Subdivision Covenants and Restrictions

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DECLARATION OF COVENANTS AND RESTRICTIONS OF BROCKTON MANOR SUBDIVISION

The undersigned Declarant, pursuant to Article XVI, Section 16(c) of the Declaration of Covenants and Restrictions of Brockton Manor Subdivision, recorded in the office of the Recorder of Johnson County, Indiana as Instrument No. 942051503 in Book 67, Page 294 recorded of Johnson County, Indiana as Instrument No. 942051503 in Book 67, Page 294 ("Declarant") hereby amends the Declaration to subject additional property to be known as Brockton Manor Section II to the covenants and restrictions set forth therein by substituting Exhibit A attached hereto and incorporated by reference as the legal description of the Real Estate, as defined in the Declaration.

Except as amended herein, the Declaration shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the undersigned Declarant to Declaration of Covenants and Restrictions of Brockton Manor Subdivision has executed this 28th day of November, 1995.

Brockton Manor Development Corp.

By: [Signature]

Greg Allen, President

STATE OF INDIANA

COUNTY OF JOHNSON

Before me, a Notary Public in and for said County and State, personally appeared Greg Allen, President of Brockton Manor Development Corp. who acknowledged the execution of the above and foregoing instrument on behalf of said corporation as his true and lawful act and deed for the purposes and unto which he executed.

WITNESS my hand and Notarial Seal this 28th day of November, 1995.

Notary Public

[Signature]

[Notary Public]

My Commission Expires: [Expiration Date]

This instrument was prepared by:

[Preparer Name]

[Preparer Address]

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A part of the Northeast Quarter of Section 10 and part of the West Half of the Northwest Quarter of Section 11, both in Township 13 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, more particularly described as follows:

Commencing at a steel disc found in place and marking the Northwest corner of said Section 11; thence South 20 degrees 18 minutes 30 seconds East (bearings assumed), a distance of 338.00 feet to the POINT OF BEGINNING of the described tract, said point also being located in the intersection of County Road 550 North (Cliff Branch Road) and County Road 420 West (Berry Road), the next four (4) courses being on and along the approximate centerline of said Cliff Branch Road: (1) thence North 78 degrees 28 minutes 50 seconds East a distance of 32.45 feet; (2) thence North 82 degrees 22 minutes 00 seconds East a distance of 325.00 feet; (3) thence North 46 degrees 56 minutes 00 seconds East a distance of 105.26 feet; (4) thence South 60 degrees 24 minutes 00 seconds East a distance of 237.73 feet; (5) thence South 03 degrees 23 minutes 50 seconds West a distance of 550.73 feet to an iron pin found in place; thence South 60 degrees 52 minutes 44 seconds East a distance of 172.07 feet to an iron pin found in place; thence South 02 degrees 17 minutes 00 seconds East a distance of 780.45 feet to an iron pin found in place; thence South 07 degrees 55 minutes 05 seconds West a distance of 309.71 feet to a point on the East line of Hunter’s Pointe Subdivision, Section 2, as per plat thereof recorded in Plat Book “C”, Pages 93 and 94 in the Office of the Recorder of Johnson County, Indiana; thence North 00 degrees 17 minutes 11 seconds West on and along said East line a distance of 137.12 feet to a point on the South line of the Northeast Quarter of the Northeast Quarter of said Section 10; thence South 59 degrees 41 minutes 46 seconds West on and along said South line a distance of 297.01 feet to a point on the East line of said Hunter’s Pointe Subdivision, Section 2; thence North 00 degrees 04 minutes 01 second West on and along said East line and along the East line of Hunter’s Pointe Subdivision, Section 1, as per plat thereof, recorded in Plat Book “I", Page 42, a distance of 1,164.79 feet to the Northeast corner of said Hunter’s Pointe, Section 1, said point also being on the approximate centerline of said Cliff Branch Road, the east but course being on and along said approximate centerline; (1) thence South 70 degrees 04 minutes 00 seconds East a distance of 378.06 feet; (2) thence South 70 degrees 04 minutes 00 seconds East a distance of 975.00 feet; (3) thence South 70 degrees 04 minutes 00 seconds East a distance of 100.00 feet; (4) thence North 86 degrees 41 minutes 32 seconds East a distance of 150.00 feet to the POINT OF BEGINNING, containing 40.85 acres, more or less.

Also:

