DECLARATION OF COVENANTS
AND RESTRICTIONS
OF CRICKET TREE

This Declaration (hereinafter referred to as "the Declaration" or "this Declaration"), made this 25th day of
March, 1986, by CRICKET TREE, INC., an Indiana corpora-
tion (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner or authorized attorney-
in-fact for the owner of all of the real estate in Marion County,
State of Indiana, more particularly described as follows:

Part of the Southwest Quarter of Section 15, Township 17 North,
Range 3 East in Marion County, Indiana, being more particularly
described as follows:

Beginning on the South line of the said Southwest Quarter
Section North 89 Degrees 04 Minutes 49 Seconds West (assumed
bearing) 1072.50 feet from the Southeast Corner of the said
Southwest Quarter Section; thence North 89 Degrees 04 Minutes
49 Seconds West along the said South line 277.50 feet;
thence North 01 Degrees 30 Minutes 00 Seconds East 412.00
feet; thence North 89 Degrees 04 Minutes 49 Seconds West,
parallel with said South line, 300.00 feet; thence North 01
Degrees 30 Minutes 00 Seconds East 446.00 feet to the South
line of Pickwick II, Third Section, a subdivision in Marion
County, Indiana, the plat of which is recorded as Instrument
No. 72-58381 in the office of the Recorder of Marion County,
Indiana; thence South 89 Degrees 04 Minutes 49 Seconds East
along the South line of Pickwick II, Third Section, and
parallel with the South line of the said Southwest Quarter
Section, 577.50 feet; thence South 01 Degrees 30 Minutes 00
Seconds West 858.00 feet to the beginning point, containing
8.537 acres, more or less.

Subject to all legal highways and rights-of-way, and to all
easements, covenants, conditions, restrictions, limitations
and other matters of record

(hereinafter referred to as the "Real Estate"); and

WHEREAS, Declarant desires and intends to create on the
Real Estate a residential community with private streets, a lake,
landscaping, open spaces, walls, fences and other common facilities
and amenities for the benefit of such residential community, to
be known as CRICKET TREE ADDITION, which community shall be developed
substantially in accordance with the preliminary site plan drawing
attached hereto as Exhibit "A" and hereby incorporated herein by reference (hereinafter referred to as the "Plan"); and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas and facilities therein contained, and, to this end, Declarant desires to subject the Real Estate to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each owner of all or part thereof; and

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

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "Cricket Tree Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots situated therein.
ARTICLE I.

Definitions

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

(a) "Act" shall mean and refer to the Indiana Not-For-Profit Corporation Act of 1971, as amended;

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

(c) "Architectural Review Board" shall mean and refer to that committee or entity established pursuant to Article VIII, Section 1, of this Declaration for the purposes herein stated;

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

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

(h) "Common Properties" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not Lots, whether such plat is heretofore or hereafter recorded [excluding any portion thereof (such as public streets) owned by or dedicated to the public or a governmental agency], (ii) to the extent hereinafter established, such portions of the Real Estate as are herein declared to be Common Properties even though located on or constituting part of one or more Lots, (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Properties whether located, installed or established entirely or partially on Lots or portions of the Real Estate which are not Lots, or both; PROVIDED, HOWEVER, that the street shown, or to be shown, on a subdivision plat of the Real Estate as "Cricket Tree Lane" and all of the several parts thereof, and noted, or to be noted, on such plat as "Common Area", shall for all purposes be considered a part of the Common Properties;
"Corporation" shall mean and refer to Cricket Tree
Homeowners Association, Inc., an Indiana not-for-
profit corporation which Declarant has caused, or
will cause, to be incorporated under said name or
a similar name, its successors and assigns;

"Declarant" shall mean and refer to Cricket Tree,
Inc., an Indiana corporation, and any successors
and assigns of it whom it designates in one or
more written recorded instruments to have the
rights of Declarant hereunder, including, but not
limited to, any mortgagee acquiring title to any
portion of the Real Estate pursuant to the exercise
of rights under, or foreclosure of, a mortgage
executed by Declarant;

