North 05 degrees 50 minutes 39 seconds East; thence Easterly along said curve 116.15 feet to a point which bears South 16 degrees 33 minutes 47 seconds East from said radius point; thence North 73 degrees 26 minutes 13 seconds East 37.32 feet to a tangent curve to the right having a radius of 865.00 feet, the radius point of which bears South 16 degrees 33 minutes 47 seconds East; thence Northeasterly along said curve 275.01 feet to a point which bears North 01 degrees 39 minutes 12 seconds East from said radius point; thence South 88 degrees 20 minutes 48 seconds East 61.90 feet; thence North 01 degrees 39 minutes 12 seconds East 327.57 feet; thence North 37 degrees 49 minutes 23 seconds West 157.19 feet; thence North 00 degrees 00 minutes 44 seconds West 771.51 feet; thence South 01 degrees 03 minutes 13 seconds East 725.61 feet; thence South 45 degrees 40 minutes 01 seconds East 233.08 feet; thence North 90 degrees 00 minutes 00 seconds East 200.00 feet; thence South 00 degrees 00 minutes 00 seconds East 944.70 feet; thence North 64 degrees 28 minutes 30 seconds West 302.67 feet; thence North 46 degrees 15 minutes 28 seconds West 179.91 feet; thence North 05 degrees 08 minutes 42 seconds East 137.24 feet to a non tangent curve to the right having a radius of 50.00 feet, the radius point of which bears North 03 degrees 37 minutes 48 seconds East; thence Northwesterly along said curve 129.53 feet to a point which bears North 28 degrees 17 minutes 01 seconds West from said radius point and to a point of reverse curve having a radius of 60.00 feet, the radius point of which bears North 28 degrees 17 minutes 01 seconds West; thence Northwesterly along said curve 66.56 feet to a point which bears North 88 degrees 10 minutes 07 seconds East from said radius point; thence North 01 degrees 49 minutes 53 seconds West 48.94 feet to a tangent curve to the left having a radius of 185.00 feet, the radius point of which bears South 88 degrees 10 minutes 07 seconds West; thence Northwesterly along said curve 385.26 feet to a point which bears North 31 degrees 08 minutes 51 seconds West from said radius point; thence South 58 degrees 51 minutes 08 seconds West 114.25 feet to a tangent curve to the right having a radius of 180.00 feet, the radius point of which bears North 31 degrees 08 minutes 51 seconds West; thence Southwesterly along said curve 108.77 feet to a point which bears South 01 degrees 39 minutes 12 seconds West from said radius point; thence North 88 degrees 20 minutes 48 seconds West 21.35 feet; thence South 00 degrees 58 minutes 50 seconds East 303.53 feet; thence South 44 degrees 49 minutes 24 seconds West 314.15 feet; thence South 89 degrees 01 minutes 10 seconds West 574.77 feet; thence North 00 degrees 58 minutes 50 seconds West 979.05 feet to the POINT OF BEGINNING containing 36.919 acres, more or less.