A part of the Northwest Quarter of Section 11, Township 13 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, more particularly described as follows:
BEGINNING at the Southwestern corner of said Northwest Quarter Section, said point also being the Northwest corner of Willow Lakes Subdivision, Section 2 as per plat thereof, recorded in Plat Book "C", Pages 202 and 204 in the Office of the Recorder of Johnson County, Indiana, said point also being the Southeast corner of Hunter's Pointe Subdivision, Section 4 as per plat thereof recorded in Plat Book "C", Pages 59 and 60, thence North 20 degrees 37 minutes 11 seconds West on and along the West line of said Northwest Quarter Section, and along the East line of said Hunter's Pointe, Section 4 a distance of 1220.96 feet to a point on the East property line of Lot number 24 in Hunter's Pointe Subdivision, Section 5 as per plat thereof, recorded in Plat Book "C", Pages 89 and 90, said point also being the Southeast corner of Lot number 42 in Brookman Manor Subdivision, as per plat thereof recorded in Plat Book "C", Pages 428A through 428D, thence North 27 degrees 55 minutes 05 seconds East on and along the South line of said Brookman Manor Subdivision a distance of 983.45 feet thence South 08 degrees 49 minutes 27 seconds East a distance of 134.53 feet thence South 37 degrees 24 minutes 07 seconds East a distance of 487.19 feet thence North 80 degrees 46 minutes 45 seconds East a distance of 594.28 feet thence South 34 degrees 56 minutes 55 seconds East a distance of 106.42 feet thence South 05 degrees 17 minutes 41 seconds East a distance of 155.00 feet thence South 05 degrees 05 minutes 34 seconds East a distance of 53.00 feet thence South 00 degrees 17 minutes 11 seconds East a distance of 164.65 feet to a point on the South line of said Northwest Quarter Section, said point also being on the North line of said Willow Lakes Subdivision, Section 2, thence South 17 degrees 58 minutes 47 seconds West on and along the South line of said Northwest Quarter Section and along the North line of said Willow Lakes, Section 3 a distance of 1006.42 feet to the Point of Beginning, containing 28.95 acres, more or less.
DECLARATION OF COVENANTS AND RESTRICTIONS
ON BROOKTON MANOR SUBDIVISION

This Declaration of Covenants and Restrictions of
Brookton Manor Subdivision ("Declaration") is made this 1st
day of December, 1981, by Brookton Manor Development,
Corp., an Indiana corporation (the "Declarant"),

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

WHEREAS, Declarant desires and intends to create on
the Real Estate a residential community with public streets,
lakes, landscaped areas, open spaces, trails, forests and other
common areas and amenities for the benefit of such residential
community, to be known as "Brookton Manor Subdivision"; and

WHEREAS, Declarant desires to provide for the preser-
vation and enhancement of the values and amenities in such
community and the common areas therein contained, and, in this
connection, Declarant desires to subject the Real Estate and any
therein contained, and, in the event of this Declaration to certain
rights, Declaration by Supplemental Declaration to certain
restrictions, covenants, derogations, assessments, requirements,
privileges, covenants, restrictions, assessments, requirements,
privileges, and restrictions, herein provided, charges and liens, each and all to the extent herein provided,
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NOW, THEREFORE, Defendant, as owner of the Real Estate or with the consent of the owners of the Real Estate and any additional property which is heretofore made subject to this Declaration by Supplemental Declaration hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and subjected to the provisions, agreements, covenants, conditions, restrictions, easements, assessments, charges and liens heretofore set forth, all of which are declared and are hereby set forth, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the lots situated therein.

ARTICLE I
Definitions

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

(a) "Act" shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended;
(b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
(c) "Association" shall mean and refer to Brockton Manor Homeowners Association, Inc., an Indiana corporation organized under Indiana Code 23-2-1-1, as such, which Defendant has caused or will cause, to be incorporated under said name or a similar name, its successors and assigns;
(d) "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;
(e) "Board" or "Board of Directors" shall mean and refer to the governing body of the Association elected, selected, or appointed as provided for in the Articles, By-Laws and this Declaration;
(f) "By-Laws" shall mean and refer to the Code of By-Laws of the Association, as the same may be amended from time to time;
(g) "Committee" shall mean and refer to the "Brockton Manor Architectural Control Committee", the same
being the committee or entity established pursuant to Article VIII, Section 1, of this Declaration for the purpose hereinafter stated;

(b) "Common Areas" shall mean and refer to (1) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not dedicated to the public, which are not Lakes and which are not identified as Lots on any such plat, whether such plat is hereinafter or hereafter recorded, (ii) such portions of the Real Estate as are herein declared to be Common Areas, or (iii) the areas shown on any such plat, (iii) the areas herein declared to be Common Areas, whether herein declared or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both, of the Real Estate which are not Lots, or both;

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

(2) "Declarant" shall mean and refer to Brookwin Manor Development Corp., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the right to declare, authorize, and act for the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

(b) "Lakes" shall mean and refer to any body of water which is located within the boundaries of the Real Estate;

(a) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the
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Common Aras) designated and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same Parcel. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a Lot on such subdivision plat, (ii) part of such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts of or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Nonwithstanding the foregoing, if after the initial conveyance of a portion of the Real Estate by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such purpose. Any part of such "Lot" so conveyed to Declarant shall, upon a "Lot" not so conveyed to Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason;

(a) "Mortgage" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
(e) "Owner" shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot, but in no event shall not include or mean as refer to a mortgagee or tenant. Include or mean as refer to a mortgagee or tenant has title to any Lot. Not upon so acquiring title to any Lot a mortgagee or tenant shall be title to any Lot a mortgagee or tenant shall be an Owner.

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

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

(1) "The Real Estate" shall mean and refer to the parcel of real estate in Johnson County, Indiana, described in Exhibit "A" attached to this Declaration, as referred to in the first recital clause of this Declaration, and defined therein as the Real Estate.