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

"Lot" shall mean and refer to any and each portion
of the Real Estate (excluding any part of the
Common Properties) designed and intended for use
as a building site for, or developed and improved
for use as, a Dwelling Unit (which shall be deemed
to include any other buildings or improvements
appurtenant to such Dwelling Unit), as designated
by Declarant by its deed of the same to another
Person. A Lot will not necessarily be the same as
any single numbered parcel of land shown upon, and
identified as a lot on, any recorded subdivision
plat of the Real Estate or any part thereof. For
purposes of this Declaration, a "Lot" may be (i)
any single numbered parcel of land identified as a
lot on such a subdivision plat, (ii) part of such
a numbered parcel of land, (iii) such a numbered
parcel of land combined with part or all of another
such numbered parcel of land, or (iv) parts or all
of two (2) or more of such numbered parcels of
land combined. The determination of what portion
of the Real Estate constitutes a "Lot" for purposes
of this Declaration shall be made by reference to,
and shall mean, each tract of land conveyed by
Declarant to another Person for use as a building
site for, or developed and improved for use as, a
Dwelling Unit (which shall be deemed to include
any other buildings or improvements appurtenant to
such Dwelling Unit). Notwithstanding the foregoing,
if after the initial conveyance of a portion of
the Real Estate by Declarant to another Person it
is agreed between Declarant and such Person to
enlarge or reduce or otherwise change the portion
of the Real Estate so originally conveyed to such
Person as a "Lot", then the determination of what
portion of the Real Estate constitutes such "Lot"
for purposes of this Declaration shall be made 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 a "Lot" reconveyed to Declarant shall, upon such re-conveyance, lose its character as part of a "Lot" and may thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason.

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

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

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

(p) "Plan" shall mean the preliminary site plan drawing of the Real Estate, attached hereto as Exhibit "A" and incorporated herein by reference;

(q) "The Real Estate" shall mean and refer to the parcel of real estate in Marion County, Indiana described in the first recital clause of this Declaration, and defined therein as the Real Estate;

(r) "Restrictions" shall mean and refer to the agree- ments, 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;

(s) "Zoning Covenants" shall mean and refer to the written covenants or commitments, as amended, heretofore entered into by Declarant or its predeces- sors in title to the Real Estate in connection with the zoning of the Real Estate, which covenants are recorded as Instrument No. 80-51764 in the office of the Recorder of Marion County, Indiana, as amended by written First Amendment thereto recorded as Instrument No. 84-89040 and re-recorded as Instrument No. 85-53513 in said Recorder’s office, all of said recorded instruments being incor- porated herein by reference, as the same may hereafter be amended in accordance with their terms or as permitted by law.

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

Declaration: Common Properties and Rights Therein

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred, and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Corporation and the Architectural Review Board with respect to these Restrictions, and for itself, its heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Corporation, the Architectural Review Board, 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 agreements.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Properties (except for such portions thereof, if any, as to which, in accordance with other provisions hereof, the use, benefit and enjoyment 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. Without limiting the generality of the foregoing, each Owner, his tenants, invitees and guests, shall have, and is hereby granted, a non-exclusive easement and right of ingress to, egress from and access between his Lot and West 86th Street, for pedestrian and vehicular traffic, upon, over and across the...
private street shown, or to be shown, on a subdivision plat of the Real Estate as "Cricket Tree Lane", and the several parts thereof, the approximate location of which private street is shown on the Plan (said street being herein referred to as "Cricket Tree Lane"). It is intended that Cricket Tree Lane shall be a private street and not for public use; provided, however, Cricket Tree Lane may be dedicated to the public by the Corporation if Cricket Tree Lane is acceptable to the public authority receiving the same without improvement thereof by the Owners or the Corporation and such dedication is approved in writing in advance by at least two-thirds (2/3) of the Mortgagors (based on one vote for each first mortgage owned) and Owners other than Declarant; provided, further, that improvements to Cricket Tree Lane for the purposes of dedication and making the same acceptable to such public authority, and the assessment of the cost thereof to the Owners, shall be subject to and require the approval of the Owners of two-thirds (2/3) of the Lots. In addition to the Owners, their tenants, invitees and guests, all public and quasi-public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles and privately owned delivery vehicles shall have the right to enter upon and use Cricket Tree Lane for ingress to, egress from and access between the Lots and West 86th Street in the performance of their duties.

ARTICLE III
Obligations of Declarant as to Common Properties

Section 1. Construction and Conveyance of Street.
Declarant has constructed Cricket Tree Lane at the approximate locations shown therefor on the Plan, and, prior to the conveyance of any Lot, Declarant covenants that it will convey Cricket Tree Lane to the Corporation by a special warranty deed free and clear of all liens and encumbrances except the lien of current real estate taxes and assessments, legal highways and rights-of-way, all easements, covenants, conditions, restrictions and other
matters of record, and any rights, interests and easements therein
referred to herein or in any subdivision plat of the Real Estate.