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

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

ARTICLE IX
Declaration: Common Areas and Rights Therein

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

Section 3. Easements to Owners. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions herein, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots) subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

ARTICLE III

Obligations of Declarant as to Common Areas

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

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

(b) the installation of Common Areas or landscape materials;

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

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

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

Section 2. Additional Common Areas at Declarant's Option. Declarant may, at its option but without obligation to do so, convey other portions of the Real Estate to the Association for, or construct, install or provide for other Owners, included as examples of the foregoing, but not limited

ARTICLE IV
Association Membership; Owner Functions

Section 1. Membership in Association. Each Owner of a Lot shall, automatically upon becoming an Owner of a Lot, be and become a member of the Association and shall have one or more of the Lots, the Owners of such Lots shall have only

-7-
an obligation shall not be a member until and unless he shall be realized upon his security, at which time he shall automatically become an Owner and a member of the Association.

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

(a) Class A. Class A members shall be all Owners except Class B members. Each Class A member, each Class A member, shall be entitled to one (1) vote for each lot of land which each member is the Owner, with respect to which each member is entitled to vote, which the Class A members are entitled to vote. More than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Association, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(b) Class B. Class B members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled to ten (10) votes for each Lot of land which it is the Owner and the ten (10) votes for each single numbered parcel of land shown upon and identified as a Lot on any recorded subdivision plat of the Real Estate of which it is a member, except that said member is entitled to cast a vote for the members of the Class Association. The Class B membership shall consist of the Owners of any parcel of land, either by grant or by agreement, who shall be entitled to ten (10) votes for each Lot of land shown upon and identified as a Lot on any recorded subdivision plat of the Real Estate of which it is a member, except that said member is entitled to cast a vote for the Members of the Class Association.
A membership for each Lot owned and for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Properties of which it is then the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.

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

ARTICLE V
Board of Directors

Section 1. Management. The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, or a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The Initial Board of Directors shall be composed of the persons designated or to be designated, in the Articles, to-wit: J. Greg Allen and Robert T. Wildman (herein referred to as the "Initial Board"), both of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provision of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the first annual meeting of the members of the Association occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first annual meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members of the
Association are entitled to vote under the Declaration, the Articles, the By-Laws, the Act or otherwise. This appointment of Decedent as such Owner's agent, attorney-in-fact and proxy shall not be affected by incapacity of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Decedent to fill a vacancy, shall be deemed a Special member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a member of the Association nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Association).

Section 3. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner of an officer or trustee shall be eligible to serve on the Board of Directors except that no single lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Association. The initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one (1) year. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from among Owners nominated at the meeting. A Director so elected shall
serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 4. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration, management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise the responsibility of the Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may employ a Managing Agent upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

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

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

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

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

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

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

-13-
(g) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all receipts and vouchers shall be available for examination by an Owner at any time during normal business hours;

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

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

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

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

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

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

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

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas, and to perform all other maintenance, upkeep, repair and replacement duties of the Association and the Board:
(a) to include the costs of performing all of its functions, duties and obligations as Common Expense and to pay all of such sums therefor;

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

(c) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations as adopted by the Board shall be promptly delivered to all Owners; and

(b) to grant to such public or private companies, equities or bodies as the Board may approve, such easements as may be necessary to provide the lots, dwelling units and common areas with facilities for utility and similar services, including but not limited to cable television facilities and service provided that such easements are located within, or are co-extensive with any one or more utility easements, maintenance and access easements, landscape and maintenance easements, or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is herebefore or hereafter recorded.

Section 9. Limitation on Joint Action. After the Applicable Date, the authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure of less than $5,000.00 per year without obtaining the prior approval of a majority of the cumulative vote of the Owners except that in the following cases such approval shall not be necessary:

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

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

-13-
(c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 8. Compensation. No Director shall receive any compensation for his services as such except as such except as may be expressly authorized by a majority vote of the Owners. For any such agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a common expense.

Section 9. Indemnity of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own wilful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

Section 10. Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend any person, his heirs, assigns and local representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment against the Director the reasonable costs of settlement of or judgment against the Director if he be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct, in making such finding notwithstanding the adjudication in any action, suit or proceeding against a Director, no director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements of or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless
such Director had actual knowledge of the falsity or incorrect-
ness thereof, nor shall a Director be deemed guilty of or
liable for negligence or misconduct by virtue of the fact that
he failed or neglected to attend a meeting of meetings of the
Board of Directors.

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

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

ARTICLE VII
Real Estate Taxes - Utilities

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

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

ARTICLE VIII
Maintenance and Repair

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

Section 8. Maintenance, repairs, replacements and upkeep of the Common Areas shall (except to the extent provided with the obligation of Owners) be performed by the Association, as part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

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

(a) those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or the responsibility of a public authority; provided, however, that the Association shall have no obligation to maintain any public street, road or highway located within any public right-of-way on or abutting the Real Estate. For purposes of this subparagraph (a), "outside any perimeter fencing" means the areas between such fencing and the nearest property line of the Real Estate;

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

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

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

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

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

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

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

**ARTICLE VIII**

**Lake Corporation**

**Section 1.** Each lake area as shown on the plat of the subdivision shall be owned and controlled as tenements in common by the Owners of Lots proposed to abut the Lake.

**Section 2.** The Owners of said Lake Lots together with guests in their presence, shall have the exclusive rights to use and enjoyment of such Lake provided that they may not interfere with the drainage system of the subdivision at which the Lakes are a part.

**Section 3.** Until all Lots abutting the Lake are sold, it shall be the responsibility of the Declarant, its successors and assigns, for the maintenance, repair and upkeep of said Lake.

**Section 4.** After all Lots abutting the Lake are sold, the co-owners for each Lake shall form an association in which each Lake Lot Owner shall have one vote in the selection of a Board of Managers which shall consist of not less than three nor more than five members. Thereafter, on the first Saturday in March of each calendar year, the voting members shall elect the Board of Managers for the ensuing year for a term commencing April 1st and expiring March 31st.

**Section 5.** The Board of Managers shall thereupon be responsible for establishing rules and regulations pertaining to Lake usage as well as establishing an annual budget to assure adequate maintenance, upkeep and repair of the Lake property including the assessment and enforcement thereof for purposes other than maintenance and repair related to the storm water drainage system, which expenses are to be included in the Common Expenses subject to general assessment for all Lots in Breezy Manor. Such budget shall be establishing annually on or before April 1st of each year for the ensuing twelve (12) month period.

**Section 6.** Assessments shall be equally paid by each voting member within thirty days from the date of billing, and there shall be a late charge of 1% per month on all delinquent payments.

**Section 7.** Assessments for Lake maintenance shall be a lien upon the Lots abutting the Lake, subject only to the lien of a first mortgage, which lien can be enforced by the Board of Managers of any Lake Lot Owner subject to these Lake
Covenants. By acceptance of deed of title to these properties, the grantee covenants to the lien of assessment and its enforcement provisions together with the costs of collection including reasonable attorneys' fees.

Section 4. In the event of a dispute arising from the maintenance, repair and upkeep of the Lake, any voting member upon giving notice in writing to all Lake Lot Owners in writing designating a time and place not less than seven (7) days prior to date of notice, in which time may be shortened in case of dire necessity, at which meeting, a quorum being present, such dispute shall be resolved by a majority vote.

Section 5. The Board of Managers shall not be held personally liable in the discharge of their official duties except for willful and wanton misconduct, and there may be included in the maintenance budget a sufficient sum to provide insurance for liability in favor of the Board of Managers as well as public liability and property damage insurance covering all voting members for liabilities incurred by reason of Lake ownership.

Section 10. No voting member or third party shall do or permit to be done any act or activity which could result in pollution of the Lakes, diversion of water, elevation of Lake levels, earth disturbance resulting in silting or any conduct which could result in an adverse effect upon water quality, drainage of the subdivision or proper Lake management.

The Board of Managers, on behalf of the property Owners in Brighton Manor or any Lake Lot Owner subject to these Lake Covenants, and the Johnson County Drainage Board shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of any damage caused to the Lakes or interference with the drainage system, together with any damages incurred, and when recovery of judgment shall be entitled to costs together with reasonable attorneys' fees.

The Lakes are and will be an integral part of the storm water drainage system serving the Real Estate and are intended to be used for such purpose and primarily for use, aesthetic enhancement and not as recreational amenities. Accordingly, no use shall be made of any of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system. The Lakes shall be kept free of the items of trash, debris and other unsightly materials. No boating, swimming, diving, skating or ice skating shall be permitted in or on said Lakes except as permitted by the Board of Managers. No sumps, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said Lakes, except the Board of Managers may take steps to clear and purify
the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to serve the same. Fishers from the shores of such lakes adjacent to an Owner's Lot by the Owner thereof and his invited guests and family shall be permitted subject to observance and compliance with all applicable fishing and game laws, ordinances, rules and regulations.

ARTICLE II
Architectural Standards

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

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

Nothing in this Article may be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration.

Section 1. Architectural Control Committee. There shall be, and hereby is, created and established the "Architectural Control Committee" ("Committee") which shall have exclusive jurisdiction over all construction on any portion of the Properties. Until 50% of the Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant, or not more than five nor less than three persons designated by it, shall constitute the Committee and shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by the Declarant. After the sale of 50% of the Properties, the Committee shall be a standing committee of the Association, consisting of not more than five nor less than three, persons as may, from time to time, be provided in the By-Laws. If the By-Laws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Approval Process. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines and applications and review
procedures. Copies are on file in the office of the Declarant (or the Association, as the case may be) which are incorporated into this Declaration by reference. The guidelines and procedures shall be those of the Association, and the Committee shall have sole and full authority to prepare and to amend them. It shall make the guidelines and procedures available to Owners, builders, and developers who seek to engage in development or construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of the Property and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. The Committee, or its designees, must give written approval for any building contractor selected by the Lot Owner for construction.

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

Section 3. Powers of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Declarations, the plan restrictions or any rules, regulations or guidelines adopted by the Committee;

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

(c) the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or part of other Owners.
Section 6. Variance. The Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and applicable zoning laws, ordinances and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) negate the Committee from denying a variance in other circumstances. In the case of a variance from set-back and yard size requirements in no event shall the aggregate side yards on any lot be less than 20 feet or the foundation of any building closer than 6 feet to a Lot Line. For purposes of this section, the inability to obtain approval of any governmental agency or the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.

Section 7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of a Party who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Committee may be satisfied by the Board from the Property without liability to any person, subject to the notice and hearing procedures contained in the by-laws.
Section A: Non-liability of Declarant, Committee. Neither the Declarant nor the Committee shall be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee or the Declarant does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing the Real Estate or any applicable code, regulation or law.

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

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

Section D: Rules Governing Building on Several Contiguous Lots, Wherein One Owner. Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit.

Article X
Use Restrictions/Covenants and Regulations

Section 1. Residential Use. The Property shall be used only for single family residential purposes; provided, however, that such restriction shall not apply to any Lot or part thereof or any other part of the Property at any time.
owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located.