Section 2. Agreement to Construct and Convey Other

Common Properties. Declarant has constructed or provided for, or
will construct or provide for, additional Common Properties (in
addition to Cricket Tree Lane) consisting of the following items:

(a) storm and sanitary sewer systems to serve the Real
Estate,
(b) installation of utility equipment, facilities and
systems to serve the Real Estate,
(c) street lighting facilities for Cricket Tree Lane,
(d) perimeter treatment of the Real Estate, including
brick walls, chain link fencing, wood fencing, and
landscaping,
(e) a lake or pond in Block C of the Common Properties
shown on the Plan (which lake or pond will con-
stitute a part of the storm water drainage system
of the Real Estate),
(f) a water well to feed the lake or pond to be pro-
vided by Declarant in Block C shown on the Plan,
and
(g) landscaping in Blocks A, B, C, D and E of the
Common Properties shown on the Plan.

Upon final construction or provision of the Common Properties
described in this Section 2, Declarant covenants to convey all of
his right, title and interest in and to said Common Properties to
the Corporation and all such right, title and interest in and to
said items (whether owned in fee, by leasehold or in the nature
of an easement or license) shall then be the property of the
Corporation, 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 Properties located entirely
or partially on any one or more of the Lots, the Owner of such
Lots shall have only non-exclusive easement rights therein, as
described in Article II, Section 2 of this Declaration.

Section 3. Additional Common Properties at Declarant's
Option. Declarant may, at its option, but without obligation to
do so, convey portions of the Real Estate to the Corporation for,
or construct, install or provide for other items for or on, or
services to serve, the Real Estate as amenities for, the mutual
benefit, use or enjoyment of the Owners. Included as examples of
the foregoing, but not limited thereto, might be a community
television antenna or receiving device to serve all of the Dwelling
Units, storage buildings for storage of articles by Owners or
provision of portions of the Real Estate for recreational or
other common uses or purposes for the Owners, including, without
limitation, a swimming pool, tennis court, clubhouse or other
recreational facilities. Any such portions of the Real Estate,
or other items, or services, which Declarant, at its sole option,
elects to convey, construct, install or provide as Common Properties
shall become a part of the Common Properties only when so designated
by Declarant in a written instrument executed by Declarant and
delivered to the Corporation. Upon any such designation by
Declarant, Declarant shall convey all of its right, title and
interest in and to the Common Properties so designated to the
Corporation and all such right, title and interest in and to the
Common Properties so designated and conveyed shall then and
thereupon be and become the property of the Corporation, whether
or not the same constitutes, or may be located entirely or partially
on, any one or more of the Lots or any lot shown upon any recorded
subdivision plat of the Real Estate, or parts thereof. As to any
of such Common Properties so designated and conveyed pursuant to
the foregoing provisions of this Section 3 which are located
entirely or partially on any one or more of the Lots, the owners
of such Lots shall have only non-exclusive easement rights thereon
or thereto, as described in Article II, Section 2 of this Declaration.

ARTICLE IV
Corporation; Membership; Voting; Functions

Section 1. Membership in Corporation. Declarant and
each Owner of a Lot shall, automatically upon becoming an Owner,
be and become a member of the Corporation and shall remain a
member until such time as his ownership of a Lot ceases, but
membership shall terminate when such Owner ceases to be an Owner,
and will be transferred to the new Owner of his Lot; provided,
however, that any Person who holds the interest of an Owner in a
Lot merely as security for the performance of an obligation shall

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not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an owner and a member of the Corporation.

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

(a) Class A. Class A members shall be all owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) person constitutes the owner of a particular Lot, all such persons shall be members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(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 Corporation. Each Class B member shall be entitled to five (5) votes for each Lot of which it is the Owner and five (5) votes for each single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate of which it is the Owner (either as to the entire numbered parcel or any part thereof which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Corporation, (ii) the date Declarant no longer owns any Lots nor any portion of any single numbered parcel of land shown upon and identified as a lot on, any recorded subdivision plat of the Real Estate, or (iii) June 30, 1992 (the applicable date being herein referred to as the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate owned (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.
Section 3. Functions. The Corporation has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Properties as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Properties, to pay any other necessary expenses and costs in connection with the Common Properties, 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 Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant as provided in 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: Aaron Y. Cohen, Dixon B. Dann and Jeffrey B. Cohen (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type 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 Corporation are entitled to vote under the Declaration, the Articles, the By-Laws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same.

Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Corporation).