Section 3. **Emergency and Res[idential] Use of Partially Completed Dwelling Unit Permitted.** An Dwelling Unit completed on any of the lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the Dwelling Unit shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

Section 4. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except entry and directional signs installed by Declarant and such signs as may be required by law. If permission is granted to erect a sign within the Properties, the Board reserves the right to restrict the size, color, location, and placement of such sign. The Board of Directors of Declarant shall have the right to erect signs as deemed in their discretion, deem appropriate. Signs advertising property for sale are specifically prohibited. Violation of this sign restriction will result in Fifty Dollars ($50.00) per day liquidated damage payable to the Association until such time as the Association shall have the right to erect such liquidated damages shall be payable to the Association. The Declarant and/or Association shall approve all signs deemed appropriate by the Committee for advertising properties for sale, which signs shall be uniform in design and placed as the Committee shall determine proper.

Section 5. Parking and Prohibited Vehicles.

(a) Parking. Vehicles shall be parked only in the garages or in the driveways, if any, serving the lots. Parking of automobiles only is allowed on designated streets only when an owner has a special function and the limited guest will not be able to park at such owner's lot. No overnight parking shall be permitted on any dedicated street.

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

(c) GARAGES AND DETACHED. No dwelling shall have 
less than a full size garage or more than a street attached 
garage, unless otherwise approved by the Committee. All 
drive-ways and vehicle parking spaces shall be hard surfaced

Section 5. Sidewalks. Sidewalks shall be constructed as 
required by the sidewalk plan approved by the Johnson County 
plan commission, which construction shall be the responsibility 
of the lot owner upon whom the sidewalk is to be con- 
structed. EXCEPTED, however, that any Common Area 
shall be constructed by the Developer as designated on the 
final development-sidewalk plan. All sidewalks 
constructed by lot owners shall be complete at such time as the 
drive-way on the lot is constructed. All sidewalks shall be 
placed together, with expansion joints, such construction to be 
perpetual and continuous along the street frontages and across 
the drive-way of each lot.

Section 6. Documents. All provisions of the 
Declaration, By-Laws and of any rules and regulations or use 
restrictions promulgated pursuant thereto which govern the 
conduct of Owners and which provide for sanctions against 
Owners shall also apply to all occupants, guests and invited 
occasions of any Owner. Every Owner shall keep lot to comply with the Declaration, By-Laws and the 
and regulations adopted pursuant thereto. and shall be 
responsible for all violations and losses to the Common Areas 
by such occupants, notwithstanding the fact that such 
caused by such occupants, may be sanctioned for 
occasions of a lot are fully liable and may be sanctioned for 
violation of the Declaration, By-Laws and rules and 
regulations adopted pursuant thereto.

Section 7. Animals and Birds. No animals, livestock, 
or poultry of any kind shall be raised, bred, or kept on any 
portion of the properties, except that dogs, cats or other 
small household pets not in excess of two 
metal and common household pets not in excess of two 
permitted to roam free, or, as in the sole discretion of the 
Association, endanger the health, make objectionable noise, or
constitute a nuisance or inconvenience to the owners of other Lots or the owner of any portion of the Properties shall be removed from the Properties upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person.

Section 9. Quiet Environments. No portion of the Properties shall be used, in whole or in part, for the storage or any property or thing that will cause it to appear to be in an unsafe or untidy condition or that will be offensive to the eye; nor shall any nuisance, thing, or habitation be kept upon any portion of the Properties that will emit fowl or offensive odors or that will cause any noise or other condition that will or may disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noise, ill-mannered acts, or offensive activity shall be permitted on the Properties. For greater clarification, no owner shall knowingly or wilfully allow, cause, or allow any unnecessary, excessive or offensive noise or disturbance which destroys the peace, comfort, quiet, or serenity of the owner or allow any such noise or disturbance to be made on his or her Lot, including any noise by the use of musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other machines or equipment. There shall not be maintained any plants or animals or devices or thing of any kind whose activities or existence in any way offensive, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, insect, trash, garbage or household refuse shall be permitted within the Properties.

Section 10. Prohibition of Dead Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 11. Maintenance of Lots and Improvements. It shall be the responsibility of each Owner to prevent the development of any unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be permitted or undertaken on any part of the Properties. No wastes shall be committed in any Dwelling or on any Lot. Each Owner shall:

1. Mow the Lot at such times as may be reasonably required in order to keep the grass no longer than
five inches and prevent the unsightly growth of vegetation and noxious weeds;

(ii) Remove all debris or rubbish;

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

(iv) Cut down and remove dead trees;

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

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

Section 11. Landscape Easements. There are stripes and lines of ground shown marked "Landscape Easement" on the Plan plotted for the purposes for which they are hereby reserved for the use of owners of lots to the extent and limited for the purpose set forth in the Declaration and for the use of Declarant and Association for the installation, maintenance, replacement of fences, walls, landscaping, other screening material, street directories, rest signs, water wells and other items requiring maintenance. Except as installed and maintained by lot owners, pursuant to the requirements of the Declarations, or by Declarant and the Association, no permanent or other structures (except walls, sidewalks and fences otherwise permitted hereby or by the Declaration and approved by the Committee) shall be erected or maintained on said stripes and areas by the owner of any lot subject to any such "Landscape Easement", and the owner of each lot affected by any such "Landscape Easement" shall take and hold title to their lots subject to the foregoing rights of the Declarant and the Association and shall not do or permit to be done anything which will obstruct or interfere with or prevent any installations or landscaping made by the Declarant or association in any such "Landscape Easements", the foregoing grant of rights to the Declarant shall not impose any obligation on the Declarant to undertake such maintenance unless it elects to do so.