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

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the Board of Directors shall be elected at each annual meeting of the Corporation. 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 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 eligible Owners nominated at the meeting.
A Director so elected shall serve until the next annual meeting
of the Owners and until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The
Board of Directors shall be the governing body of the Corporation
representing all of the Owners and being responsible for the
functions and duties of the Corporation, including but not limited
to, providing for the administration of the Real Estate, the
management, maintenance, repair, upkeep and replacement of the
Common Properties (unless the same are otherwise the responsibility
or duty of Owners), and the collection and disbursement of the
Common Expenses. After the Applicable Date, the Board may, on
behalf of the Corporation, employ a reputable and recognized
professional property management agent (herein called the "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 Properties, 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 Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) procuring of utilities used in connection with the Lots, Dwelling Units and Common Properties (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies); removal of garbage and waste; and snow removal from Cricket Tree Lane and driveways and front walks on the Lots;

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

(d) surfacing, paving and maintaining Cricket Tree Lane and any off-street parking spaces constituting a part of the Common Properties;

(e) assessment and collection from the Owners of the Owners' respective share of the Common Expenses;

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

(g) 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;

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

(i) procuring and maintaining for the benefit of the Corporation, 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;

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

(k) all duties and obligations imposed on the Corporation or the Board under this Declaration, the Articles, 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 Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(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 Corporation;

(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 Properties and to perform all other maintenance, upkeep, repair and replacement duties of the Corporation and the Board;

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

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

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

(h) to grant to such public or private companies, entities or bodies as the Board shall approve, such easements as may be necessary to provide the Lots and Dwelling Units 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 easements shown upon and identified as easements on, any recorded subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than $2,500.00 without obtaining the prior
approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

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

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

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

Section 9. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or

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

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

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proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. The Initial Board has entered, or will hereafter enter, into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) for a term which will expire not later than June 30, 1992, under which Declarant (or such affiliate of Declarant, as appropriate) will provide supervision, fiscal and general management and maintenance of the Common Properties and, in general, perform all of the duties and obligations of the Corporation. Such management agreement is or will be subject to termination by Declarant (or its affiliate, as appropriate) at any time prior to the expiration of its term, in which event the Corporation shall thereupon and thereafter resume performance of all of its duties, obligations and functions. Notwithstanding anything to the contrary contained in this Declaration, so long as such management agreement remains in effect, Declarant (or its affiliate, as appropriate) shall have, and Declarant hereby reserves to itself (or to its affiliate, as appropriate), the exclusive right to manage the Real Estate and Common Properties and to perform all the functions of the Corporation.

ARTICLE VI

Real Estate Taxes; Utilities

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

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

ARTICLE VII

Maintenance, Repairs and Replacements

Section 1. By Owners. Each Owner shall, at his own expense, be responsible for, and shall promptly perform as 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 Properties for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Properties. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 2. By the Corporation. Maintenance, repairs, replacements and upkeep of the Common Properties shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses, except to the extent such cost is to be borne and paid by other Persons pursuant to agreements heretofore or hereafter made by Declarant with other Persons and which are binding upon the owner from time to time of the Real Estate.

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

(a) maintenance of those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside the perimeter brick walls and fencing 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 or an adjoining property owner; provided, however, that the Corporation shall have no obligation to maintain any public street, road or highway located within any public right-of-way or abutting the Real Estate. For purposes of this subparagraph (a), "outside the perimeter brick walls and fencing" means the areas between such brick walls or fencing, as appropriate, and the nearest property line of the Real Estate;

(b) repair, upkeep and maintenance of lawn sprinkler and irrigation systems initially installed by Declarant as part of the original development of the Real Estate, including the Lots, whether located on Common Properties or Lots; provided, however, that such responsibility shall include only the repair, upkeep and maintenance of the systems themselves and shall not include responsibility for costs or expenses of operation of such systems (such as charges for electricity and water used), which costs and expenses shall be the responsibility of and paid by the owner of the Lot served thereby (or, in the case of such systems serving Common Properties, by the Corporation);

(c) cutting of grass on the Lots; provided, however, that such responsibility shall not include maintenance or upkeep of any other landscaping materials or landscaping treatment of the Lots; and

(d) snow removal from driveways and front walks on Lots, but only on such occasions as the Corporation is also removing snow from Cricket Tree Lane, it being the intent hereof that the Board shall contract for snow removal (both from Cricket Tree Lane and from driveways and front walks on Lots) on a uniform basis so that all snow will be removed when it has accumulated to such depth as usually requires removal under reasonable guidelines for normal property management.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Properties as it deems necessary.