Section 12. Antennas. No exterior antennas, satellite, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon or over the premises, including any lot, without the prior written consent of the Board or its designee. Notwithstanding this, the Declarant, its members, successors or assigns, shall have the right, without obligation, to erect an aerial or satellite
Section 12. Other Exterior Attachments. No owner shall install, erect, or permit anything to be hung or displayed on the outside of the windows of his or her Dwelling Unit or placed on the outside walls of any building, and no awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs of any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.

Section 14. Clotheslines, Garbage Cans, Tanks, etc.

All clothes, screens, blankets, shades, garages, laundry rooms, garages, cars, mechanical equipment and other similar items on lots shall be enclosed and stored as to be concealed from view of neighboring lots, streets, and property located to the east of the lot. All such storage tanks outside a Dwelling Unit shall be installed below the surface of the ground. All trash, trash, and garbage shall be stored in approved containers approved by the Committee hereafter and shall be removed from the property and shall not be allowed to accumulate thereon. No owner shall burn or permit burning outside of doors of garage or other storage.

Section 15. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes guns and revolvers, shotguns, "B.B." guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Declaration, the Association shall not be obligated to take action to enforce this Section.

Section 16. Tents, Trailers and Temporary Structures.

Except as may be permitted by the Declaration or the Committee during initial construction within the Properties, no tent, trailer, or temporary structure of a temporary nature shall be placed upon any lot or the Common Area. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours unless otherwise consented to by the Board of Directors of the Declaration.

Section 17. Tree Removal. No trees shall be removed, except for diseased or dead trees needing to be removed or for safety reasons, unless approved in accordance with Articles III of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required by the Committee to replace the removed or dead trees with one (1) or more trees of such
Section 11. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fences, walls, hedges, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 12. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Property, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.


A. Nuisance. No outside toilets shall be permitted on any lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

B. Construction of Sanitary Sewage Lines. All sanitary sewage lines on the lots shall be designed, constructed and installed in accordance with the provisions and requirements of Johnson County, Greenbriar Subdivision Department, and there restrictions.

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

Section 14. Lighting. Except for seasonal Christmas decorative lights, which may be displayed between December 1 and January 1 only, all exterior lights must be approved in accordance with Article IX of this Declaration.

Section 15. Unlisted Water Systems. No private, or semi-private, water supply may be installed upon any lot which is not in compliance with regulations or procedures as provided by the applicable public health agencies, or other civil authority having jurisdiction, approved by the Committee and restricted to use in conjunction with a sprinkler system or geothermal heating and cooling system.

Section 16. Artificial Vegetation, Mutilar Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Property. Exterior sculpture, fountain, flags, and similar items must be approved in accordance with Article IX of this Declaration.
Section 24. Landscaping. No owner shall be allowed to plant roses, lavender, or any ground covering in any of the common areas without prior approval from the Board. Each lot owner shall provide reasonable landscaping on his lot, including, at a minimum, coordination with the guidelines and procedures presented by the Committee. The committee, in its discretion, may modify such plans to prevent the integrity and the aesthetic appearance of this subdivision. Finished grading of all yards shall be completed within 15 days after the dwelling is constructed, weather permitting, and all yards must be seeded or sodded with grass within ten days after the completion of finished grading, weather permitting. Trees provided by the owner, if any, will be protected by owner during construction and replaced within 30 days if damaged or if a tree dies on owner's lot.

Section 25. Energy Conservation Equipment. No solar energy collector panels or similar hardware or other energy conservation equipment shall be constructed or installed on any lot unless it is an integral and harmonious part of the architectural design of a structure, as determined by the Board in its discretion.

Section 26. Insurance Policies. Nothing shall be done on any lot which will cause an increase in the rate of insurance on any common areas. No owner shall permit anything to be done on any part of any lot which will result in a cancellation of insurance on any part of the common areas, or which would be in violation of any law or ordinance of the requirements of any insurance underwriting or rating bureau.

Section 27. Ground Elevations and Erosion Control. It shall be the lot owner's responsibility to maintain and keep the ground elevation and erosion control as finally required and approved by the Board in accordance with the final construction plans for the development of this subdivision.

Section 28. Swimming Pools. Swimming pools must have the approval of the Committee before any work is undertaken. No above ground swimming pools shall be allowed, provided any pool shall provide installation and use of such equipment as pool cover, pump, filter or similar apparatus with prior approval of the Committee. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool on neighboring properties. An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence or other safety protection and landscape...
design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Top of plantings in the vicinity of the proposed pool may be required to soften the effect of sound and required pool fencing on adjacent properties.