Notwithstanding any obligation or duty of the Corporation to repair or maintain any of the Common Properties (or items deemed Common Properties 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 Properties (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 Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner
upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (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 Properties and items deemed as Common Properties for purposes of maintenance, including, but not limited to, access to any easements reserved by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII

Architectural Control

Section 1. The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more Persons as may, from time to time, be provided in the By-Laws. Until the Applicable Date, Declarant shall appoint the members of the Architectural Review Board. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors.

Section 2. Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Real Estate and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

Section 3. Conditions. No improvements, alterations, repairs, change of colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot.

without the prior written approval of the Architectural Review Board.

Section 4. Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application submitted for its approval within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Architectural Review Board as may be delegated to them.

ARTICLE IX
Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of any Dwelling Unit upon the Real Estate and which connects two Dwelling Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, proportionately.

Section 3. Destruction by Fire or Other Casualty. If any party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by any of the Owners who make use of such party wall, and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration

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thereof in equal proportions without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent, intentional or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten days after written request therefor from another party, the Board of Directors of the Corporation shall select an arbitrator for the refusing party.)

ARTICLE X

Assessments

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each owner a financial statement prepared by a certified public accountant or firm of certified public accountants then serving the Corporation, 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 Corporation at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual or special meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at such annual or special meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall such meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Properties, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Properties. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Properties shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a
copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual or special meeting of the Corporation at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid 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 quarterly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay quarterly assessments semi-annually or
annually, in advance. At the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in equal monthly installments rather than quarterly installments. In event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

(a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether quarterly or monthly, 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 quarterly or monthly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for each fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as owner of such Lot from payment of the Regular Assessment.
for such Lot as finally determined, and such Owner and his successor as owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Section 2 of Article XI hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Quarterly or monthly (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 Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the 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, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 5. 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 Properties and items deemed Common Properties for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Properties or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any Regular Assessments or Special Assessments, when due, the Board may, in its discretion, accelerate the entire balance of 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 shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit 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 were due, until paid, at a rate equal to the "prime interest rate" then in effect as publicly quoted and announced by Merchants National Bank & Trust Company of Indianapolis (or if said Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana selected by the Board).

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment 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 or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

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

Further, until the Applicable Date, the Regular Assessments
are and shall be established as follows:

(a) From the date of the first conveyance of a Lot by
Declarant to any other Person until the earlier of
the Applicable Date or December 31, 1986, the
Regular Assessment shall be at the rate of One
Hundred Forty Dollars ($140.00) per month upon
each Lot owned by someone other than Declarant,
prorated on a daily basis for any period of time
less than a full month;

(b) After December 31, 1986 (if the Applicable Date
has not then occurred) and for each year there-
after until the Applicable Date, the Regular
Assessment upon each Lot owned by someone other
than Declarant may be increased by the Board by an
amount not greater than an amount equal to the
same percentage of the Regular Assessment provided
under subparagraph (a) above as the percentage
increases, if any, in the Consumer Price Index
between the Index figure for the month of December,
1985 and the Index figure for the last month of
the year preceding the year for which such increase
is to be effective. Such increases may be made by
the Board annually on, or effective on, January 1
of each year until the Applicable Date. As used
herein, "Consumer Price Index" means the "Consumer
Price Index for All Urban Consumers, U.S. City
Average of all items (CPI-U, reference base of
1967=100.)" published by the Bureau of Labor
Statistics of the U.S. Department of Labor. If
the publication of the Consumer Price Index of the
U.S. Bureau of Labor Statistics is either discontinued,
or revised by changes in the weights assigned by
the 1972-73 Consumer Expenditure Survey to the
expenditure groups, in the sample of items priced,
in the sample of places where the pricing takes
place or in the statistical methods employed in
the calculation of the Consumer Price Index, then,
and in any of such events, comparable statistics
on the purchasing power of the consumer dollar
published by a responsible financial periodical
selected by the Corporation shall be substituted
for said Consumer Price Index and used for making
such computations.
Notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant with respect to any Lot or other portion of the Real Estate owned by Declarant while the same is owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant.

ARTICLE XI

Mortgages

Section 1. Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address 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 deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgages 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 to which he 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 Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.
Section 2. Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article X hereof.

ARTICLE XII

Insurance

Section 1. Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Properties in an amount consonant with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Properties. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Corporation 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 Corporation
as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Properties resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or disbursed by the Corporation or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Corporation does not elect to restore.