Section 22. Tennis Courts. Racquetball Courts, Paddle ball Courts, Basketball Goals, etc. Tennis courts, racquetball courts, paddle ball courts, squash courts, and other recreational or sporting facilities will be approved by the Committee only after inspection. Such approval will be by the Committee only after inspection. Such approval will be conditioned upon, but not limited to compliance with such a structure or use in neighboring properties. The Committee will not approve non-sound insulated courts or facilities. An application for the construction of any such facility will not be granted unless the application is accompanied by an application for an acceptable fence and landscape design approval. It is recommended by the Committee that any such fencing be of an open composition in order to blend in with the surrounding properties and soften the effect on adjacent properties.

All basketball backboards or any other fixed goals and play structures shall be located behind the rear foundation line of the main structure and within ten feet back lines unless otherwise approved by the Committee. The Committee reserves the right to approve or disapprove the location and type of basketball goals.

Section 23. Playgrounds. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to use thereof. No playground equipment, tree houses, or similar structures shall be erected on any lot without prior approval pursuant to Article IX hereinbefore provided. However, children's play equipment such as swings, slides, and teeter-totters shall not require approval by the Committee provided such equipment is not more than six (6) feet high, maintained by the lot owner in good repair (including painting) and every reasonable effort has been made by the lot owner to screen or shade these structures. Play equipment not exceeding higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee.

Section 24. Fences. No fences, walls, dog runs, animal pens or fences of any kind shall be permitted on any lot except as approved in accordance with Article IX of this Declaration.

Section 25. Heating Plant. Every Dwelling Unit must contain a heating plant installed in compliance with the
trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to the development and sale of the Properties or its use of any Lots which each entity owns within the Properties.

Section 37. Sales Office. To the extent deemed necessary or desirable by Developer, Developer shall be permitted to place sales offices and construction and storage facilities for same attributable to the construction, development, marketing and maintenance of the subdivision on any vacant lot or on any common area in the subdivision until 120 days following the sale, closing and deed transfer to a lot other than Developer of the last lot in the subdivision.

Section 38. Drilling. No oil or water wells, oil development operations, oil refining, quarries or mining operations of any kind shall be permitted upon or in any lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No structure of either nature shall be erected, maintained or permitted on any Lot.

Section 39. Non-assignability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in this Article A shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas or any portion thereof. The Association shall have no standing or authority to seek an injunction or other for the removal of any materials and partially completed structures in violation of this covenant.

Section 40. Diligence in Construction. Every building whose construction on any Lot is begun shall be completed within one hundred eighty days (180) after the beginning of such construction unless circumstances beyond the reasonable control of the owner or the Association prevent such completion. No improvements which are partially or totally damaged or destroyed by fire or similar cause shall be allowed to remain in such state for more than three (3) months from the time of such damage or destruction. The Declarant, and/or Homeowners Association shall have standing and authority to seek an injunction or other for the removal of any materials and partially completed structures in violation of this covenant.

Section 41. Declarant and the Association's Right to Perform Certain Maintenance. In the event that any owner of a Lot shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and,
therefore, the Association through its agents and employees or contractors, shall have the right to enter upon said lot and repair, remove, clean up or perform such other acts as may be reasonably necessary to make such lot and improvements situated thereon, agree, conform to the requirements of these restrictions and the provisions hereof. The cost thereof to the declarant or the Association shall be collected in the same manner as provided herein for herein for the collection of any assessment, or any of the declarant or the Association, nor any of its agents, employees or contractors, shall be liable for any damage which may result from any maintenance work performed heretofore.

ARTICLE XI

Assessments

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

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Association at which the Budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual or special meeting is mailed or delivered to each Owner. The actual expenses for the fiscal year in which such proposed budget is approved shall be budgeted, provided, however, that in no event shall such annual or special meeting of the Owners be adjourned, until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended.

The annual budget, the proposed budget and the proposed annual budget shall be established in accordance with generally accepted accounting principles applied on a consistent basis. The annual budget and the proposed annual budget shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for

-34-
capital expenditures and replacement and repairs of the Common Areas, which replacement reserve fund shall be used for these purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund (or capital expenditures and replacement repairs of the Common Areas) shall be maintained by the Association in a bank or other financial institution and upon authorization by the Board of Directors, and the Bank or other financial institutions in Common Cause or Merle County, Indiana selected from time to time by the Board. The role of the Board of Directors to prepare and submit a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual or special meeting of the Association at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay regular assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 5. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot, provided, however, Lots owned by Public Service shall not be subject to assessment. Immediately after the annual budget, each Owner shall be given written notice of the assessment against his Common Expense charge, called the "Regular Assessment." In the event the regular assessment (or "Regular Assessment") in the amount initially based upon a temporary budget, each regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget. The total amount of the Regular Assessments shall be equal to the total amount of Common Expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in full in advance by a date specified by the Board which date shall be earlier than fifteen (15) days after the written notice of such regular Assessment is given to the Owners. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular Assessment, whether in one payment or in quarterly installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. In the
event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget.