Section 2. Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of
Directors shall deem appropriate from time to time, but in any
event with a minimum combined limit of $1,000,000.00 per occurrence.
Such comprehensive public liability insurance policy shall cover
all of the Common Properties and shall insure the Corporation,
the Board of Directors, any committee or organ of the Corporation
or board, any Managing Agent appointed or employed by the Corpora-
tion, all persons acting or 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 Unit. Such public liability insurance policy
shall contain a "severability of interest" clause or endorsement
which shall preclude the insurer from denying the claim of an
Owner because of negligent acts of the Corporation or other
Owners.

Section 3. Other Insurance. The Corporation shall
also obtain any other insurance required by law to be maintained,
including but not limited to workmen's compensation and occupa-
tional 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 Corporation and officers' and
directors' liability policies. Such insurance coverage shall
also provide for and cover cross liability claims of one insured
party against another insured party. Such insurance shall inure
to the benefit of each Owner, the Corporation, the Board of
Directors and any Managing Agent acting on behalf of the Corporation.
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 Corporation.

Section 4. General Provisions. The premiums for all
insurance hereinabove described shall be paid by the Corpora-
tion as part of the Common Expenses. When any such policy of
insurance hereinabove described has been obtained by or on behalf
of the Corporation, written notice of the obtaining thereof and
of any subsequent changes therein or termination thereof shall be
promptly furnished to each Owner or Mortgagee whose interest may
be affected thereby, which notice (accompanied by copies of such
policies or any changes thereto, or certificates indicating the
coverages included therein) shall be furnished by the officer of
the Corporation who is required to send notices of meetings of
the Corporation.

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 distributions shall be to the Owner
and his Mortgagee jointly. The same method of distribution shall
also apply to the distribution of any condemnation awards in
connection with any taking of any of the Common Properties.
Notwithstanding the foregoing, under no circumstances shall any
distribution of insurance proceeds or condemnation awards be made
by the Corporation to any Owners or Mortgagees if to do so would
be in violation of the Act or if the same would constitute a
distribution of earnings, profits or pecuniary gain to the members
of the Corporation; in any such event, any such insurance proceeds
or condemnation awards shall be retained by the Corporation 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 Dwelling Unit,
the contents of his Dwelling Unit, his personal property stored
anywhere on the Real Estate, and for his personal liability, but
all such insurance shall contain the same provisions for waiver
of subrogation as referred to in the foregoing provisions for the
master casualty insurance policy to be obtained by the Corporation.
ARTICLE XIII
Casualty and Restoration

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

If the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Properties, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Properties so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares, except to the extent any of such costs are to be borne and paid by other Persons pursuant to agreements heretofore or hereafter made by Declarant with other Persons and which are binding upon the owner from time to time of the Real Estate. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

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

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.
Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Properties shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Properties were originally constructed.

ARTICLE XIV

Restrictions, Covenants and Regulations

Section 1. Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Properties shall be in addition to any other covenants or restrictions contained herein and in any subdivision plat of any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family, provided, however, that the foregoing restriction of "used exclusively for residential purposes" shall not apply to any Lot or part thereof or any other part of the Real Estate at any time owned by the Corporation which constitutes a part of the Common Properties, and upon which no Dwelling Unit is located.

(b) Nothing shall be done or kept by any Owner on the Common Properties which will cause an increase in the rate of insurance on any of the Common Properties. No Owner shall permit anything to be done or kept on any of the Common Properties which will result in a cancellation of insurance on any part of the Common Properties, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

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(c) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot.

(d) No owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Architectural Review Board unless otherwise expressly authorized herein or in any recorded subdivision plat of the Real Estate.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Properties, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an owner shall be fully liable for any injury or damage to persons or property, including the Common Properties, caused by his pet. The tethering of pets in any area outside an Owner's fenced Lot does not constitute "attended". The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time, including, but not limited to, a requirement that any owner desiring to bring or maintain a pet on the Real Estate shall deposit with the Board a security deposit in an amount to be determined by the Board to cover any damage that may be caused by such pet to the Common Properties. Any such security deposit shall be returned to the Owner when the pet is permanently removed from the Real Estate, except to the extent said deposit has been used or is needed to repair damage caused by such pet. Any requirement for the depositing of such a security deposit shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury and damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Real Estate within ten (10) days after written notice from the Board to the respective owner to do so.

(f) Nothing shall be done or permitted in any Dwelling Unit or on any Lot which will impair the structural integrity of any of the Common Properties or which would structurally change any of the Common Properties. No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the subdivision developed or to be developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Dwelling Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.

(g) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common

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(h) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted practiced or permitted on the Real Estate.

(i) No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Real Estate, any Lot or any Dwelling Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Real Estate in connection with any unsold or unoccupied Lots and Dwelling Units.

(j) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Properties or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Properties.

(k) No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, mini bikes, mopeds, or any other vehicles of any description other than normal passenger automobiles, shall be permitted, parked or stored anywhere within the Real Estate; provided, however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage.

No repair work shall be done on the Real Estate on any vehicles, including passenger automobiles.

(l) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Properties, except with express permission from the Board.

(m) Except to the extent the Corporation is expressly responsible therefor under the terms of this Declaration, each Owner shall keep all Lots owned by him in good order, condition and repair and free of debris including, but not limited to, the seeding of all lawns, the pruning, trimming and cutting of all trees and shrubbery, the painting (or other appropriate external care) of all buildings and improvements, and the prompt repair, reconstruction and restoration of any building and improvements located on his Lot which are damaged or destroyed by fire, casualty or other disaster, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot shall fail to so maintain his Lot and improvements situated thereon as provided herein, the Corporation, after notice to the Owner and approval by two-thirds (2/3) vote of all Owners, shall have the right to enter upon said Lot to correct, repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon, or any part thereof. All costs incurred by the Corporation related to such correction, repair, maintenance or restoration shall be and constitute a Special Assessment against such Lot, payable by the Owner upon demand by the Corporation.
(n) All garbage, trash and refuse shall be stored in appropriate containers inside the dwelling units (including garages) and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.

(o) So long as the Zoning Covenants are in effect, no use shall be made of any part of the Real Estate which violates, and all Owners, members of their families, their guests, tenants, invitees and all occupants or other parties entitled to use or who may use any part of the Real Estate shall at all times fully comply with, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Covenants. Notwithstanding anything to the contrary contained herein or otherwise, this subparagraph (o) may not be amended or modified in any manner whatsoever without the prior written consent of Declarant (so long as it owns any part of the Real Estate or any Lots) and of any and all parties who, at any time, may have the right to enforce or prevent violations of, or the right to approve any changes in, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Covenants; except that, notwithstanding the immediately preceding clause, Declarant shall have the right to amend the Zoning Covenants in any manner therein permitted or described without the consent or approval of any other party at any time having any interest in any part of the Real Estate.

(p) Common Properties shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board. Without limiting the generality of the foregoing, the lake or pond to be provided in Block C of the Common Properties as shown on the Plan is intended to be used for such purpose and primarily as a visual and aesthetic amenity and not as a recreational amenity. Accordingly, no use shall be made of such lake or pond which in any way interferes with its proper functioning as part of such storm water drainage system. No boating, swimming, diving, skating or ice skating shall be permitted in or on said lake or pond. No sewage, garbage, refuse, or other solid, liquid, gaseous or other materials or items shall be put into said lake or pond, except the Corporation 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 aseate the same. Fishing from the shore of such lake or pond shall be permitted subject to the observance and compliance with all applicable fishing and game laws, ordinances, rules and regulations.

Notwithstanding anything to the contrary contained therein or in the Articles or By-Laws, including but not limited...
to any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the Applicable Date, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by Persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction and sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Properties, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real estate at any time.

Section 2. Non-applicability to Corporation. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in Section 1 of this Article XIV shall not apply to or be binding upon the Corporation in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Properties to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Corporation in the performance of its duties, obligations and responsibilities as to the Common Properties.

ARTICLE XV

Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:
(a) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

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

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

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

(e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Article XII of this Declaration with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Article XIII of this Declaration with respect to reconstruction or repair of the Common Properties in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Architectural Review Board and providing for its functions, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagors whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

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

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagors or any other Person to
amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) functions similar to those performed by such agencies or entities, or (e) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

ARTICLE XVI
Acceptance and Ratification
All present and future Owners, Mortgagees, tenants and
occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the By-Laws and the rules and regulations as adopted by the Board of Directors, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the By-Laws and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XVII

Negligence

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or lessees.
ARTICLE XVII

Benefit and Enforcement

This Declaration and the Restrictions shall run with and bind the Real Estate for a term commencing on the date this Declaration is recorded in the office of the Recorder of Marion County, Indiana and expiring December 31, 2010, after which time they shall be automatically extended for successive periods of ten (10) years each unless by vote of a majority of the then Owners of the Lots it is agreed to change this Declaration or the Restrictions in whole or in part, or to terminate the same. The failure or delay at any time of Declarant, the Corporation, the Owners, or any other Person entitled to enforce this Declaration and the Restrictions, to enforce any of the same shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

ARTICLE XIX

Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

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

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

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

Section 5. Interpretation. The captions and titles of
the various articles, sections, sub-sections, paragraphs and
subparagraphs of this Declaration are inserted herein for ease
and convenience of reference only and shall not be used as an aid
in interpreting or construing this Declaration or any provision
hereof.