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

(b) If the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether annual or quarterly, until the entire amount of such excess has been so credited.

provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner or the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Association shall become a lien on each separate lot as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of each Lot from payment of the Regular Assessment for the Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statements of unpaid assessments furnished by the Association pursuant to Section 2 of Article X hereof, prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular
Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determination. Annual or quarterly (if so determined by the Board) installments of Regular assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 6. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the By-Laws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot or owned by Members proportionately in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the expenses of any capital improvements of the Association, or for the repair of damages or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 7. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items devoted Common Areas for purposes of maintenance, and toward any other expense lawfully assessed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot, where the Owner constitutes or consents of more than one Person, the liability of each Person shall be joint and several. Regular and special assessments shall constitute a lien against the Lots and Dwelling Units thereon. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be foreclosed and foreclosed by the Board for and on behalf of the Association as a mortgage on the real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit
which are the subject of such action shall be jointly and severally liable for the payment to the Association of reasonable rent for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lots and Dwelling Units and to collect the rents and other rentals therefor for the benefit of the Board and to enforce the obligations of the Debtor to pay the unpaid regular Assessments or Special Assessments. The Board may at its option, with or without notice, cause the Lots and Dwelling Units to be sold by the receiver for the purpose of foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Debtor at the respective Lots and Dwelling Units all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys’ fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the “prime interest rate” then in effect as publicly announced or published by The Indiana National Bank or its successors as of the date the Debtor is no longer in existence, paid to such national bank in Marion County, Indiana selected by the Board; but in no event less than the minimum rate allowable under applicable law.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles of the Association, any sale or transfer of a Lot and Dwelling Unit to a Mortgagor pursuant to a foreclosure on the mortgage or conveyance in lieu thereof, or a conveyance by any person at a public sale in the manner provided by law with respect to ordinary foreclosures, shall extinguish the lien of any unpaid installment of any regular Assessments or Special Assessments or other charges as to such Installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit from such Installments of any regular Assessments or Special Assessments or other charges therefor but the holder of the mortgage or conveyance in lieu thereof shall be entitled to receive from the Debtor at the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys’ fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the “prime interest rate” then in effect as publicly announced or published by The Indiana National Bank or its successors as of the date the Debtor is no longer in existence, paid to such national bank in Marion County, Indiana selected by the Board; but in no event less than the minimum rate allowable under applicable law.

Section 6. Initial Assessments and Assessments. Notwithstanding anything to the contrary contained herein, in the Articles, in the By-laws, in the Act or otherwise, until the
Applicable Data: the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meeting of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 1 of Article V thereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Special Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date and notwithstanding the foregoing or anything else contained herein, the Declarant, its successors and assigns, shall have the right to pay or receivable by Declarant with respect to any Lot or other portion of the Real Estate owned by Declarant while the same is owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant. Assessments against a Lot shall become due and payable from the sale of such Lot, and to another Person, and a portion of the proceeds of the sale of the Real Estate so conveyed, each Lot so conveyed by Declarant shall be paid by the purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up Fund. Upon the closing of the Initial Conveyance of each Lot by Declarant to another Person, the purchase price of such Lot shall be used to create an initial working capital and start-up fund, each amount equal to one-twelfth (1/12th) of the then current annual Regular Assessment against each Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Association for its early period of operation of the Real Estate, to enable the Association to have cash available to meet unforeseen expenses, or to acquire additional equipment or services deemed necessary by the Board.

ARTICLE V MORTGAGES

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

The Association shall, upon request of a mortgagee who has furnished the Association with its name and address, and has not otherwise provided, furnish such mortgagee with written notice of any default in the performance by its borrower of any provisions of such mortgage under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 2. Notice of Special Assessments. The Association shall, upon request of a mortgagee of a proposed mortgage, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owner, and any mortgagee or purchaser of the Lot shall not be liable to the Association for any unpaid assessments or charges in excess of the amounts set forth in such statement. Such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IV hereof.

ARTICLE IV: INSURANCE

Section 1. casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage for the improvements, if any, which, in whole or in part, comprise the common areas. The Board of Directors can obtain such coverage for reasonable amounts. They shall also obtain "All-Risk" coverage. The insurance shall cover the Association for reviewing at least semi年度 the amount and type of such insurance and shall purchase such additional insurance as may be necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost as any such appraisal shall be a Common Expense. Each insurance coverage shall name the Association as the insured, for the
benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association or hereafter put forth shall be paid or disbursed by the Board of Directors. In the event that the Board of Directors has not issued surety bonds for the faithful performance of their duties as such Directors or if such bonds have not been issued, the proceeds which will come into the hands of the Board of Directors shall be paid to the Association or hereafter put forth for the faithful performance of their duties in an amount to be determined by the Board, but not less than 50% of the loss, before the Board shall be entitled to receive the proceeds of the insurance policies as a result of such loss. The sole authority on the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid out in full the benefit of the Owners. The proceeds shall be used or distributed by the Association or hereafter put forth, only in accordance with the provisions of this Declaration.

Each master casualty insurance policy and "all risk" covers any losses sustained shall (a) extend to the extent the same are obtainable contain provisions that the insurer (i) waive its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waive any defense based on the liability arising from the acts or the insured and providing further, if the Board of Directors is able to obtain such waiver as aforesaid.

Section 5 - Public Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or sums as the Board of Directors shall deem appropriate from time to time, but in no event with a deductible amount less than $25,000 for any occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and Common Facilities. The Association, the Board of Directors, any committees or persons of the Association or Board, any managing agent appointed or authorized to act for the Association or Board, any tenant or person who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any lot or dwelling
Section 3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workers' compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Association and officers and directors' liability policies. Such insurance coverage shall also provide for and cover certain liability claims of one insured party against another insured party. Such insurance shall be to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

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

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any reimbursement shall be to the Owner and his Mortgagor jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any area of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Association to any Owners or Mortgagors if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or subsidiary gain to the members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his