ARTICLE XX

Declarant's Authority

Declarant is the owner of all of the Real Estate other
than the portion thereof which is more particularly described on Exhibit
"B" attached hereto and hereby incorporated herein by reference (herein
referred to as the "Conveyed Parcel"), said Conveyed Parcel having
been conveyed by Declarant to James A. James ("James") by deed
recorded on April 11, 1983 as Instrument No. 83-23061 in the Marion
County, Indiana Recorder's office (the "Deed"). However, by said
Deed, Declarant specifically reserved and excepted from said conveyance
the right to the full and unobstructed use, enjoyment, possession
and occupation of the Conveyed Parcel in the same manner as if
Declarant was the absolute owner thereof, except for the right of
James to install, use and maintain a private water service line
in the Conveyed Parcel in accordance with the terms of the Deed.
Declarant also so specifically reserved and excepted from said
conveyance the right to include the Conveyed Parcel in and as a
part of the development of the Real Estate, including, without limitation, the right to include the Conveyed Parcel in this Declaration and to impose restrictions and affirmative obligations thereon, the right to grant and create easements and similar interests therein, and the right to convey, dedicate and otherwise dispose of James' rights and interests therein. In furtherance of such reserved and excepted rights and interests, by the terms of the Deed James irrevocably, permanently and perpetually nominated, constituted and appointed Declarant as James' true and lawful agent and attorney-in-fact for the purposes of executing any and all documents and taking or abstaining from taking any and all action deemed necessary, advisable or desirable by Declarant in order to enable Declarant to carry into effect all of such excepted and reserved rights. Accordingly, as to the Conveyed Parcel Declarant executes this Declaration as agent and attorney-in-fact for James pursuant to the right, power and authority so vested in Declarant by the terms of the Deed.

IN WITNESS WHEREOF, CRICKET TREE, INC., Declarant herein, has executed this Declaration in the capacities herein described this ___ day of _____, 1986.

CRICKET TREE, INC.

By: 

ATTEST:

Dixon B. Dann, Assistant Secretary

JAMES A. JAMES

By: Cricket Tree, Inc., his attorney-in-fact pursuant to power of attorney granted by instrument recorded as Instrument No. 83-23061 in the office of the Recorder of Marion County, Indiana.

By: 

ATTEST:

Dixon B. Dann
Assistant Secretary

This Instrument Was Prepared by Dixon B. Dann, Attorney-at-Law.
STATE OF INDIANA  
COUNTY OF MARION  

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Dixon B. Dann, the President and Assistant Secretary, respectively, of CRICKET TREE, INC., an Indiana corporation, who acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation in the capacities therein stated both in its own capacity and as agent and attorney-in-fact for James A. James, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto affixed my signature and Notarial Seal this as the day of March, 1986.  

Mary A. Dann  
Mary A. Dann, Notary Public  

My commission expires:  
1-11-88  

My county of residence:  
Hamilton  

This Instrument Was Prepared by Dixon B. Dann, Attorney-at-Law.
LEGAL DESCRIPTION
OF
"CONVEYED PARCEL"

Part of the Southwest Quarter of Section 15, Township 17
North, Range 3 East in Marion County, Indiana, being more
particularly described as follows:

Beginning at a point on the South line of the said Quarter
Section North 89 degrees 04 minutes 49 seconds West (Assumed
Bearing) 1280.05 feet from the Southeast corner of the said
Quarter Section; thence North 09 degrees 04 minutes 49
seconds West along the said South line 10.00 feet; thence
North 00 degrees 20 minutes 16 seconds East 171.04 feet;
thence North '56 degrees 23 minutes 07 seconds West 45.06
feet; thence North 63 Degrees 48 minutes 13 seconds West
20.16 feet; thence North 01 degrees 30 minutes 00 seconds
East 11.01 feet; thence South 63 degrees 48 minutes 13
seconds East 25.40 feet; thence South 56 degrees 23 minutes
07 seconds East 51.11 feet; thence South 00 degrees 20
minutes 16 seconds West 176.54 feet to the Beginning Point,
containing 0.056 acres, more or less.

Exhibit "B"